

2025 Regular Session

HOUSE BILL NO. 668

BY REPRESENTATIVE WRIGHT

TAX/EXCISE: Continues a portion of the excise tax levied on cigarettes in statute and authorizes a reduced excise tax rate on certain tobacco products

1 AN ACT

2 To amend and reenact R.S. 47:841(B) and 842 and to enact R.S. 47:841(H), relative to the
3 tobacco tax; to provide for the tax on cigarettes; to authorize a reduction in excise tax
4 rates levied on tobacco products under certain circumstances; to provide for the
5 calculation of the tax on certain tobacco products; to provide for definitions; to
6 provide for applicability; to provide for an effective date; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:841(B) and 842 are hereby amended and reenacted and R.S.
10 47:841(H) is hereby enacted to read as follows:

11 §841. Imposition of tax

12 There is hereby levied a tax upon the sale, use, consumption, handling, or
13 distribution of all cigars, cigarettes, smoking and smokeless tobacco, and vapor
14 products and electronic cigarettes as defined herein, within the state of Louisiana,
15 according to the classification and rates hereinafter set forth:

16 * * *

17 B. Cigarettes.

18 (1) Upon cigarettes, a tax of sixteen twentieths of one cent per cigarette as
19 defined in this Chapter.

(2) In addition to ~~the tax~~ all other taxes levied in ~~Paragraph (1)~~ of pursuant to this Subsection, there is hereby levied an additional tax of four twentieths of one cent per cigarette.

(3) In addition to all other taxes levied pursuant to this Subsection, there is hereby levied an additional tax of four-twentieths of one cent per cigarette as referenced in Article VII, Section 4.1 of the Constitution of Louisiana.

(4) In addition to ~~the tax~~ all other taxes levied in ~~Paragraphs (1), (2), and (3)~~ of pursuant to this Subsection, there is hereby levied an additional tax of seven-twentieths of one cent per cigarette.

(5) In addition to ~~the tax~~ all other taxes levied in ~~Paragraphs (1), (2), (3), and (4)~~ of pursuant to this Subsection, there is hereby levied an additional tax of five-twentieths of one cent per cigarette.

(6) In addition to ~~the tax~~ all other taxes levied in ~~Paragraphs (1), (2), (4), and (5)~~ of pursuant to this Subsection ~~and in Paragraph (3) of this Subsection as continued in effect by Article VII, Section 4.1 of the Constitution of Louisiana,~~ there is hereby levied an additional tax of two and ten-twentieths of one cent per cigarette.

(7) In addition to ~~the tax~~ all other taxes levied in ~~Paragraphs (1), (2), (4), (5), and (6)~~ of pursuant to this Subsection ~~and in Paragraph (3) of this Subsection as continued in effect by Article VII, Section 4.1 of the Constitution of Louisiana,~~ there is hereby levied an additional tax of one and two-twentieths of one cent per cigarette.

* * *

H. Tax rates imposed by this Section shall be reduced as follows:

(1) Sixty percent for a modified risk tobacco product issued a risk modification order by the U.S. Food and Drug Administration pursuant to 21 U.S.C. 387k(g)(1).

(2) Twenty-five percent for a modified risk tobacco product issued an exposure modification order by the U.S. Food and Drug Administration pursuant to 21 U.S.C. 387k(g)(2).

1 §842. Definitions

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

4 (1) "Brand family" has the meaning as set forth in R.S. 13:5072.

5 (2) "Cigarette" includes any roll for smoking or heating pursuant to ordinary
6 conditions of use made wholly or in part of tobacco, irrespective of size or shape and
7 irrespective of the tobacco being flavored, adulterated₂ or mixed with any other
8 ingredient, where ~~such~~ the roll has a wrapper or cover made of paper, or any other
9 material except where ~~such~~ the wrapper is wholly or in greater part made of tobacco.

10 (3) "Cigars" includes any roll of tobacco for smoking, irrespective of size or
11 shape, and irrespective of the tobacco being flavored, adulterated₂ or mixed with any
12 other ingredients, where ~~such~~ the roll has a wrapper made chiefly of tobacco.

13 (4) "Collector" means the ~~collector of revenue for the State of Louisiana~~
14 secretary of the Department of Revenue or his duly authorized representatives.

