

HB357 ENGROSSED



1 HB357
2 QN7FT45-2
3 By Representative Hollis
4 RFD: Ways and Means General Fund
5 First Read: 27-Feb-25



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A BILL
TO BE ENTITLED
AN ACT

Relating to the tobacco tax; to amend Sections 40-25-1, 40-25-2, 40-25-4, 40-25-8, 40-25-8.1, 40-25-14, 40-25-18, 40-25-25, and 40-25-29, Code of Alabama 1975; to define "cigarette" and "heated tobacco products;" and to levy a tax on heated tobacco products.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-25-1, 40-25-2, 40-25-4, 40-25-8, 40-25-8.1, 40-25-14, 40-25-18, 40-25-25, and 40-25-29, Code of Alabama 1975, are amended to read as follows:

"§40-25-1

For the purposes of this article, the following terms shall have the respective meanings ascribed by this section:

(1) **WHOLESALE DEALER AND JOBBER.** Persons, firms, or corporations who buy tobacco products direct from the manufacturer or an affiliate of the manufacturer and sell at wholesale only, any one or more of the articles taxed herein to licensed wholesale dealers, jobbers, semijobbers, and retail dealers for the purpose of resale only.

(2) ~~RETAILER~~RETAIL DEALER. Every person, firm, or corporation, other than a wholesale dealer or jobber, who



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29 shall sell or offer for sale any one or more of the articles
30 taxed herein, irrespective of quantity or amount, or the
31 number of sales; and all persons operating under a retail
32 dealer's license.

33 (3) SEMIJOBBER. Persons, firms, or corporations who buy
34 tobacco products from permitted wholesalers or obtain tobacco
35 from any other source and sell at wholesale any one or more of
36 the articles taxed herein to licensed retail dealers for the
37 purpose of resale only.

38 (4) STAMPS. The stamp or stamps by the use of which the
39 tax levied under this article is paid and shall be designated
40 Alabama Revenue Stamps.

41 (5) CIGARS, CHERROOTS, STOGIES, ETC. A roll for smoking
42 that is of any size or shape and that is made wholly or in
43 part of tobacco or any substitute therefor, irrespective of
44 whether the tobacco is pure or flavored, adulterated or mixed
45 with any other ingredient, if the roll has a wrapper made
46 wholly or in part of tobacco.

47 (6) HEATED TOBACCO PRODUCT. A product containing
48 tobacco that produces an inhalable aerosol by heating the
49 tobacco by means of a device without combustion of the tobacco
50 or by heat generated from a combustion source that only or
51 primarily heats rather than burns the tobacco.

52 (7) CIGARETTE or CIGARETTES. Shall have the same
53 meaning as defined in Section 6-12-2 and shall include heated
54 tobacco products as defined herein."

55 "§40-25-2

56 (a) In addition to all other taxes of every kind now



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57 imposed by law, every person, firm, corporation, club, or
58 association, within the State of Alabama, who sells or stores
59 or receives for the purpose of distribution to any person,
60 firm, corporation, club, or association within the State of
61 Alabama, cigars, cheroots, stogies, cigarettes, smoking
62 tobacco, chewing tobacco, snuff, heated tobacco products, or
63 any substitute therefor, either or all, shall pay to the State
64 of Alabama for state purposes only a license or privilege tax
65 which shall be measured by and graduated in accordance with
66 the volume of sales of such person, firm, corporation, club,
67 or association in Alabama. There is hereby levied license or
68 privilege taxes on articles containing tobacco enumerated in
69 this article in the following amounts:

70 (1) LITTLE CIGARS. Upon cigars of all descriptions,
71 including filtered cigars, made of tobacco, or any substitute
72 therefor, and weighing not more than three pounds per 1,000,
73 \$.04 for each ten cigars, or fractional part thereof.

74 (2) FILTERED CIGARS. Upon filtered cigars that have a
75 cellulose acetate or similar integrated filter, made of
76 tobacco, or any substitute therefor, and weighing more than
77 three pounds per 1,000, \$0.015 for each filtered cigar.

78 (3) CHEROOTS, STOGIES, CIGARS, ETC. Upon all other
79 cigars of any descriptions made of tobacco, or any substitute
80 therefor, \$40.50 per thousand cigars, or \$0.0405 each.

