

House File 2339 - Introduced

HOUSE FILE 2339

BY R. TAYLOR

A BILL FOR

1 An Act relating to cigarettes, tobacco products, alternative
2 nicotine products, and vapor products, including taxation of
3 such products.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 453A.6, subsection 1, Code 2018, is
2 amended to read as follows:

3 1. There is imposed, and shall be collected and paid to the
4 department, a tax on all cigarettes used or otherwise disposed
5 of in this state for any purpose equal to ~~six and eight-tenths~~
6 fourteen and three-tenths cents on each cigarette.

7 Sec. 2. Section 453A.6, subsection 8, paragraph a, Code
8 2018, is amended to read as follows:

9 a. Pay directly to the department, in lieu of the tax under
10 subsection 1, a tax equal to ~~three and six hundredths~~ four
11 and four-tenths cents on each cigarette dispensed from such
12 machine.

13 Sec. 3. Section 453A.15, subsection 4, Code 2018, is amended
14 to read as follows:

15 4. Every permit holder or other person shall, when requested
16 by the department, make additional reports as the department
17 deems necessary and proper and shall at the request of the
18 department furnish full and complete information pertaining to
19 any transaction of the permit holder or other person involving
20 the purchase or sale or use of cigarettes, alternative nicotine
21 products, or vapor products, or purchase of cigarette stamps.
22 The director shall specifically prescribe the forms necessary
23 and require each retailer to provide on the forms prescribed,
24 full and complete information pertaining to any cigarettes,
25 alternative nicotine products, or vapor products offered for
26 sale or sold by the retailer, including the type and brand of
27 the product.

28 Sec. 4. Section 453A.24, subsection 2, Code 2018, is amended
29 to read as follows:

30 2. The director may require by rule that common carriers
31 or the appropriate persons provide monthly reports to the
32 department detailing all information the department deems
33 necessary on shipments into and out of Iowa of cigarettes,
34 and tobacco products, alternative nicotine products, or vapor
35 products, as set forth in this [division I](#) and [division II](#)

1 of this chapter. The director may require by rule that the
2 reports be filed by electronic transmission.

3 Sec. 5. Section 453A.32, subsection 6, Code 2018, is amended
4 to read as follows:

5 6. The provisions of [this section](#) applying to cigarettes
6 shall also apply to tobacco products, alternative nicotine
7 products, and vapor products taxed under division II of this
8 chapter.

9 Sec. 6. Section 453A.33, Code 2018, is amended to read as
10 follows:

11 **453A.33 Seizure not to affect criminal prosecution.**

12 The seizure, forfeiture, and sale of cigarettes, tobacco
13 products, alternative nicotine products, vapor products, and
14 other property under the terms and conditions ~~hereinabove set~~
15 ~~out~~ pursuant to section 453A.32, shall not constitute any
16 defense to the person owning or having control or possession of
17 the property from criminal prosecution for any act or omission
18 made or offense committed under [this chapter](#) or from liability
19 to pay penalties provided by [this chapter](#).

20 Sec. 7. Section 453A.35, subsection 1, paragraph b, Code
21 2018, is amended to read as follows:

22 *b.* The revenues generated from the tax on cigarettes
23 pursuant to [section 453A.6, subsection 1](#), and from the tax on
24 tobacco products, alternative nicotine products, and vapor
25 products as specified in section 453A.43, subsections 1, 2, 3,
26 and 4, shall be credited to the health care trust fund created
27 in [section 453A.35A](#).