15 (5) "Dealer" includes every person who manufactures or purchases cigars,
16 cigarettes₂ or smoking tobacco for distribution, sale, use₂ or consumption in the state
17 of Louisiana. The term also means any person who imports cigars, cigarettes, or
18 smoking tobacco from any state or foreign country for distribution, sale, or
19 consumption in the state of Louisiana.

20 (6) "Invoice price" means the ~~manufacturers~~ manufacturer's net invoiced
21 price as invoiced to the Louisiana tobacco dealer, by the manufacturer, jobber, or
22 other persons engaged in selling tobacco products in accordance with the tax levied
23 by this ~~chapter~~ Chapter. The tobacco tax due on promotional incentives listed on an
24 invoice at no cost shall be determined as follows:

25 (a) If the invoice reflects a purchase of the same product, then the tobacco
26 excise tax shall be calculated on the invoice price charged on the invoice for the
27 same product.

28 (b) If the invoice does not show the purchase of the same product, then the
29 tax shall be calculated on the manufacturer's list price for that product.

(7) "Manufacturer" means anyone engaged in the manufacture, production, or foreign importation of tobacco products.

(8) "Manufacturer's net invoiced price" means the product line item price charged to the dealer by the manufacturer, supplier, jobber, or other person who sells the tobacco product to the dealer inclusive of any trade discount reflected in the line item price. Manufacturer's net invoiced price shall not include any of the following:

(a) Separately stated federal excise tax or any other taxes.

(b) Separately stated freight or shipping charges.

(c) Any reduction for cash or other similar discounts.

~~(8)~~(9) "Person" means any natural person, trustee, company, partnership, corporation, or other legal entity.

~~(9)~~(10) "Place of business" as used in this Chapter means the place where the orders are received, or where the taxable articles are sold, or if sold upon a railroad train or on or from any other vehicle, the vehicle on which or from which the taxable articles are sold by the retail dealer. It also includes the establishment where vending machines are located.

(11) "Promotional incentives" means products provided to the Louisiana dealer and listed on the invoice at no cost.

~~(10)~~(12) "Purchase" means acquisition in any manner, for any consideration. The term includes transporting or receiving product in connection with a purchase.

~~(11)~~(13) "Registered tobacco dealer" as used in this Chapter refers to wholesale dealers as defined in this Section.

~~(12)~~(14) "Retail dealer" includes every dealer other than a wholesale dealer who sells or offers for sale cigars, cigarettes, or smoking tobacco irrespective of quantity or the number of sales.

~~(13)~~(15) "Sales" or "sell" means any transfer, exchange, or barter in any manner or by any means for any consideration. The term includes distributing or shipping product in connection with a sale. References to a sale "in" or "into" a state refer to the state of the destination point of the product in the sale, without regard to

1 where title was transferred. References to sale "from" a state refer to the sale of
2 cigarettes that are located in that state to the destination in question without regard
3 to where title was transferred.

4 ~~(14)~~(16) "Sales entity affiliate" means an entity that sells cigarettes that it
5 acquires directly from a manufacturer or importer and is affiliated with that
6 manufacturer or importer as established by documentation received directly from
7 that manufacturer or importer to the satisfaction of the attorney general. Entities are
8 affiliated with each other if one, directly or indirectly through one or more
9 intermediaries, controls or is controlled by or is under common control with the
10 other.

11 ~~(15)~~(17) "Smokeless tobacco" means all smokeless tobacco including but not
12 limited to fine cut, long cut, packed in pouches, snuff, snuff flower, chewing
13 tobacco, cavendish, plugs, twists, shorts, refuse and other scraps, clippings and
14 sweepings of tobacco, and other forms of loose tobacco, articles and products made
15 of tobacco, or a tobacco substitute.

16 ~~(16)~~(18) "Smoking tobacco" includes granulated, plug cut, crimp cut, ready
17 rubbed and any other kind and form of tobacco prepared in ~~such~~ a manner as to be
18 suitable for smoking in a pipe or a cigarette.

19 ~~(17)~~(19) "Stamp" means the impression, device, stamp, label, or print
20 manufactured or printed as prescribed by the collector by the use of which the tax
21 levied ~~hereunder~~ pursuant to this Chapter is paid. By way of extension, and not
22 limitation, the term "stamp" means any impression or character affixed to or which
23 shall be stamped upon commodities by metered stamping machine or device by use
24 of which the tax levied ~~hereunder~~ pursuant to this Chapter is paid.