81 (4) CIGARETTES. Upon all cigarettes made of tobacco, or
82 any substitute therefor, other than heated tobacco products,
83 33.75 mills on each such cigarette.

84 (5) SMOKING TOBACCO. Upon all smoking tobacco,



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85 including granulated, plug cut, crimp cut, ready rubbed, and
86 other kinds and forms of tobacco prepared in such manner as to
87 be suitable for smoking in a pipe or cigarette, upon each
88 package: Weighing not more than one and one-eighth ounces, tax
89 \$.04; over one and one-eighth ounces, not exceeding two
90 ounces, tax \$.10; over two ounces, not exceeding three ounces,
91 tax \$.16; over three ounces, not exceeding four ounces, tax
92 \$.21; \$.06 additional tax for each ounce or fractional part
93 thereof over four ounces.

94 (6) CHEWING TOBACCO. Upon all chewing tobacco prepared
95 in such manner as to be suitable for chewing only and not
96 suitable for smoking as described and taxed in subdivision (9)
97 of this subsection: \$.015 per ounce or fractional part
98 thereof.

99 (7) SNUFF. Upon each can or package of snuff weighing
100 not more than five-eighths ounces, one cent tax; over
101 five-eighths ounces and not exceeding one and five-eighths
102 ounces, \$.02 tax; over one and five-eighths ounces and not
103 exceeding two and one-half ounces, \$.04 tax; over two and
104 one-half ounces and not exceeding five ounces (cans, packages,
105 gullets), \$.06 tax; over three ounces and not exceeding five
106 ounces (glasses, tumblers, bottles), seven cents tax; over
107 five ounces and not exceeding six ounces, \$.08 tax; weighing
108 over six ounces, an additional \$.12 for each ounce or
109 fractional part thereof.

110 (8) HEATED TOBACCO PRODUCTS. Beginning October 1, 2025,
111 upon all heated tobacco products, the tax on a single-use
112 consumable unit shall be \$0.017 per single-use consumable



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113 unit.

114 (b) Whenever in this article reference is made to any
115 manufactured tobacco products on which the tax is based on
116 weight, the weight as shown by the manufacturer or the federal
117 internal revenue stamp shall apply.

118 (c) When any articles or commodities subject to tax in
119 this article are given as prizes on punch boards, shooting
120 galleries, premiums, etc., the tax shall be based on the tax
121 rates in subsection (a) of such articles.

122 (d) The tax herein levied, except for the taxes levied
123 by subsections (i) and (j), -shall be paid to the state
124 through the use of stamps as herein provided. However, every
125 wholesaler, distributor, jobber, semijobber, or retail dealer
126 shall add the amount of the tax levied herein to the price of
127 the tobacco or tobacco products sold, it being the purpose and
128 intent of this provision that the tax levied is in fact a levy
129 on the ultimate consumer or user with the wholesaler,
130 distributor, jobber, semijobber, or retail dealer acting
131 merely as an agent of the state for the collection and payment
132 of the tax to the state. Therefore, notwithstanding any
133 exemptions from taxes which any such seller may now or
134 hereafter enjoy under the Constitution or laws of this or any
135 other state, or of the United States, he or she shall collect
136 the tax imposed hereunder from the purchaser or consumer, and
137 the amount of the tax shall constitute a debt from the
138 purchaser or consumer to the seller until paid. It shall be
139 unlawful for any person, firm, corporation, association, or
140 copartnership to fail or refuse to add to the sales price and



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141 collect from the purchaser the amount of the tax to be added
142 to the sales price and collected from the purchaser hereunder.
143 Stamps in denominations to the amount of the tax or in
144 denominations specified pursuant to subsection (e) of this
145 section shall be affixed to the box or other container from or
146 in which tobacco products taxed by this section are normally
147 sold at retail. The stamps shall be affixed in such a manner
148 that their removal will require continued application of
149 water, steam, or heat; and in case of cigars, cheroots,
150 chewing tobacco and like manufactured tobacco products, where
151 sales are made from the original container, the stamps shall
152 be affixed to the box or container in such a way that the
153 stamps shall be torn in two or mutilated when such containers
154 or boxes are opened for the sale of the tobacco products. In
155 the case of cigarettes, smoking tobacco, snuff, heated tobacco
156 products, and like products sold at retail in packages, the
157 required amount of stamps to cover the tax shall be affixed to
158 each individual package or container. All taxable tobaccos
159 herein enumerated, when offered for sale, either at wholesale
160 or retail, without having stamps affixed in the manner set out
161 by this article, or without payment of the tax by return by
162 the wholesaler, jobber, semijobber, or registered retailer,
163 shall be subject to confiscation, in the manner provided for
164 contraband goods as set out in this article.

