

**WORKING DRAFT**

HOUSE BILL NO. \_\_\_\_\_

Tobacco tax.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; providing for an  
2 increase in cigarette taxes as specified; providing for  
3 distribution; providing conforming amendments; and  
4 providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 39-18-103(a) and (c), 39-18-104(a)  
9 and (b), 39-18-107(b) (i) and (ii) and 39-18-111(a) (intro),  
10 (b) and by creating a new subsection (c) are amended to  
11 read:

12

13

**\*\*\* STAFF COMMENTS \*\*\***

14

15 **Note: W.S. 9-4-1203 is placed in the bill for**  
16 **information only. This section establishes the**  
17 **tobacco trust fund and its uses.**

18

19

20 **9-4-1203. Tobacco settlement trust fund established;**  
21 **corpus inviolate; investment by state treasurer.**

22

1 (a) An account within the trust and agency fund is  
2 established which shall be referred to as the Wyoming  
3 tobacco settlement trust fund. The Wyoming tobacco  
4 settlement trust fund shall consist of:

5  
6 (i) All funds received by the state of Wyoming  
7 prior to March 15, 2002 as financial recovery under the  
8 terms of the master settlement agreement regarding  
9 litigation between several states and major tobacco  
10 manufacturers, which settlement agreement was approved by  
11 the state of Wyoming in November 1998; and

12  
13 (ii) Any other funds appropriated or designated  
14 to the account by law or by gift from whatever source.

15  
16 (b) Funds deposited into the Wyoming tobacco  
17 settlement trust fund established pursuant to subsection  
18 (a) of this section are intended to be inviolate and  
19 constitute a permanent or perpetual trust fund which shall  
20 be invested by the state treasurer as authorized by law and  
21 in a manner to obtain the highest return possible  
22 consistent with preservation of the corpus. Any earnings  
23 from investment of the corpus of the trust fund and all  
24 funds received by the state of Wyoming on or after March  
25 15, 2002 as financial recovery under the terms of the  
26 master settlement agreement specified in paragraph (a)(i)  
27 of this section shall be credited by the state treasurer  
28 into a separate trust fund income account within the  
29 earmarked revenue fund.

30  
31 (c) Revenues deposited into the trust fund income  
32 account established under subsection (b) shall be expended:

33  
34 (i) Only for purposes related to the improvement  
35 of the health of Wyoming's citizens including:

36  
37 (A) Efforts in prevention and cessation of  
38 tobacco use through school and community based programs;  
39 and

40  
41 (B) Efforts to establish and implement  
42 programs to prevent, intervene in, and otherwise limit  
43 alcohol and substance abuse; and

44  
45 (ii) Only upon appropriation by the legislature.  
46

1 (d) Funds not otherwise appropriated, expended or  
2 obligated as provided in subsection (c) of this section  
3 shall be transferred to the tobacco settlement trust fund  
4 on July 1 of each year following the receipt of those  
5 funds.

6  
7 **39-18-103. Imposition.**

8  
9 (a) Taxable event. The following event shall  
10 constitute a taxable event under this article:

11  
12 (i) There is levied and shall be collected and  
13 paid to the department an excise tax ~~of six-tenths of a~~  
14 ~~cent (\$ .006)~~ at the rate imposed by W.S. 39-18-104(a) upon  
15 the sale of each cigarette sold by wholesalers;

16  
17 (ii) There is levied and shall be paid to the  
18 department an excise tax ~~of six-tenths of a cent (\$ .006)~~ at  
19 the rate imposed by W.S. 39-18-104(b) upon the use or  
20 storage by consumers of cigarettes in Wyoming but only if  
21 the tax imposed by paragraph (i) of this subsection has not  
22 been paid;