28 Sec. 8. Section 453A.35A, Code 2018, is amended to read as
29 follows:

30 **453A.35A Health care trust fund.**

31 1. A health care trust fund is created in the office of
32 the treasurer of state. The fund consists of the revenues
33 generated from the tax on cigarettes pursuant to section
34 453A.6, subsection 1, and from the tax on tobacco products,
35 alternative nicotine products, and vapor products as specified

1 in [section 453A.43, subsections 1, 2, 3, and 4](#), that are
2 credited to the health care trust fund, annually, pursuant to
3 [section 453A.35](#). Moneys in the fund shall be separate from
4 the general fund of the state and shall not be considered
5 part of the general fund of the state. However, the fund
6 shall be considered a special account for the purposes of
7 [section 8.53](#) relating to generally accepted accounting
8 principles. Moneys in the fund shall be used only as specified
9 in [this section](#) and shall be appropriated only for the uses
10 specified. Moneys in the fund are not subject to [section 8.33](#)
11 and shall not be transferred, used, obligated, appropriated,
12 or otherwise encumbered, except as provided in [this section](#).
13 Notwithstanding [section 12C.7, subsection 2](#), interest or
14 earnings on moneys deposited in the fund shall be credited to
15 the fund.

16 2. Moneys in the fund shall be used only for purposes
17 related to health care including mental health services,
18 substance abuse treatment and prevention, and tobacco use
19 prevention, cessation, and control. The first nine million
20 dollars credited to the fund, annually, shall be used for the
21 purposes of tobacco use prevention, cessation, and control in
22 accordance with the centers for disease control and prevention
23 of the United States department of health and human services'
24 most recently published best practices for comprehensive
25 tobacco control programs, and the remaining revenue credited,
26 annually, to the fund shall be used first for mental health
27 services followed by the other specified purposes of the fund.

28 Sec. 9. [Section 453A.39, subsection 1, Code 2018](#), is amended
29 to read as follows:

30 1. A manufacturer, distributor, wholesaler, retailer,
31 or distributing agent, or agent thereof an agent of a
32 manufacturer, distributor, wholesaler, retailer, or
33 distributing agent, shall not give away cigarettes, ~~or~~ tobacco
34 products, alternative nicotine products, or vapor products, at
35 any time in connection with the manufacturer's, distributor's,

1 wholesaler's, retailer's, or distributing agent's business or
2 for promotion of the business or product, except as provided in
3 subsection 2.

4 Sec. 10. Section 453A.40, subsection 1, Code 2018, is
5 amended to read as follows:

6 1. All persons required to obtain a permit or to be licensed
7 under [section 453A.13](#) or [section 453A.44](#) having in their
8 possession and held for resale on the effective date of an
9 increase in the tax rate cigarettes, little cigars, ~~or~~ tobacco
10 products, alternative nicotine products, or vapor products upon
11 which the tax under [section 453A.6](#) or [453A.43](#) has been paid,
12 unused cigarette tax stamps which have been paid for under
13 section 453A.8, unused metered imprints which have been paid
14 for under [section 453A.12](#), or tobacco products, alternative
15 nicotine products, or vapor products for which the tax has
16 not been paid under [section 453A.46](#) shall be subject to an
17 inventory tax on the items as provided in [this section](#).

18 Sec. 11. Section 453A.42, Code 2018, is amended to read as
19 follows:

20 **453A.42 Definitions.**

21 When used in [this division](#), unless the context clearly
22 indicates otherwise, the following terms shall have the
23 meanings, respectively, ascribed to them in [this section](#):

24 1. "*Business*" means any trade, occupation, activity,
25 or enterprise engaged in for the purpose of selling or
26 distributing tobacco products, alternative nicotine products,
27 or vapor products in this state.

28 2. "*Consumer*" means any person who has title to or
29 possession of tobacco products, alternative nicotine products,
30 or vapor products in storage, for use or other consumption in
31 this state.

32 3. "*Delivery sale*" means any sale of an alternative nicotine
33 product or a vapor product to a purchaser in this state where
34 the purchaser submits the order for such sale by means of a
35 telephonic or other method of voice transmission, mail or any

1 other delivery service, or the internet or other online service
2 and the alternative nicotine product or vapor product is
3 delivered by use of mail or a delivery service. The sale of an
4 alternative nicotine product or vapor product shall constitute
5 a delivery sale regardless of whether the seller is located
6 in this state. "Delivery sale" does not include a sale to a
7 distributor or retailer of any alternative nicotine product or
8 vapor product not for personal consumption.

9 4. "Director" means the director of the department of
10 revenue.

