

HOUSE BILL NO. HB0073

Nicotine products-taxation.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation; imposing taxes on nicotine
2 products as specified; providing for collection of the
3 taxes imposed; requiring a license to sell nicotine
4 products; requiring reporting of nicotine products sold;
5 providing penalties; making conforming amendments; and
6 providing for an effective date.

7

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

9

10 **Section 1.** W.S. 14-3-301(a)(v), 39-15-107(a)(i),
11 39-18-101(a)(iv), (v)(A), (B) and by creating new
12 paragraphs (ix) through (xi), 39-18-102(b), 39-18-103(a) by
13 creating new paragraphs (v) and (vi), (c) by creating new
14 paragraphs (v) and (vi), 39-18-104 by creating a new
15 subsections (g) and (h), 39-18-106(a), 39-18-107(a)(i),

1 (ii), (c)(i), (D), 39-18-108(c)(ii)(A), (vi) and (ix) and
2 39-18-111(b) are amended to read:

3

4 **14-3-301. Definitions.**

5

6 (a) As used in this article:

7

8 (v) "Electronic cigarette" means ~~a product that~~
9 ~~employs any mechanical heating element, battery or~~
10 ~~electronic circuit, regardless of shape or size, that can~~
11 ~~be used to deliver doses of nicotine vapor by means of~~
12 ~~heating a liquid nicotine solution contained in a cartridge~~
13 ~~or other delivery system~~ as defined by W.S.
14 39-18-101(a)(ix).

15

16 **39-15-107. Compliance; collection procedures.**

17

18 (a) Returns, reports and preservation of records. The
19 following shall apply:

20

21 (i) Each vendor shall on or before the last day
22 of each month file a true return showing the preceding
23 month's gross sales and remit all taxes to the department.

1 The returns shall contain such information and be made in
2 the manner as the department by regulation prescribes. The
3 department may allow extensions for filing returns and
4 paying the taxes by regulation, but no extension may be for
5 more than ninety (90) days. If the total tax to be remitted
6 by a vendor during any month is less than one hundred fifty
7 dollars (\$150.00), a quarterly or annual return as
8 authorized by the department, and remittance in lieu of the
9 monthly return may be made on or before the last day of the
10 month following the end of the quarter or year for which
11 the tax is collected. If the accounting methods regularly
12 used by any vendor are such that reports of sales made
13 during a calendar month would impose unnecessary hardships,
14 the department after receiving a formal request filed by
15 the vendor may accept reports at intervals as would be more
16 convenient to the taxpayer. Any vendor shall report whether
17 the vendor sells ~~cigarettes, cigars, snuff or other tobacco~~
18 nicotine products, as defined by W.S. 39-18-101(a)(xi), in
19 this state to the department in the form and manner
20 required by the department. The department may reject any
21 report required under this paragraph of any vendor who does
22 not comply with the ~~tobacco~~-nicotine sales reporting
23 requirements. Every person purchasing goods or services

1 taxable by this article who does not pay the tax owed to a
2 vendor shall, on or before the last day of each month, file
3 a return showing the gross purchases made during the
4 preceding month and remit all taxes due to the department.
5 The return shall contain such information and be made in
6 the manner as the department shall prescribe by rule and
7 regulation. The department, by rule and regulation, may
8 allow an extension for filing a return and paying any tax
9 due, but no extension shall be granted for more than ninety
10 (90) days;

11

12 **39-18-101. Definitions.**

13

14 (a) As used in this article:

15

16 (iv) "Wholesale purchase price" means the
17 established price for which a manufacturer sells the
18 ~~tobacco~~-nicotine product to a wholesaler exclusive of any
19 discount or other reduction;

20

21 (v) "Wholesaler" means any person who:

22

1 (A) Whether located within or without
2 Wyoming, imports, sells or distributes ~~cigarettes, cigars,~~
3 ~~snuff or other tobacco~~ nicotine products into this state
4 for sale or resale;

5
6 (B) Purchases ~~cigarettes, cigars, snuff or~~
7 ~~other tobacco~~ nicotine products in this state for sale or
8 resale;

