

**CONFERENCE COMMITTEE REPORT**

**HB 119**

**2015 Regular Session**

**Ritchie**

June 11, 2015

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 119 by Representative Ritchie, recommend the following concerning the Engrossed bill:

1. That the set of Committee Amendments proposed by the Senate Finance Committee and adopted by the Senate on June 4, 2015, be rejected.
2. That the set of Floor Amendments proposed by Senator Nevers and adopted by the Senate on June 5, 2015, be rejected.
3. That the set of Floor Amendments proposed by Senator Donahue and adopted by the Senate on June 5, 2015, be rejected.
4. That Floor Amendment No. 1 proposed by Senator Morrell and adopted by the Senate on June 5, 2015, be rejected.
5. That the Engrossed bill be amended as follows:

AMENDMENT NO. 1

On page 1, at the beginning of line 2, after "To" and before the comma "," delete "enact R.S. 47:841(B)(6) and 841.2" and insert the following:

"amend and reenact R.S. 47:841(introductory paragraph) and (F) and 842(20), (21), and (22) and to enact R.S. 47:841(B)(6) and (G), 841.2, and 842(23)"

AMENDMENT NO. 2

On page 1, line 9, after "Section 1." delete the remainder of the line and insert the following:

"R.S. 47:841(introductory paragraph) and (F) and 842(20), (21), and (22) are hereby amended and reenacted and R.S. 47:841(B)(6) and (G), 841.2, and 842(23) are hereby enacted to read as follows:"

AMENDMENT NO. 3

On page 1, line 12, after "cigarettes," and before "smoking" delete "and"

AMENDMENT NO. 4

On page 1, line 12, after "tobacco," and before "as" insert "and vapor products and electronic cigarettes"

AMENDMENT NO. 5

On page 1, line 21, after "tax of" and before "of one cent" delete "one and twelve-twentieths" and insert "two and ten-twentieths"

AMENDMENT NO. 6

On page 1, after line 22, insert the following:

"F. Vapor products and electronic cigarettes. Upon vapor products and electronic cigarettes, a tax of five cents per milliliter of consumable nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

~~F.(4)~~ (G)(1) The Tobacco Regulation Enforcement Fund, hereinafter referred to as the "fund", is hereby established in the state treasury as a special fund to provide support for enforcement activities of the office of alcohol and tobacco control. The source of monies for the fund shall be a portion of the avails of the state tax on cigarettes as provided herein.

(2) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the state treasurer shall annually deposit into the fund an amount equal to the avails of one-quarter of one-twentieth of one cent per cigarette from the tax on cigarettes imposed pursuant to this Section. Monies in the fund shall be subject to appropriation by the legislature and then only to the office of alcohol and tobacco control for purposes of tobacco regulation enforcement. All unexpended and unencumbered monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and all earnings on investment of the fund shall be deposited into the fund."

AMENDMENT NO. 7

On page 2, between lines 25 and 26, insert the following:

"§842. Definitions

As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

\* \* \*

(20) "Vapor products" shall mean any noncombustible product containing nicotine or other substances that employ a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, used to produce vapor from nicotine in a solution or other form. "Vapor products" include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

~~(20)~~ (21) "Vending machine" means any receptacle used to store taxable articles which vend such articles automatically.

~~(21)~~ (22) "Vending machine operator" means any person who controls the use of one or more vending machines as to the supply of cigarettes or any tobacco products in the machine or the receipts from cigarettes vended through such machines.

~~(22)~~ (23) "Wholesale dealers" are those dealers whose principal business is that of a wholesaler, and who sells cigarettes, cigars, and smoking tobacco to retail dealers for purpose of resale; and who is a bona fide wholesaler and fifty percent of

whose total tobacco sales are to retail stores other than their own or their subsidiaries within Louisiana. Wholesale dealer shall include any person in the state who acquires cigarettes solely for the purpose of resale in vending machines, provided such person services fifty or more cigarette vending machines on selling locations in Louisiana other than their own. Wholesale dealers shall include those dealers engaged in receiving bulk smoking tobacco for purposes of blending and including those Louisiana dealers who were affixing cigarette and tobacco stamps as of January 1, 1974."