25 ~~(18)~~(20) "Stamping agent" means a dealer that is authorized to affix tax
26 stamps to packages or other containers of cigarettes ~~under~~ pursuant to R.S. 47:843
27 et seq. or any dealer that is required to pay the excise tax or tobacco tax imposed
28 pursuant to R.S. 47:841 et seq. on cigarettes.

1 ~~(19)~~(21) "State directory" or "directory" means the directory compiled by the
2 attorney general ~~under~~ pursuant to R.S. 13:5073, or, in the case of reference to
3 another state's directory, the directory compiled ~~under~~ pursuant to the similar law
4 in that other state.

5 (22) "Trade discounts" mean reductions in the list or unit price given by a
6 manufacturer or other supplier. These discounts are listed in the product line item
7 as either a percentage or specified amount and are reflected in the extended price of
8 the product on the invoice.

9 ~~(20)~~(23) "Vapor products" shall mean any noncombustible product
10 containing nicotine or other substances that employ a heating element, power source,
11 electronic circuit, or other electronic, chemical, or mechanical means, regardless of
12 shape or size, used to produce vapor from nicotine in a solution or other form.
13 "Vapor products" include any electronic cigarette, electronic cigar, electronic
14 cigarillo, electronic pipe, or similar product or device and any vapor cartridge or
15 other container of nicotine in a solution or other form that is intended to be used with
16 or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or
17 similar product or device. Vapor products do not include cigarettes as defined in
18 Paragraph (2) of this Section.

19 ~~(21)~~(24) "Vending machine" means any receptacle used to store taxable
20 articles which vend ~~such~~ these articles automatically.

21 ~~(22)~~(25) "Vending machine operator" means any person who controls the use
22 of one or more vending machines as to the supply of cigarettes or any tobacco
23 products in the machine or the receipts from cigarettes vended through ~~such~~
24 machines.

25 ~~(23)~~(26) "Wholesale dealers" are those dealers whose principal business is
26 that of a wholesaler, and who sells cigarettes, cigars, and smoking tobacco to retail
27 dealers for purpose of resale; and who is a bona fide wholesaler and fifty percent of
28 whose total tobacco sales are to retail stores other than their own or their subsidiaries
29 within Louisiana. Wholesale dealer shall include any person in the state who

1 acquires cigarettes solely for the purpose of resale in vending machines, provided
2 ~~such~~ that the person services fifty or more cigarette vending machines on selling
3 locations in Louisiana other than their own. Wholesale dealers shall include those
4 dealers engaged in receiving bulk smoking tobacco for purposes of blending and
5 including those Louisiana dealers who were affixing cigarette and tobacco stamps
6 as of January 1, 1974.

7 Section 2.(A) Section 1 of Act No. 32 of the 2000 Regular Session of the Legislature
8 levied the additional tax on cigarettes provided for in R.S. 47:841(B)(3). Section 4 of that
9 Act provided for the effectiveness of this additional tax from July 1, 2000, through June 30,
10 2002. Section 1 of Act No. 21 of the 2002 Regular Session of the Legislature amended
11 Section 4 of Act No. 32 of the 2000 Regular Session of the Legislature to extend the
12 effectiveness of the additional tax levied on cigarettes in R.S. 47:841(B)(3) through June 30,
13 2012. During the 2011 Regular Session of the Legislature, Section 2 of House Bill No. 591
14 proposed to amend Section 4 of Act No. 21 of the 2002 Regular Session of the Legislature
15 to remove the termination date of the additional tax levied on cigarettes thereby making it
16 permanent. However, House Bill No. 591 of the 2011 Regular Session of the Legislature
17 was vetoed by the governor and therefore was not enacted. Section 1 of Act No. 423 of the
18 2011 Regular Session of the Legislature enacted Article VII, Section 4.1 of the State
19 Constitution to ensure that the dedication of the avails of the excise tax levied on cigarettes
20 pursuant to R.S. 47:841(B)(3) continued to be deposited into the Health Excellence Fund by
21 prohibiting the rate of the tax levied on cigarettes pursuant to the provisions of R.S.
22 47:841(B)(3) from being less than the rate set forth in that provision as it existed on January
23 1, 2012. Therefore the additional tax levied on cigarettes pursuant to R.S. 47:841(B)(3)
24 continues to be levied, collected, and dedicated in accordance with Article VII, Section 4.1
25 of the State Constitution.