11 5. "Distributor" means any ~~and each~~ of the following:

12 a. Any person engaged in the business of selling tobacco
13 products, alternative nicotine products, or vapor products
14 in this state who brings, or causes to be brought, into this
15 state from without the state any tobacco products, alternative
16 nicotine products, or vapor products for sale~~;~~.

17 b. Any person who makes, manufactures, or fabricates tobacco
18 products, alternative nicotine products, or vapor products in
19 this state for sale in this state~~;~~.

20 c. Any person engaged in the business of selling tobacco
21 products, alternative nicotine products, or vapor products
22 without this state who ships or transports tobacco products,
23 alternative nicotine products, or vapor products to retailers
24 in this state, to be sold by those retailers.

25 6. "Little cigar" means any roll for smoking which meets all
26 of the following conditions:

27 a. Is made wholly or in part of tobacco, irrespective of
28 size or shape and irrespective of tobacco being flavored,
29 adulterated, or mixed with any other ingredient~~;~~.

30 b. Is not a cigarette as defined in section 453A.1,
31 subsection 4~~;~~ and.

32 c. Either weighs not more than three pounds per thousand,
33 irrespective of retail price, or weighs more than three pounds
34 per thousand and has a retail price of not more than two
35 and one-half cents per little cigar. For purposes of this

1 subsection, the retail price is the ordinary retail price in
2 this state, not including retail sales tax, use tax, or the tax
3 on little cigars imposed by [section 453A.43](#).

4 7. "*Manufacturer*" means a person who manufactures and sells
5 tobacco products, alternative nicotine products, or vapor
6 products.

7 8. "*Person*" means any individual, firm, association,
8 partnership, joint stock company, joint ~~adventure~~ venture,
9 corporation, trustee, agency, or receiver, or any legal
10 representative of any ~~of the foregoing~~ individual, firm,
11 association, partnership, joint stock company, joint venture,
12 corporation, trustee, agency, or receiver.

13 9. "*Place of business*" means any place where tobacco
14 products, alternative nicotine products, or vapor products are
15 sold or where tobacco products, alternative nicotine products,
16 or vapor products are manufactured, stored, or kept for the
17 purpose of sale or consumption, including any vessel, vehicle,
18 airplane, train, or vending machine; or for a business within
19 or without the state that conducts delivery sales, any place
20 where alternative nicotine products or vapor products are sold
21 or where alternative nicotine products or vapor products are
22 kept for the purpose of sale, including delivery sales.

23 10. "*Retail outlet*" means each place of business from which
24 tobacco products, alternative nicotine products, or vapor
25 products are sold to consumers.

26 11. "*Retailer*" means any person engaged in the business
27 of selling tobacco, tobacco products, alternative nicotine
28 products, or vapor products to ultimate consumers.

29 12. "*Sale*" means any transfer, exchange, or barter, in any
30 manner or by any means whatsoever, for a consideration, and
31 includes and means all sales made by any person. It includes
32 a gift by a person engaged in the business of selling tobacco
33 products, alternative nicotine products, or vapor products,
34 for advertising, as a means of evading the provisions of this
35 division, or for any other purposes whatsoever.

1 13. "Snuff" means any finely cut, ground, or powdered
2 tobacco that is not intended to be smoked.

3 14. "Storage" means any keeping or retention of tobacco
4 products, alternative nicotine products, or vapor products for
5 use or consumption in this state.

6 15. "Subjobber" means any person, other than a manufacturer
7 or distributor, who buys tobacco products, alternative nicotine
8 products, or vapor products from a distributor and sells them
9 to persons other than the ultimate consumers.

10 16. "Tobacco products" means cigars; little cigars as
11 defined herein; cheroots; stogies; periques; granulated, plug
12 cut, crimp cut, ready rubbed, and other smoking tobacco;
13 snuff; cavendish; plug and twist tobacco; fine-cut and other
14 chewing tobaccos; shorts; refuse scraps, clippings, cuttings
15 and sweepings of tobacco, and other kinds and forms of tobacco,
16 prepared in such manner as to be suitable for chewing or
17 smoking in a pipe or otherwise, or both for chewing and
18 smoking; but shall not include cigarettes as defined in section
19 453A.1, subsection 4.