165 (e) The Commissioner of Revenue shall prepare and issue
166 stamps in denominations for the amount of the tax imposed by
167 this article provided that if the commissioner determines that
168 it is not economical for the state to have a stamp prepared



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169 and issued for one or more particular types of packages of
170 tobacco products, then the commissioner may by regulation
171 prescribe the use of a stamp in a denomination other than for
172 the amount of the tax imposed with the difference between the
173 amount of tax actually imposed and the amount of tax
174 denominated by the stamp paid with the use of a monthly
175 report; or may require a monthly report without use of a stamp
176 to report the amount of taxes due.

177 (f) The increases levied by this section shall be
178 exclusive and shall be in lieu of any other or additional
179 local taxes and/or license fees, county or municipal, imposed
180 on the sale or use of cigarettes, heated tobacco products,
181 and/or other tobacco products. Notwithstanding the foregoing,
182 an act of the Legislature or an ordinance or resolution by a
183 taxing authority passed or enacted on or before May 18, 2004,
184 imposing a local tax and/or license fee shall remain
185 operative, but no additional local tax and/or license fee may
186 thereafter be levied on the sale of cigarettes, heated tobacco
187 products, and/or other tobacco products.

188 (g) Local taxes and/or license fees, county or
189 municipal, imposed on the sale or use of cigarettes shall be
190 paid to the local government through the use of stamps affixed
191 to the product as provided herein for the state tax. Provided,
192 however, this requirement shall not be interpreted to require
193 the Department of Revenue to prepare all stamps or to collect
194 all local taxes. Local governments may contract with another
195 entity to collect their local cigarette tax but all local
196 taxes must be collected as provided herein.



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197 (h) Notwithstanding any other provision of this
198 chapter, revenue from the additional tax in subsection (a) (4)
199 imposed by Act 2015-535 shall be deposited into the State
200 General Fund for the Medicaid Program.

201 (i) In the counties that have a local tobacco tax,
202 there is hereby levied an additional county license or
203 privilege tax on heated tobacco products, which shall equal
204 half of the state tax rate as provided in subdivision (a) (8)
205 and shall be paid to the county in which the heated tobacco
206 products were sold to the purchaser. Notwithstanding any other
207 provision of this chapter, the taxes imposed by subdivision
208 (a) (8) and this subsection shall be collected by the
209 wholesaler, jobber, semijobber, or registered retailer from
210 the purchaser at the time of purchase.

211 (j) In the municipalities that have a local tobacco
212 tax, there is hereby levied an additional municipal license or
213 privilege tax on heated tobacco products, which shall equal
214 half of the local municipal tax or license fee as applied to
215 the sale of cigarettes and shall be paid to the municipality
216 in which the heated tobacco products were sold to the
217 purchaser. Notwithstanding any other provision of this
218 chapter, the taxes imposed by subdivision (a) (8) and this
219 subsection shall be collected by the wholesaler, jobber,
220 semijobber, or registered retailer from the purchaser at the
221 time of purchase."

222 "§40-25-4

223 The license taxes imposed by this article shall be paid
224 by affixing stamps in the manner and at the time herein set