23  
24 (iii) In addition to the other taxes imposed by  
25 this subsection, there is levied and assessed upon cigars,  
26 snuff and other tobacco products purchased or imported into  
27 this state by wholesalers for resale, except cigarettes  
28 taxed under this subsection, an excise tax at the rate ~~of~~  
29 ~~twenty percent (20%)~~ imposed by W.S. 39-18-104(c) of the  
30 wholesale purchase price at which the tobacco products are  
31 purchased by wholesalers from manufacturers;

32  
33 (iv) The tax imposed by paragraph (iii) of this  
34 subsection shall also be imposed upon the use or storage by  
35 consumers of cigars, snuff and other tobacco products in  
36 this state, and upon those consumers, at the rate ~~of ten~~  
37 ~~percent (10%)~~ imposed by W.S. 39-18-104(d) of the retail  
38 price of the cigar, snuff or other tobacco product. This  
39 tax shall not apply if the tax imposed by paragraph (iii)  
40 of this subsection has been paid.

41  
42 (b) Basis of tax. The state preempts the field of  
43 imposing taxes on cigarettes and no city, town or county  
44 shall impose, levy or collect taxes upon the sale,  
45 occupation or privilege of selling cigarettes.

46

1 (c) Taxpayer. The following taxpayers are liable for  
2 the tax imposed by this article:

3  
4 (i) There is levied and shall be collected and  
5 paid to the department an excise tax ~~of six-tenths of a~~  
6 ~~cent (\$.006)~~ at the rate imposed by W.S. 39-18-104(a) upon  
7 the sale of each cigarette sold by wholesalers;

8  
9 (ii) There is levied and shall be paid to the  
10 department an excise tax ~~of six-tenths of a cent (\$.006)~~ at  
11 the rate imposed by W.S. 39-18-104(b) upon the use or  
12 storage by consumers of cigarettes in Wyoming but only if  
13 the tax imposed by paragraph (i) of this subsection has not  
14 been paid;

15  
16 (iii) In addition to the other taxes imposed by  
17 this subsection, there is levied and assessed upon cigars,  
18 snuff and other tobacco products purchased or imported into  
19 this state by wholesalers for resale, except cigarettes  
20 taxed under this subsection, an excise tax at the rate ~~of~~  
21 ~~twenty percent (20%)~~ imposed by W.S. 39-18-104(c) of the  
22 wholesale purchase price at which the tobacco products are  
23 purchased by wholesalers from manufacturers;

24  
25 (iv) The tax imposed by paragraph (iii) of this  
26 subsection shall also be imposed upon the use or storage by  
27 consumers of cigars, snuff and other tobacco products in  
28 this state, and upon those consumers, at the rate ~~of ten~~  
29 ~~percent (10%)~~ imposed by W.S. 39-18-104(d) of the retail  
30 price of the cigar, snuff or other tobacco product. This  
31 tax shall not apply if the tax imposed by paragraph (iii)  
32 of this subsection has been paid.

33  
34 **39-18-104. Taxation rate.**

35  
36 (a) There is levied and shall be collected and paid  
37 to the department an excise tax ~~of six-tenths of a cent~~  
38 ~~(\$.006)~~ upon the sale of each cigarette sold by wholesalers  
39 as follows:

40  
41 (i) Six-tenths of a cent (\$.006); and

42  
43 (ii) Two and four-tenths cents (\$.024).

44  
45 (b) There is levied and shall be paid to the  
46 department an excise tax ~~of six-tenths of a cent (\$.006)~~  
47 upon the use or storage by consumers of cigarettes in

1 Wyoming but only if the tax imposed by subsection (a) of  
2 this section has not been paid as follows:

3  
4 (i) Six-tenths of a cent (\$.006); and

5  
6 (ii) Two and four-tenths cents (\$.024).

7  
8 (c) In addition to the other taxes imposed by this  
9 section, there is levied and assessed upon cigars, snuff  
10 and other tobacco products purchased or imported into this  
11 state by wholesalers for resale, except cigarettes taxed  
12 under this section, an excise tax at the rate of twenty  
13 percent (20%) of the wholesale purchase price at which the  
14 tobacco products are purchased by wholesalers from  
15 manufacturers.