9
10 (ix) "Electronic cigarette" means any device
11 that can be used to deliver aerosolized or vaporized
12 nicotine or synthetic nicotine to the person using the
13 device and includes any component, part and accessory of
14 the device and any vapor material intended to be
15 aerosolized or vaporized during the use of the device.
16 "Electronic cigarette" includes, without limitation, any
17 electronic cigar, electronic cigarillo, electronic pipe,
18 electronic hooka, vapor pen and any similar product or
19 device. "Electronic cigarette" does not include a battery
20 or battery charger if sold separately from the electronic
21 cigarette and does not include any product regulated as a
22 drug or device by the United States food and drug

1 administration under subchapter V of the Food, Drug and
2 Cosmetic Act;

3
4 (x) "Vapor material" means any liquid solution
5 or other material containing nicotine or synthetic nicotine
6 that is depleted as an electronic cigarette is used. "Vapor
7 material" includes liquid solution or other material
8 containing nicotine or synthetic nicotine that is sold with
9 or inside an electronic cigarette;

10
11 (xi) "Nicotine product" means electronic
12 cigarettes and vapor material, and cigarettes, cigars,
13 snuff and any other tobacco products.

14
15 **39-18-102. Administration; confidentiality.**

16
17 (b) The ~~tax~~taxes imposed by W.S. 39-18-103(a)(iii)
18 and (v) shall be paid by the wholesaler. The wholesaler
19 shall be entitled to retain four percent (4%) of any tax
20 collected under W.S. 39-18-103(a)(iii) and (v).

21
22 **39-18-103. Imposition.**

23

1 (a) Taxable event. The following event shall
2 constitute a taxable event under this article:

3
4 (v) In addition to the other taxes imposed by
5 this subsection, there is levied and assessed upon
6 electronic cigarettes and vapor material purchased or
7 imported into this state by wholesalers for resale an
8 excise tax at the rate imposed by W.S. 39-18-104(g);

9
10 (vi) The tax imposed by paragraph (v) of this
11 subsection shall also be imposed upon the use or storage by
12 consumers of electronic cigarettes and vapor material in
13 this state, and upon those consumers, at the rate imposed
14 by W.S. 39-18-104(g). This tax shall not apply if the tax
15 imposed by paragraph (v) of this subsection has been paid.

16
17 (c) Taxpayer. The following taxpayers are liable for
18 the tax imposed by this article:

19
20 (v) In addition to the other taxes imposed by
21 this subsection, there is levied and assessed upon
22 electronic cigarettes and vapor material purchased or

1 imported into this state by wholesalers for resale an
2 excise tax at the rate imposed by W.S. 39-18-104(g);

3
4 (vi) The tax imposed by paragraph (v) of this
5 subsection shall also be imposed upon the use or storage by
6 consumers of electronic cigarettes and vapor material in
7 this state, and upon those consumers, at the rate imposed
8 by W.S. 39-18-104(g). This tax shall not apply if the tax
9 imposed by paragraph (v) of this subsection has been paid.

10
11 **39-18-104. Taxation rate.**

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13 (g) In addition to the other taxes imposed by this
14 section, there is levied and assessed upon electronic
15 cigarettes and vapor material purchased or imported into
16 this state by wholesalers for resale, an excise tax at the
17 rate of fifteen percent (15%) of the wholesale purchase
18 price at which the electronic cigarettes and vapor material
19 are purchased by wholesalers from manufacturers.

20
21 (h) The tax imposed by subsection (g) of this section
22 shall also be imposed upon the use or storage by consumers
23 of electronic cigarettes and vapor material in this state,

1 and upon those consumers, at the rate of seven and one-half
2 percent (7.5%) of the retail price of the electronic
3 cigarettes and vapor material. This tax shall not apply if
4 the tax imposed by subsection (g) of this section has been
5 paid.