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225 forth. In the case of cigars, stogies, cheroots, chewing
226 tobacco, and like products, the stamps shall be affixed to the
227 box or container in which or from which normally sold at
228 retail. In the case of cigarettes, smoking tobacco, heated
229 tobacco products, and snuff, the stamps shall be affixed to
230 each individual package. Time allowed for affixing stamps
231 shall be as follows: Every wholesale or retail dealer in this
232 state, except wholesalers who are issued a permit by the
233 Department of Revenue, shall immediately after receipt of any
234 unstamped cigars, stogies, cheroots, chewing tobacco,
235 cigarettes, smoking tobacco, heated tobacco products, or
236 snuff, unless sooner offered for sale, cause the same to have
237 the requisite denominations and amount of stamp or stamps to
238 represent the tax affixed as stated herein. The stamping of
239 the cigars, stogies, cheroots, chewing tobacco, cigarettes,
240 smoking tobacco, heated tobacco products, and snuff shall
241 actually begin within one hour after receipt of the cigars,
242 stogies, cheroots, chewing tobacco, cigarettes, smoking
243 tobacco, heated tobacco products, and snuff in the premises of
244 the wholesale or retail dealer, except wholesalers who are
245 issued a permit by the Department of Revenue, and the stamping
246 shall be continued with reasonable diligence by the wholesale
247 or retail dealer until all of the unstamped cigars, stogies,
248 cheroots, chewing tobacco, cigarettes, smoking tobacco, heated
249 tobacco products, and snuff have been stamped. Wholesalers who
250 have been issued a permit by the department shall affix the
251 required stamps prior to any sale. Every wholesale dealer
252 shall at the time of shipping or delivering any tobacco



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253 products as enumerated herein make a true duplicate invoice of
254 the same which shall show full and complete details of the
255 sale or delivery of the taxable article, shall state the
256 tobacco tax separately from the price of the tobacco products,
257 and shall retain the same subject to the use and inspection of
258 the Department of Revenue, or its duly authorized agents for a
259 period of three years. Wholesaler invoices must be computer or
260 machine generated and the seller's or supplier's name must be
261 on the invoice. Handwritten invoices may not be considered
262 legitimate documentations to substantiate proof of sale.
263 Wholesale and retail dealers shall also keep a record of
264 purchases of all tobacco products enumerated and defined in
265 this article and hold all books, records, and memoranda
266 pertaining to the purchase and sale of those tobacco products
267 open to the inspection of the Department of Revenue or its
268 duly authorized agents at any and all times. Every wholesale
269 dealer shall furnish to the Department of Revenue a monthly
270 report, between the first and twentieth of each month for the
271 preceding month, of all orders for tobacco products purchased
272 through the wholesale dealer from without this state on a drop
273 shipment and consigned direct to the person, firm,
274 corporation, or association of persons ordering the tobacco
275 products from without this state through the wholesale dealer.
276 If, upon examination of invoices of any tobacco product sold
277 by a wholesaler or purchased or received, or both, by a retail
278 dealer, he or she is unable to furnish evidence to the
279 Department of Revenue of sufficient stamp purchases to cover
280 the unstamped tobaccos purchased, the prima facie presumption



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281 shall arise that the tobacco products were sold without the
282 proper stamps affixed thereto. Any wholesaler or retailer who
283 fails or refuses to comply with any or all of the above
284 provisions shall be deemed a violator of this section and,
285 upon conviction, punished by a fine of not less than \$500 nor
286 more than \$1,000, or imprisonment in the county jail for a
287 period of six months, either or both, at the discretion of the
288 court."

289 "§40-25-8

290 Any cigarettes, smoking tobacco, heated tobacco
291 products, cigars, stogies, cheroots, chewing tobacco, snuff,
292 or other products taxable under this article found at any
293 point within the State of Alabama, which the cigarettes,
294 smoking tobacco, heated tobacco products, cigars, stogies,
295 cheroots, chewing tobacco, snuff, or other products taxable
296 under this article shall have been within the State of Alabama
297 for a period of two hours, or longer, in possession of any
298 retailer or semijobber not having affixed to the package the
299 stamps as provided in this article, or in the case of products
300 not requiring a stamp to be affixed where purchase invoices do
301 not itemize the applicable tobacco taxes, are declared to be
302 contraband goods and may be seized by the Department of
303 Revenue, or its agents or by any peace officer of the State of
304 Alabama, without a warrant and the goods shall be delivered to
305 the Department of Revenue for destruction. Any of the goods,
306 wares, or merchandise when offered for sale, either at
307 wholesale or retail without the stamps having been first
308 affixed, or in the case of products not requiring a stamp to