20 17. "Use" means the exercise of any right or power
21 incidental to the ownership of tobacco products, alternative
22 nicotine products, or vapor products.

23 18. "Wholesale sales price" means the established price
24 for which a manufacturer sells a tobacco product, alternative
25 nicotine products, or vapor products to a distributor,
26 exclusive of any discount or other reduction.

27 Sec. 12. Section 453A.43, Code 2018, is amended to read as
28 follows:

29 **453A.43 Tax on tobacco products, alternative nicotine**
30 **products, and vapor products.**

31 1. a. A tax is imposed upon all tobacco products,
32 alternative nicotine products, and vapor products in this
33 state and upon any person engaged in business as a distributor
34 of tobacco products, at the rate of ~~twenty-two~~ sixty-seven
35 percent of the wholesale sales price of the tobacco products,

1 ~~except little cigars and snuff as defined in section~~
2 ~~453A.42 alternative nicotine products, or vapor products.~~

3 Notwithstanding the rate of tax imposed under this paragraph
4 "a" on tobacco products, little cigars shall be subject to the
5 tax as specified pursuant to paragraph "b", and snuff shall be
6 subject to the tax as specified pursuant to paragraph "c".

7 ~~b. In addition to the tax imposed under paragraph "a", a~~
8 ~~tax is imposed upon all tobacco products in this state and upon~~
9 ~~any person engaged in business as a distributor of tobacco~~
10 ~~products, at the rate of twenty-eight percent of the wholesale~~
11 ~~sales price of the tobacco products, except little cigars and~~
12 ~~snuff as defined in [section 453A.42](#).~~

13 ~~c. Notwithstanding the rate of tax imposed pursuant to~~
14 ~~paragraphs "a" and "b", if the tobacco product is a cigar, the~~
15 ~~total amount of the tax imposed pursuant to paragraphs "a" and~~
16 ~~"b" combined shall not exceed fifty cents per cigar.~~

17 ~~d. b.~~ Little cigars shall be subject to the same rate of
18 tax imposed upon cigarettes in [section 453A.6](#), payable at the
19 time and in the manner provided in [section 453A.6](#); and stamps
20 shall be affixed as provided in [division I of this chapter](#).

21 c. Snuff shall be subject to the tax as provided in
22 subsections 3 and 4.

23 ~~e. d.~~ The taxes on tobacco products, ~~excluding little~~
24 ~~cigars and snuff,~~ alternative nicotine products, and vapor
25 products, as specified pursuant to paragraph "a", shall be
26 imposed at the time the distributor does any of the following:

27 (1) Brings, or causes to be brought, into this state from
28 outside the state tobacco products, alternative nicotine
29 products, or vapor products for sale.

30 (2) Makes, manufactures, or fabricates tobacco products,
31 alternative nicotine products, or vapor products in this state
32 for sale in this state.

33 (3) Ships or transports tobacco products, alternative
34 nicotine products, or vapor products to retailers in this
35 state, to be sold by those retailers.

1 2. *a.* A tax is imposed upon the use or storage by consumers
2 of tobacco products, alternative nicotine products, and vapor
3 products in this state, and upon the consumers, at the rate
4 of ~~twenty-two~~ sixty-seven percent of the cost of the tobacco
5 products, alternative nicotine products, or vapor products.

6 ~~*b.* In addition to the tax imposed in paragraph "a", a tax~~
7 ~~is imposed upon the use or storage by consumers of tobacco~~
8 ~~products in this state, and upon the consumers, at a rate of~~
9 ~~twenty-eight percent of the cost of the tobacco products.~~

10 ~~*c.* Notwithstanding the rate of tax imposed pursuant to~~
11 ~~paragraphs "a" and "b", if the tobacco product is a cigar, the~~
12 ~~total amount of the tax imposed pursuant to paragraphs "a" and~~
13 ~~"b" combined shall not exceed fifty cents per cigar.~~

14 ~~*d.*~~ *b.* The taxes imposed by **this subsection** shall not apply
15 if the taxes imposed by **subsection 1** on the tobacco products
16 have been paid.