6

7 **39-18-106. Licensing; permits.**

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9 (a) Every wholesaler, cigarette importer and
10 cigarette manufacturer who sells or offers to sell
11 ~~cigarettes, cigars, snuff or other tobacco~~ nicotine
12 products in this state must have a license to do so issued
13 by the department. No license or renewal of a license shall
14 be granted under this section unless the wholesaler states
15 in writing, under penalty for false swearing, that he shall
16 comply fully with W.S. 9-4-1201 through 9-4-1209. The
17 license fee is ten dollars (\$10.00) per year or fraction
18 thereof and is valid through June 30 in each year. The
19 license will be granted only to wholesalers who own or
20 operate the place from which sales are made and additional
21 licenses must be obtained for each separate location. The
22 licenses are transferable pursuant to rules and regulations
23 promulgated by the department.

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39-18-107. Compliance; collection procedures.

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(a) Returns and reports. The following shall apply:

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(i) Each wholesaler shall keep complete and accurate records of all ~~cigarettes, cigars, snuff or other~~

7

~~tobacco~~ nicotine products purchased and sold for three (3)

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years. The records shall be in the form prescribed by the

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department and will be available for inspection by the

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department at any reasonable time. The department may

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investigate and examine the stock of cigarettes upon any

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premises where they are stored or sold;

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(ii) On or before the tenth day of each calendar

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quarter, every consumer who, during the preceding calendar

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quarter, has acquired title to or possession of ~~cigars,~~

18

~~snuff or other tobacco~~ nicotine products for use or storage

19

in this state, upon which products the tax imposed by W.S.

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39-18-103(a)(iii) and (v) has not been paid, shall file a

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return with the department showing the quantity of such

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products so acquired. The return shall be made upon a form

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furnished and prescribed by the department and shall

1 contain such other information as the department may
2 require. The return shall be accompanied by a remittance
3 for the full unpaid tax liability shown by it.

4

5 (c) Timelines. The following shall apply:

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7 (i) No later than the twentieth day of the month
8 following the sale of cigarettes, or the month following
9 the end of the calendar quarter for ~~eigars, snuff or other~~
10 ~~tobacco~~ nicotine products other than cigarettes, each
11 wholesaler shall return to the department the following
12 information on forms furnished by the department:

13

14 (D) The amount paid by the wholesaler to
15 the manufacturer for ~~eigars, snuff or other tobacco~~
16 nicotine products other than moist snuff. For sales of
17 moist snuff, the return shall include the net weight as
18 listed by the manufacturer. The department shall compile
19 the information provided under this subparagraph with
20 respect to moist snuff tobacco sales on an annual basis and
21 shall report the information to the legislature every five
22 (5) years beginning on July 1, 2014.

23

1 **39-18-108. Enforcement.**

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3 (c) Penalties. The following shall apply:

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5 (ii) The following acts are misdemeanors
6 punishable by a fine of not more than one hundred dollars
7 (\$100.00) or imprisonment in the county jail for not more
8 than six (6) months or both:

9

10 (A) Selling or distributing ~~cigarettes,~~
11 ~~cigars, snuff or other tobacco~~ nicotine products as a
12 wholesaler without a license;

13

14 (vi) Any person who purchases any ~~tobacco~~
15 nicotine product for resale in this state from other than a
16 licensed wholesaler is liable for the tax and any penalties
17 and interest imposed under this paragraph as if he were a
18 wholesaler under this act and shall pay an additional
19 penalty of twenty-five percent (25%) of any tax due. Any
20 wholesaler or other person who fails to file any return or
21 to pay any tax within the time required or permitted by
22 this subsection shall be subject to a penalty of five
23 percent (5%) of the amount of the tax due, plus one percent

1 (1%) of the tax for each month of delinquency or fraction
2 thereof. The department may waive all or any part of this
3 penalty for good cause shown;

4

5 (ix) Any fixture, equipment or other personal
6 property used by a ~~tobacco~~-nicotine product wholesaler or
7 retailer to commit any of the following acts shall be
8 subject to forfeiture to the state, if the retail value of
9 the cigarettes involved or any tax involved in the act
10 exceeds five hundred dollars (\$500.00):

11

12 **39-18-111. Distribution.**

13

14 (b) The revenue received from the ~~tax~~-taxes imposed
15 by W.S. 39-18-104(c), ~~and~~-(d), (g) and (h) shall be
16 deposited in the general fund.

17

18 **Section 2.** This act is effective July 1, 2020.

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20

(END)