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309 be affixed where purchase invoices do not itemize the
310 applicable tobacco taxes, shall be subject to confiscation as
311 hereinabove provided. Any untaxed cigarettes, smoking tobacco,
312 heated tobacco products, cigars, stogies, cheroots, chewing
313 tobacco, snuff, or other products taxable under this article
314 found at any location within the State of Alabama, other than
315 the primary location of the permitted wholesaler or jobber,
316 registered semijobber, registered retailer or tobacco products
317 manufacturer who stores tobacco products at a bonded warehouse
318 in this state for resale, are declared to be contraband goods,
319 and those goods may be seized by the Department of Revenue, or
320 its agents or by any peace officer of the State of Alabama,
321 without a warrant and the goods shall be delivered to the
322 Department of Revenue for destruction. Any vehicle, not a
323 common carrier, used for the transportation for the purpose of
324 sale of unstamped articles as hereinabove enumerated shall
325 likewise be subject to confiscation and sale at public auction
326 to the highest bidder after due advertisement and notice to
327 the title owner of the vehicle. The proceeds of sale for any
328 vehicle sold hereunder shall be deposited into the State
329 Treasury by the Department of Revenue to be credited in the
330 same manner as the tax otherwise due on the tobacco products
331 being transported. The cost of confiscation and sale shall be
332 paid out of the proceeds derived from the sale before making
333 remittance to the Treasurer. Should any unstamped tobaccos be
334 found in any vehicle which is engaged in the sale,
335 distribution, or delivery of taxable tobaccos, the same shall
336 be prima facie evidence that it was there for sale."



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337 "§40-25-8.1

338 (a) Each person, firm, corporation, club, or
339 association that transports products required to be stamped as
340 provided in Section 40-25-8, which are not stamped or on which
341 tax has not been paid in accordance with this chapter and
342 Chapter 25A, upon the public highways, roads, or streets of
343 this state is required to have an active tobacco permit or
344 transporters permit under this chapter. Failure to obtain a
345 permit prior to transporting the products is a violation of
346 this section. A violation of this section may result in the
347 products being declared contraband goods that may be seized
348 without warrant by any law enforcement officer in this state.
349 The contraband goods may be disposed of or destroyed by the
350 law enforcement officer in accordance with this chapter. In
351 addition, a vehicle used in the transportation of confiscated
352 products may be subject to confiscation by the law enforcement
353 officer and sold at public auction to the highest bidder after
354 due advertisement pursuant to Chapter 13 of Title 32.

355 (b) The owner or driver, or both, of a vehicle used in
356 a violation of this section is guilty of a Class A misdemeanor
357 unless the tobacco products being transported exceeds any of
358 the following quantities: 25,000 cigars, 50,000 filtered
359 cigars, 50,000 little cigars, 50,000 cigarettes, 50,000 heated
360 tobacco products, 25,000 cigar wraps, or 2,500 individual
361 containers of loose or smokeless tobacco, in which case the
362 owner or driver is guilty of a Class C felony. Any person
363 convicted of a second or subsequent offense for a violation of
364 this section is guilty of a Class C felony, regardless of the



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365 amount of tobacco products involved in the violation.

366 (c) This section shall not apply to individuals
367 transporting tobacco for personal consumption as provided in
368 Section 40-25-25."

369 "§40-25-14

370 Each and every wholesaler or jobber qualifying as such
371 with the Department of Revenue shall be required to file a
372 report between the first and twentieth of each month, covering
373 the purchase or receipt by them of all tobacco products
374 enumerated and defined herein during the preceding month. Said
375 report shall give in detail the different kinds and quantities
376 of tobacco products so purchased or received by them during
377 the preceding month. The Department of Revenue shall furnish
378 any person seeking to bring an action under Section 8-19-10
379 with information permitting the identification of a
380 distributor which has affixed a stamp to a package of
381 cigarettes or heated tobacco products in accordance with this
382 section. In addition, between the first and twentieth of each
383 month, each person licensed to affix the state tax stamp to
384 cigarettes or heated tobacco products shall file with the
385 Department of Revenue, for all cigarettes or heated tobacco
386 products imported into the United States to which such person
387 has affixed the Alabama revenue stamp in the preceding month,
388 copies of the customs certificates with respect to such
389 cigarettes or heated tobacco products required to be submitted
390 by 19 U.S.C. § 1681a(c). Any wholesaler or jobber failing or
391 refusing to file the above report in the manner and time
392 allowed shall be deemed a violator of this section and upon



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393 conviction shall be fined not less than \$100 nor more than
394 \$500 for each offense."