17 ~~*e.*~~ *c.* The taxes imposed under **this subsection** shall not
18 apply to the use or storage of tobacco products in quantities
19 of:

20 (1) Less than twenty-five cigars.

21 (2) Less than one pound smoking or chewing tobacco or other
22 tobacco products not specifically mentioned herein, in the
23 possession of any one consumer.

24 3. A tax is imposed upon all snuff in this state and upon
25 any person engaged in business as a distributor of snuff at
26 the rate of ~~one dollar and nineteen cents per ounce, with a~~
27 ~~proportionate tax at the same rate on all fractional parts of~~
28 ~~an ounce of snuff~~ sixty-seven percent of the wholesale sales
29 price or an amount equal to the tax on cigarettes pursuant to
30 section 453A.6 for each one and two-tenths ounces of snuff,
31 whichever is higher. The tax shall be computed based on the
32 net weight listed by the manufacturer. The tax on snuff
33 shall be imposed at the time the distributor does any of the
34 following:

35 *a.* Brings or causes to be brought into this state from

1 outside the state, snuff for sale.

2 *b.* Makes, manufactures, or fabricates snuff in this state
3 for sale in this state.

4 *c.* Ships or transports snuff to retailers in this state, to
5 be sold by those retailers.

6 4. *a.* A tax is imposed upon the use or storage by consumers
7 of snuff in this state, and upon the consumers, at the rate of
8 ~~one dollar and nineteen cents per ounce with a proportionate~~
9 ~~tax at the same rate on all fractional parts of an ounce of~~
10 snuff sixty-seven percent of the wholesale sales price or an
11 amount equal to the tax on cigarettes pursuant to section
12 453A.6 for each one and two-tenths ounces of snuff, whichever
13 is higher. The tax shall be computed based on the net weight
14 as listed by the manufacturer.

15 *b.* The tax imposed by [this subsection](#) shall not apply if the
16 tax imposed by [subsection 3](#) on snuff has been paid.

17 *c.* The tax shall not apply to the use or storage of snuff in
18 quantities of less than ten ounces.

19 5. Any tobacco product, alternative nicotine products,
20 or vapor products with respect to which a tax has once been
21 imposed under [this division](#) shall not again be subject to tax
22 under [this division](#), except as provided in [section 453A.40](#).

23 6. The tax imposed by [this section](#) shall not apply with
24 respect to any tobacco product which under the Constitution
25 and laws of the United States may not be made the subject of
26 taxation by this state.

27 7. The tax imposed by [this section](#) shall be in addition to
28 all other occupation or privilege taxes or license fees now or
29 hereafter imposed by any city or county.

30 8. All excise taxes collected under [this chapter](#) by a
31 distributor or any individual are deemed to be held in trust
32 for the state of Iowa.

33 Sec. 13. Section 453A.44, subsections 1, 3, and 10, Code
34 2018, are amended to read as follows:

35 1. ~~No~~ A person shall not engage in the business of a

1 distributor or subjobber of tobacco products, alternative
2 nicotine products, or vapor products at any place of business
3 without first having received a license from the director to
4 engage in that business at that place of business.

5 3. A person without this state who ships or transports
6 tobacco products, alternative nicotine products, or vapor
7 products to retailers in this state, to be sold by those
8 retailers, may make application for a license as a distributor,
9 be granted a license by the director, and thereafter be subject
10 to all the provisions of [this division](#) and entitled to act as
11 a licensed distributor.

12 10. The director may revoke, cancel, or suspend the
13 license or licenses of any distributor or subjobber for
14 violation of any of the provisions of [this division](#), or
15 any other act applicable to the sale of tobacco products,
16 alternative nicotine products, or vapor products, or any rule
17 or regulations promulgated by the director in furtherance of
18 this division. No license shall be revoked, canceled, or
19 suspended except after notice and a hearing by the director as
20 provided in [section 453A.48](#).