26 (B) R.S. 47:841(B)(3) as enacted in Section 1 of this Act continues the tax levied
27 pursuant to the provisions of Sections 1 and 4 of Act No. 32 of the 2000 Regular Session of
28 the Legislature as amended by Section 1 of Act No. 21 of the 2002 Regular Session of the
29 Legislature and as continued by Article VII, Section 4.1 of the State Constitution. The tax

1 levied on cigarettes pursuant to R.S. 47:841(B)(3) by this Act is continuing in statute, the
2 tax that is provided for in Article VII, Section 4.1 of the State Constitution. The total state
3 excise tax levied on cigarettes shall not be increased as a result of the enactment of R.S.
4 47:841(B) in this Act.

5 Section 3. The provisions of this Act shall be applicable to taxable periods beginning
6 on or after July 1, 2025.

7 Section 4. This Act shall become effective upon signature by the governor or, if not
8 signed by the governor, upon expiration of the time for bills to become law without signature
9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
11 effective on the day following such approval.

DIGEST

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)]

HB 668 Original

2025 Regular Session

Wright

Abstract: Continues in *statute* 4¢ of the \$1.08 per pack state excise tax levied on cigarettes levied in present constitution and authorizes a reduced excise tax rate on certain modified risk tobacco products.

Present law provides for the levy of a state excise tax on the sale, use, consumption, handling, or distribution of all cigars, cigarettes, smoking and smokeless tobacco, and vapor products and electronic cigarettes within the state according to the following classifications and rates:

- (1) Cigars - 8% of the invoice price on cigars invoiced by the manufacturer at \$120 per 1,000 or less and 20% of the invoice price on cigars invoiced by the manufacturer at more than \$120 per 1,000.
- (2) Cigarettes - \$1.08 per pack of 20 cigarettes.
- (3) Smoking tobacco - 33% of the invoice price.
- (4) Smokeless tobacco - 20% of the invoice price.
- (5) Vapor products and electronic cigarettes - 15¢ per milliliter of consumable nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

Present constitution continues the levy of the 4¢ per cigarette of the total \$1.08 per pack state excise tax levied on cigarettes that expired in present law in 2012 in the constitution.

Proposed law retains present law with respect to the excise taxes levied on tobacco products and retains present constitution with respect to the continuance of the additional 4¢ excise tax levied on cigarettes but provides for the levy of the additional 4¢ per cigarette excise tax in *statute* in order for all levies of the state excise tax on cigarettes to be statutorily imposed. Proposed law retains the total state excise tax levied on cigarettes at \$1.08 per pack.

Proposed law provides for a 60% reduction in the tax rates levied in present law on various tobacco products that are issued a risk modification order pursuant to present federal law (21 U.S.C. 387k(g)(1)) that are commercially marketed and will significantly reduce harm and the risk of tobacco-related disease to individual users and are shown to benefit the health of the population as a whole.

Proposed law provides for a 25% reduction in the tax rates levied in present law on various tobacco products that are issued a risk modification order pursuant to present federal law (21 U.S.C. 387k(g)(2)) that are delivered in interstate commerce that may not be commercially marketed if the product appears to promote public health, the product or its smoke does not contain or contains a reduced level of exposure to a substance in tobacco smoke.

Present law provides for definitions for the imposition and administration of the state excise tax levied on tobacco products. Proposed law retains present law but adds definitions for "invoice price" for purposes of determining the tax on promotional incentives. Further defines "manufacturer's net invoiced price".

Present law defines a "cigarette" as any roll for smoking entirely or partially made of tobacco, regardless of its size or shape and regardless of the tobacco being flavored, adulterated or mixed with any other ingredient, where the roll has a wrapper made of any material except tobacco.

Proposed law retains present law but adds that a "cigarette" includes any roll for heating pursuant to ordinary conditions of use made wholly or in part of tobacco.

Proposed law is applicable to taxable periods beginning on or after July 1, 2025.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:841(B) and 842; Adds R.S. 47:841(H))