395 "§40-25-18

396 (a) Persons failing to properly affix the required
397 stamps to any cigars, cheroots, stogies, cigarettes, smoking
398 tobacco, heated tobacco products, chewing tobacco, and snuff
399 shall be required to pay, as part of the tax imposed
400 hereunder, a penalty of not less than twenty-five dollars
401 (\$25) nor more than five hundred dollars (\$500). Each article
402 or commodity not having proper stamps affixed thereto as
403 herein required shall be deemed a separate offense. Any
404 cigars, cheroots, stogies, cigarettes, smoking tobacco, heated
405 tobacco products, chewing tobacco, and snuff in the place of
406 business of any person required by this article to stamp the
407 same shall be prima facie evidence that they are intended for
408 sale. The Department of Revenue, upon good cause shown, may
409 waive or remit any penalty or any part thereof provided for in
410 this section. Any person, firm, corporation, club, or
411 association of persons who has been found guilty of violating
412 this article and who, after being punished by fine, penalty,
413 assessment, or imprisonment, is found guilty of a second or
414 subsequent violation of this article shall have their license,
415 as provided in Sections 40-12-72 and 40-12-73, revoked by the
416 department, and no further license or permit shall be issued
417 or granted to that person, firm, corporation, club, or
418 association of persons for a period of one year from the date
419 their license or permit has been revoked. Notice of the
420 revocation shall be mailed to the probate judge and license



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421 inspector of the county in which the revocation was made.

422 (b) In addition to the penalty levied by the department
423 pursuant to subsection (a), the county license inspector,
424 license commissioner, revenue commissioner, tax assessor, or
425 tax collector of the county in which the untaxed tobacco
426 product is located may assess a penalty against any person
427 failing to affix the required stamps to any cigars, cheroots,
428 stogies, cigarettes, smoking tobacco, heated tobacco products
429 and snuff. The amount of the additional penalty shall be not
430 less than one hundred dollars (\$100) nor more than five
431 hundred dollars (\$500).

432 (c) The department and local taxing official may assess
433 the tax levied by this chapter pursuant to the assessment
434 procedures set out in Chapter 2A of this title."

435 "§40-25-25

436 If any person, firm, or corporation who is not a
437 regularly licensed dealer in tobacco products shall have in
438 his or her possession within the state more than 30 packages
439 of unstamped cigarettes or heated tobacco products or more
440 than one box of unstamped cigars, such possession shall be
441 presumed to be for the purpose of evading the payment of the
442 taxes due thereon."

443 "§40-25-29

444 Any excise, license, privilege, or other tax levied on
445 the sale of cigarettes or heated tobacco products by any
446 county or municipal government within the State of Alabama
447 shall be levied on the basis of a millage rate per cigarette
448 or per single-use consumable unit of heated tobacco product,



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449 in a manner similar to the method of specifying the tax levied
450 on cigarettes or heated tobacco products by ~~subdivision (8) of~~
451 ~~subsection (a) of~~ Section 40-25-2 (a), except where such taxing
452 authority has levied a per package tax on cigarettes without
453 any distinction as to the amount of cigarettes or heated
454 tobacco products per package. This provision does not specify
455 or limit the rate or amount of tax which may be levied on
456 cigarettes or heated tobacco products by such county or
457 municipal government. This provision is not to be construed as
458 limiting or extending the taxing authority of any county or
459 municipal government but rather this section specifies the
460 manner in which such taxing authority may be exercised by the
461 county or municipal government for the protection of the tax
462 revenues accruing to the state and said county or municipal
463 government, and for the protection of the public welfare,
464 health, peace and morals of the people of this state."

465 Section 2. This act shall become effective on October
466 1, 2025.



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House of Representatives

470 Read for the first time and referred27-Feb-25
471 to the House of Representatives
472 committee on Ways and Means General
473 Fund
474
475 Read for the second time and placed19-Mar-25
476 on the calendar:
477 1 amendment
478
479 Read for the third time and passed10-Apr-25
480 as amended
481 Yeas 58
482 Nays 37
483 Abstains 3

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John Treadwell
Clerk