21 Sec. 14. Section 453A.45, Code 2018, is amended to read as
22 follows:

23 **453A.45 Licensees, duties.**

24 1. *a.* Every distributor shall keep at each licensed
25 place of business complete and accurate records for that
26 place of business, including itemized invoices, of tobacco
27 products, alternative nicotine products, and vapor products
28 held, purchased, manufactured, brought in or caused to be
29 brought in from without the state, or shipped or transported to
30 retailers in this state, and of all sales of tobacco products,
31 alternative nicotine products, and vapor products made, except
32 sales to the ultimate consumer.

33 *b.* When a licensed distributor sells tobacco products,
34 alternative nicotine products, or vapor products exclusively to
35 the ultimate consumer at the address given in the license, an

1 invoice of those sales is not required, but itemized invoices
2 shall be made of all tobacco products, alternative nicotine
3 products, and vapor products transferred to other retail
4 outlets owned or controlled by that licensed distributor. All
5 books, records, and other papers and documents required by
6 this subsection to be kept shall be preserved for a period
7 of at least three years after the date of the documents or
8 the date of the entries appearing in the records, unless the
9 director, in writing, authorized their destruction or disposal
10 at an earlier date. At any time during usual business hours,
11 the director, or the director's duly authorized agents or
12 employees, may enter any place of business of a distributor,
13 without a search warrant, and inspect the premises, the records
14 required to be kept under this subsection, and the tobacco
15 products, alternative nicotine products, and vapor products
16 contained therein at the place of business, to determine if all
17 the provisions of this division are being fully complied with.
18 If the director, or any such agent or employee, is denied
19 free access or is hindered or interfered with in making the
20 examination, the license of the distributor at that premises is
21 subject to revocation by the director.

22 2. Every person who sells tobacco products, alternative
23 nicotine products, or vapor products to persons other than the
24 ultimate consumer shall render with each sale itemized invoices
25 showing the seller's name and address, the purchaser's name and
26 address, the date of sale, and all prices and discounts. The
27 person shall preserve legible copies of all these invoices for
28 three years from the date of sale.

29 3. Every retailer and subjobber shall procure itemized
30 invoices of all tobacco products, alternative nicotine
31 products, and vapor products purchased. The invoices shall
32 show the name and address of the seller and the date of
33 purchase. The retailer and subjobber shall preserve a legible
34 copy of each invoice for three years from the date of purchase.
35 Invoices shall be available for inspection by the director or

1 the director's authorized agents or employees at the retailer's
2 or subjobber's place of business.

3 4. Records of all deliveries or shipments of tobacco
4 products, alternative nicotine products, and vapor products
5 from any public warehouse of first destination in this state
6 which is subject to the provisions of and licensed under
7 chapter 554 shall be kept by the warehouse and be available
8 to the director for inspection. They shall show the name and
9 address of the consignee, the date, the quantity of tobacco
10 products, alternative nicotine products, or vapor products
11 delivered, and such other information as the commissioner may
12 require. These records shall be preserved for three years
13 from the date of delivery of the tobacco products, alternative
14 nicotine products, or vapor products.

15 5. *a.* The transportation of tobacco products, alternative
16 nicotine products, or vapor products into this state by means
17 other than common carrier must be reported to the director
18 within thirty days with the following exceptions:

19 (1) The transportation of not more than fifty cigars, not
20 more than ten ounces of snuff or snuff powder, or not more
21 than one pound of smoking or chewing tobacco or other tobacco
22 products not specifically ~~mentioned herein;~~ specified under
23 this subparagraph.

24 (2) Transportation by a person with a place of business
25 outside the state, who is licensed as a distributor under
26 section 453A.44, or tobacco products, alternative nicotine
27 products, or vapor products sold by such person to a retailer
28 in this state.

29 *b.* The report shall be made on forms provided by the
30 director. The director may require by rule that the report be
31 filed by electronic transmission.