Respectfully submitted,

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Representative Harold L. Ritchie

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Senator Ben Nevers

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Representative Joel C. Robideaux

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Senator Robert Adley

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Representative Lance Harris

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Senator Jack Donahue

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 DIGEST
 

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The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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**CONFERENCE COMMITTEE REPORT DIGEST**
**HB 119**
**2015 Regular Session**
**Ritchie**
**Keyword and oneliner of the instrument as it left the House**

TAX/TOBACCO TAX: Levies an additional tax on cigarettes and dedicates the proceeds of the tax

**Report adopts Senate amendments to:**

1. Define "vapor products" and imposes a tax on vapor products and electronic cigarettes of .05¢ per milliliter of nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.
2. Require the increase in tax on cigarettes and the tax imposed on vapor products by proposed law to be deposited into the Tobacco Tax Medicaid Match Fund.

**Report rejects Senate amendments which would have:**

1. Increased the additional tax levied on cigarettes from 36¢ per pack to 72¢ per pack thereby increasing the tax per pack to \$1.08.
2. Increased the tax from 8% of the invoice price on cigars invoiced by the manufacturer at \$120 per 1,000 or less to 10% of the invoice price.
3. Increased the tax from 20% of the invoice price on cigars invoiced by the manufacturer at more than \$120 to 25% of the invoice price.
4. Defined "little cigars" and exempted these products from the tax imposed on cigars in favor of taxing these products as cigarettes.
5. Increased the tax on smoking tobacco from 33% of the invoice price to 50% of the invoice price.
6. Increased the tax on smokeless tobacco from 20% of the invoice price to 25% of the invoice price.
7. Defined "moist snuff" and imposes a tax on this product at the higher rate of either 25% of the invoice price or 74¢ per 1.2 ounce can, package, or other container. If the container of moist snuff is less than 1.2 ounces, the tax shall be equal to the tax imposed on a 1.2 ounce can.
8. Required the tax increase on cigarettes and tobacco products to apply to wholesale and retail inventories and requires dealers to file an inventory with the Dept. of Revenue and pay the tax by Aug. 1, 2015.
10. Required the increase in tax on tobacco products and the taxes imposed by proposed law on moist snuff, little cigars to be deposited into the Tobacco Tax Medicaid Match Fund.

**Report amends the bill to:**

1. Increase the additional tax levied on cigarettes from 36¢ per pack to 50¢ per pack thereby increasing the tax per pack to 86¢.

**Digest of the bill as proposed by the Conference Committee**

Present law provides for the levy of a tax upon the sale, use, consumption, handling, or distribution of all cigarettes. The amount of the tax per pack of 20 cigarettes is 36¢.

Proposed law retains present law but levies an additional tax upon cigarettes equal to two and five-twentieths of 1¢ per cigarette thereby increasing the total tax per pack of 20 cigarettes from 36¢ per pack to 86¢ per pack of 20 cigarettes.

Proposed law levies an excise tax equal to \$.05 per milliliter of nicotine liquid solution on vapor products and electronic cigarettes. Proposed law defines "vapor products" as any noncombustible product containing nicotine or other substances that employ a heating element or other mechanical means used to produce vapor from nicotine in a solution.

Proposed law further defines "vapor products" as any electronic cigarette, cigar, or pipe and any vapor cartridge or other container of nicotine in a solution that is intended to be used with or in an electronic cigarette, cigar, or pipe.

Proposed law establishes the Tobacco Tax Medicaid Match Fund as a special fund in the state treasury, hereinafter referred to as the "fund". After satisfying the requirements of the Bond Security and Redemption Fund, the state treasurer shall annually deposit into the fund an amount equal to the avails of the additional tax on imposed on cigarettes and the tax imposed on vapor products under proposed law. Further requires the monies in the fund to be appropriated to DHH for the medical assistance program administered by the state, also known as Medicaid.

Proposed law prohibits monies deposited into the fund from displacing or supplanting appropriations from the state general fund for the DHH unless the total appropriations for the fiscal year from the state general fund for such purpose exceed general fund appropriations for the previous year.

Proposed law provides that the additional tax shall apply to all cigarette products purchased by retail dealers and wholesale dealers on and after July 1, 2015, but shall not apply to stamped products and unused tax stamps in the possession of wholesale dealers prior to July 1, 2015. Requires all wholesale and retail dealers to file an inventory with the Dept. of Revenue by Aug. 1, 2015, of all cigarettes on hand prior to July 1, 2015.

Proposed law authorizes the Dept. of Revenue to adopt rules and regulations as to the filing of the inventory report.

Effective July 1, 2015.

(Amends R.S. 47:841(intro. para.) and (F) and 842(20), (21), and (22); Adds R.S. 47:841(B)(6) and (G), 841.2, and 842(23))