16  
17 (d) The tax imposed by subsection (c) of this section  
18 shall also be imposed upon the use or storage by consumers  
19 of cigars, snuff and other tobacco products in this state,  
20 and upon those consumers, at the rate of ten percent (10%)  
21 of the retail price of the cigar, snuff or other tobacco  
22 product. This tax shall not apply if the tax imposed by  
23 subsection (c) of this section has been paid.

24  
25 **39-18-107. Compliance; collection procedures.**

26  
27 (b) Payment. The following shall apply:

28  
29 (i) There is levied and shall be collected and  
30 paid to the department an excise tax ~~of six-tenths of a~~  
31 ~~cent (\$.006)~~ at the rate imposed by W.S. 39-18-104(a) upon  
32 the sale of each cigarette sold by wholesalers;

33  
34 (ii) There is levied and shall be paid to the  
35 department an excise tax ~~of six-tenths of a cent (\$.006)~~ at  
36 the rate imposed by W.S. 39-18-104(b) upon the use or  
37 storage by consumers of cigarettes in Wyoming but only if  
38 the tax imposed by paragraph (i) of this subsection has not  
39 been paid;

40  
41 (iii) No wholesaler shall sell or transfer any  
42 stamps issued under the provisions of this article.

43  
44 **39-18-111. Distribution.**

45  
46 (a) ~~Except as provided by subsection (b) of this~~  
47 ~~section,~~ Thirty-three and one-third percent (33 1/3%) of

1 the taxes collected pursuant to ~~this article~~ W.S. 39-18-  
2 104(a)(i) and (b)(i) shall be distributed to incorporated  
3 cities and towns and to boards of county commissioners in  
4 the proportion the cigarette taxes derived from sales  
5 within each incorporated city or town or county bears to  
6 total cigarette taxes collected. The remainder shall be  
7 transferred to the state treasurer who shall distribute it  
8 as follows:

9  
10 (i) All license fees under W.S. 39-18-106(a)  
11 shall be credited to the state general fund;

12  
13 (ii) Thirty-eight and one-fourth percent  
14 (38 1/4%) of the taxes collected shall be credited to the  
15 state general fund;

16  
17 (iii) Sixty-one and three-fourths percent  
18 (61 3/4%) of the taxes collected shall be distributed to  
19 incorporated cities and towns and to boards of county  
20 commissioners in the proportion the cigarette taxes derived  
21 from sales within each incorporated city or town or county  
22 bears to total cigarette license taxes collected. The  
23 computation for the distribution shall be made by the  
24 department according to the monthly returns filed by the  
25 wholesalers.

26  
27 (b) The revenue received from the tax imposed by W.S.  
28 ~~39-18-103(a)(iii) and (iv)~~ 39-18-104(c) and (d) shall be  
29 deposited in the general fund.

30  
31 (c) The revenue received from the tax imposed by W.S.  
32 39-18-104(a)(ii) and (b)(ii) shall be transferred to the  
33 state treasurer who shall distribute it as follows:

34  
35 (i) The first twenty-five million dollars  
36 (\$25,000,000.00) collected shall be deposited into the  
37 Wyoming tobacco settlement trust fund account established  
38 under W.S. 9-4-1203(a);

39  
40 (ii) Except as provided by paragraph (iii) of  
41 this subsection, the remainder shall be transferred into  
42 the Wyoming tobacco settlement trust fund income account  
43 established under W.S. 9-4-1203(b) in an amount certified  
44 by the department of health not later than July 1 of each  
45 year necessary to fund the substance abuse control plan  
46 established by W.S. 9-2-2701 et seq.;

47

1 (iii) After the funding of the substance abuse  
2 program required by paragraph (ii) of this subsection, any  
3 remaining funds shall be deposited into the general fund.  
4

5 **Section 2.** This act is effective July 1, 2003.  
6

7 (END)