32 *c.* Common carriers transporting tobacco products,
33 alternative nicotine products, or vapor products into this
34 state shall file with the director reports of all such
35 shipments other than those which are delivered to public

1 warehouses of first destination in this state which are
2 licensed under the provisions of [chapter 554](#). Such reports
3 shall be filed on or before the tenth day of each month and
4 shall show with respect to deliveries made in the preceding
5 month; the date, point of origin, point of delivery, name
6 of consignee, description and quantity of tobacco products,
7 alternative nicotine products, or vapor products delivered, and
8 such information as the director may otherwise require.

9 *d.* Any person who fails or refuses to transmit to the
10 director the required reports or whoever refuses to permit the
11 examination of the records by the director shall be guilty of
12 a serious misdemeanor.

13 Sec. 15. Section 453A.46, subsection 1, paragraph a, Code
14 2018, is amended to read as follows:

15 *a.* On or before the twentieth day of each calendar month
16 every distributor with a place of business in this state shall
17 file a return with the director showing for the preceding
18 calendar month the quantity and wholesale sales price of
19 each tobacco product, alternative nicotine product, or vapor
20 product brought, or caused to be brought, into this state for
21 sale; made, manufactured, or fabricated in this state for sale
22 in this state; and any other information the director may
23 require. Every licensed distributor outside this state shall
24 in like manner file a return with the director showing for
25 the preceding calendar month the quantity and wholesale sales
26 price of each tobacco product, alternative nicotine product,
27 or vapor product shipped or transported to retailers in this
28 state to be sold by those retailers and any other information
29 the director may require. Returns shall be made upon forms
30 furnished or made available in electronic form and prescribed
31 by the director and shall contain other information as the
32 director may require. Each return shall be accompanied by a
33 remittance for the full tax liability shown on the return, less
34 a discount as fixed by the director not to exceed five percent
35 of the tax. Within three years after the return is filed or

1 within three years after the return became due, whichever is
2 later, the department shall examine it, determine the correct
3 amount of tax, and assess the tax against the taxpayer for any
4 deficiency. The period for examination and determination of
5 the correct amount of tax is unlimited in the case of a false or
6 fraudulent return made with the intent to evade tax, or in the
7 case of a failure to file a return.

8 Sec. 16. Section 453A.46, subsection 6, Code 2018, is
9 amended to read as follows:

10 6. On or before the twentieth day of each calendar month,
11 every consumer who, during the preceding calendar month,
12 has acquired title to or possession of tobacco products,
13 alternative nicotine products, or vapor products for use or
14 storage in this state, upon which tobacco products, alternative
15 nicotine products, or vapor products the tax imposed by
16 section 453A.43 has not been paid, shall file a return with the
17 director showing the quantity of tobacco products, alternative
18 nicotine products, or vapor products so acquired. The return
19 shall be made upon a form furnished and prescribed by the
20 director, and shall contain other information as the director
21 may require. The return shall be accompanied by a remittance
22 for the full unpaid tax liability shown by it. Within three
23 years after the return is filed or within three years after the
24 return became due, whichever is later, the department shall
25 examine it, determine the correct amount of tax, and assess the
26 tax against the taxpayer for any deficiency. The period for
27 examination and determination of the correct amount of tax is
28 unlimited in the case of a false or fraudulent return made with
29 the intent to evade tax, or in the case of a failure to file a
30 return.

31 Sec. 17. Section 453A.47, Code 2018, is amended to read as
32 follows:

33 **453A.47 Refunds, credits.**

34 Where tobacco products, alternative nicotine products, and
35 vapor products upon which the tax imposed by [this division](#)

1 has been reported and paid are shipped or transported by the
2 distributor to consumers to be consumed without the state
3 or to retailers or subjobbers without the state to be sold
4 by those retailers or subjobbers without the state or are
5 returned to the manufacturer by the distributor or destroyed
6 by the distributor, refund of such tax or credit may be made
7 to the distributor in accordance with regulations prescribed
8 by the director. Any overpayment of the tax imposed under
9 section 453A.43 may be made to the taxpayer in accordance with
10 regulations prescribed by the director. The director shall
11 cause any such refund of tax to be paid out of the general fund
12 of the state, and so much of said fund as may be necessary is
13 hereby appropriated for that purpose.

