

ACT 246

H.B. NO. 2741

A Bill for an Act Relating to the Cigarette and Tobacco Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that smoking-related diseases claim an estimated four hundred thirty thousand seven hundred American lives each year,

including those affected indirectly, such as babies born prematurely due to prenatal maternal smoking and victims of "secondhand" exposure to tobacco's carcinogens. Smoking costs the United States approximately \$97,200,000,000 each year in health care costs and lost productivity. It is directly responsible for eighty-seven per cent of lung cancer cases and causes most cases of emphysema and chronic bronchitis.

Smoking is also a major factor in coronary heart disease and stroke. It may be causally related to malignancies in other parts of the body and has been linked to a variety of other conditions and disorders, including slowed healing of wounds, infertility, and peptic ulcer disease.

Smoking during pregnancy accounts for an estimated twenty to thirty per cent of low-birth weight babies, up to fourteen per cent of pre-term deliveries, and some ten per cent of all infant deaths. Even apparently healthy, full-term babies of smokers have been found to be born with narrowed airways and curtailed lung function. In 1999, 12.9 per cent of women who gave birth smoked during pregnancy.

Smoking by parents is also associated with a wide range of adverse effects on their children, including exacerbation of asthma, increased frequency of colds and ear infections, and sudden infant death syndrome. An estimated one hundred fifty thousand to three hundred thousand cases of lower respiratory tract infections in children less than eighteen months of age, resulting in seven thousand five hundred to fifteen thousand annual hospitalizations, are caused by secondhand smoke. Secondhand smoke involuntarily inhaled by nonsmokers from other people's cigarettes is classified by the United States Environmental Protection Agency as a known human (Group A) carcinogen, responsible for approximately three thousand lung cancer deaths annually in American nonsmokers.

Approximately twenty two million three hundred thousand American women are smokers. Current female smokers aged thirty-five years or older are twelve times more likely to die prematurely from lung cancer than nonsmoking females. More American women die annually from lung cancer than any other type of cancer. For example, lung cancer has caused an estimated sixty-seven thousand six hundred female deaths in 2000, compared with forty thousand eight hundred estimated female deaths caused by breast cancer.

The purpose of this Act is to discourage smoking and the use of tobacco products by changing the excise tax on cigarettes.

SECTION 2. Section 245-3, Hawaii Revised Statutes, is amended to read as follows:

"§245-3 Taxes. (a) Every wholesaler or dealer, in addition to any other taxes provided by law, shall pay for the privilege of conducting business and other activities in the State:

- (1) An excise tax equal to 5.00 cents for each cigarette sold, used, or, possessed by a wholesaler or dealer after June 30, 1998, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; [and]
- (2) An excise tax equal to 6.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after September 30, 2002, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (3) An excise tax equal to 6.50 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2003, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (4) An excise tax equal to 7.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2004, whether or not

sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; and

- [~~(2)~~] (5) An excise tax equal to forty per cent of the wholesale price of each article or item of tobacco products sold by the wholesaler or dealer, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

Where the tax imposed has been paid on cigarettes or tobacco products [which] that thereafter become the subject of a casualty loss deduction allowable under chapter 235, the tax paid shall be refunded or credited to the account of the wholesaler or dealer. The tax shall be applied to cigarettes through the use of stamps.

(b) The taxes, however, are subject to the following limitations:

- (1) The measure of the taxes shall not include any cigarettes or tobacco products exempted, and so long as the same are exempted, from the imposition of taxes by the Constitution or laws of the United States;
- (2) The measure of taxes shall exempt and exclude all sales of cigarettes and tobacco products to the United States (including any agency or instrumentality thereof that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under this chapter), sold by any person licensed under this chapter; and
- (3) The taxes shall be paid only once [in respect of] with respect to the same cigarettes or tobacco product. This limitation shall not prohibit the imposition of the excise tax on receipts from sales of tobacco products under subsection (a)(2); provided that the amount subject to the tax on each sale shall not include amounts previously taxed under this chapter.”

SECTION 3. Act 249, Session Laws of Hawaii 2000, is amended by amending section 20 to read as follows:

“SECTION 20. This Act shall take effect upon its approval; provided that:

- (1) Sections 15 and 16 shall take effect on July 1, 2000; and
- (2) On June 30, 2006, this Act, except for section 4, shall be repealed and sections 245-1, [~~245-3,~~] 245-5, 245-6, 245-7(b)[;]¹ and (c), 245-8(a), 245-9, 245-15, 712A-5(1), and 712A-16(1), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the approval of this Act.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2002.

(Approved July 1, 2002.)

Note

1. So in original.