14 Sec. 18. Section 453A.47A, subsection 10, paragraph b, Code
15 2018, is amended to read as follows:

16 *b.* Every retailer shall, when requested by the department,
17 make additional reports as the department deems necessary and
18 proper and shall at the request of the department furnish
19 full and complete information pertaining to any transaction
20 of the retailer involving the purchase or sale or use of
21 tobacco, tobacco products, alternative nicotine products, or
22 vapor products. The director shall specifically prescribe the
23 forms necessary and require each retailer to provide on the
24 forms prescribed full and complete information pertaining to
25 any tobacco, tobacco products, alternative nicotine products,
26 or vapor products offered for sale or sold by the retailer,
27 including the type and brand of the product.

28 Sec. 19. Section 453A.48, subsection 3, Code 2018, is
29 amended to read as follows:

30 3. The director may exchange information with the officers
31 and agencies of other states administering laws relating to the
32 taxation of tobacco products, alternative nicotine products,
33 and vapor products.

34 Sec. 20. Section 453A.51, Code 2018, is amended to read as
35 follows:

1 **453A.51 Assessment of cost of audit.**

2 The department may employ auditors or other persons to
 3 audit and examine the books and records of a permit holder
 4 or other person dealing in tobacco products, alternative
 5 nicotine products, and vapor products to ascertain whether
 6 the permit holder or other person has paid the amount of the
 7 taxes required to be paid by the permit holder or other person
 8 under the provisions of **this chapter**. If the taxes have not
 9 been paid, as required, the department shall assess against
 10 the permit holder or other person, as additional penalty, the
 11 reasonable expenses and costs of the investigation and audit.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
 14 the explanation's substance by the members of the general assembly.

15 This bill relates to cigarettes, tobacco products,
 16 alternative nicotine products, and vapor products under Code
 17 chapter 453A (cigarette and tobacco taxes and regulation
 18 of alternative nicotine products and vapor products). The
 19 bill increases the tax on cigarettes and tobacco products
 20 and imposes a tax on alternative nicotine products and vapor
 21 products such that the tax is equivalent on all products to a
 22 tax of \$2.86 on a pack of cigarettes.

23 The bill increases the tax imposed on cigarettes from six and
 24 eight-tenths cents to fourteen and three-tenths cents on each
 25 cigarette, or from \$1.36 to \$2.86 per pack of 20 cigarettes.

26 The bill increases the tax on cigarettes assembled using
 27 loose tobacco products that are inserted into a vending machine
 28 from which assembled cigarettes are dispensed from three and
 29 six-hundredths cents to four and four-tenths cents, which
 30 is equivalent, based on the weight of tobacco used for each
 31 cigarette, to the tax on packaged cigarettes.

32 The bill increases the tax on tobacco products from 50
 33 percent of the wholesale sales price to 67 percent of the
 34 wholesale sales price, and imposes this same tax on alternative
 35 nicotine products and vapor products. The bill eliminates the

1 cap on the tax for cigars which was 50 cents per cigar.

2 The bill makes conforming provisions throughout Code
3 chapter 453A to make administration and collection of the
4 tax on alternative nicotine products and vapor products the
5 same as for tobacco products. The bill provides that of the
6 funds consisting of the revenues generated from the tax on
7 cigarettes, tobacco products, alternative tobacco products, and
8 vapor products, the first \$9 million credited to the health
9 care trust fund, annually, is to be used for the purposes of
10 tobacco use prevention, cessation, and control in accordance
11 with the centers for disease control and prevention of the
12 United States department of health and human services' most
13 recently published best practices for comprehensive tobacco
14 control programs, and the remaining revenue credited, annually,
15 to the fund shall be used first for mental health services
16 followed by other specified purposes of the fund.

17 The bill provides that under the director of revenue's
18 authorization to require permit holders to make additional
19 reports, the director shall specifically prescribe the forms
20 necessary and require each retailer to provide on the forms
21 prescribed, full and complete information pertaining to any
22 cigarettes, alternative nicotine products, or vapor products
23 offered for sale or sold by the retailer, including the type
24 and brand of the product.