

House File 2664 - Introduced

HOUSE FILE 2664
BY BAETH, LEVIN, WILBURN,
B. MEYER, CROKEN,
BROWN-POWERS, GJERDE, and
MATSON

A BILL FOR

1 An Act increasing the tax on cigarettes and vapor products.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

DIVISION I

TAXATION OF CIGARETTES AND VAPOR PRODUCTS

Section 1. Section 453A.6, subsection 1, Code 2026, is amended to read as follows:

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

Sec. 2. Section 453A.6, subsection 8, paragraph a, Code 2026, is amended to read as follows:

a. Pay directly to the department, in lieu of the tax under subsection 1, a tax equal to ~~three and six~~ six and forty-three hundredths cents on each cigarette dispensed from such machine. Payments made under this paragraph shall be remitted to the department electronically.

Sec. 3. Section 453A.40, subsection 1, Code 2026, is amended to read as follows:

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

Sec. 4. Section 453A.43, subsection 1, paragraphs a and b, Code 2026, are amended to read as follows:

a. A tax is imposed upon all tobacco products and vapor products in this state and upon any person engaged in business as a distributor of tobacco products or vapor products, at the rate of twenty-two percent of the wholesale sales price of the tobacco products or vapor products, except little cigars and snuff as

1 defined in section 453A.42.

2 b. In addition to the tax imposed under paragraph "a", a tax
3 is imposed upon all tobacco products and vapor products in this
4 state and upon any person engaged in business as a distributor of
5 tobacco products or vapor products, at the rate of twenty-eight
6 percent of the wholesale sales price of the tobacco products
7 or vapor products, except little cigars and snuff as defined in
8 section 453A.42.

9 Sec. 5. Section 453A.43, subsection 2, paragraphs a and b,
10 Code 2026, are amended to read as follows:

11 a. A tax is imposed upon the use or storage by consumers of
12 tobacco products and vapor products in this state, and upon the
13 consumers, at the rate of twenty-two percent of the cost of the
14 tobacco products or vapor products.

15 b. In addition to the tax imposed in paragraph "a", a tax is
16 imposed upon the use or storage by consumers of tobacco products
17 and vapor products in this state, and upon the consumers, at a
18 rate of twenty-eight percent of the cost of the tobacco products.

19 DIVISION II

20 CONFORMING CHANGES

21 Sec. 6. Section 331.303, subsection 3, Code 2026, is amended
22 to read as follows:

23 3. Act upon applications for cigarette, tobacco product, and
24 vapor product tax permits in accordance with chapter 453A.

25 Sec. 7. Section 331.653, subsection 11, Code 2026, is amended
26 to read as follows:

27 11. Carry out duties relating to the seizure and forfeiture
28 of cigarettes, tobacco products, and vapor products, vehicles,
29 and other property used in violation of cigarette, tobacco
30 product, alternative nicotine product, and vapor product tax laws
31 as provided in section 453A.32.

32 Sec. 8. Section 331.756, subsection 19, Code 2026, is amended
33 to read as follows:

34 19. Assist, at the request of the director of revenue, in the
35 enforcement of ~~cigar~~ and cigarette, tobacco product, and vapor

1 product tax laws as provided in sections 453A.32 and 453A.49.

2 Sec. 9. Section 453A.1, subsection 21, Code 2026, is amended
3 to read as follows:

4 21. "Place of business" is construed to mean and include any
5 place where cigarettes, tobacco products, alternative nicotine
6 products, or vapor products are sold or where cigarettes, tobacco
7 products, alternative nicotine products, or vapor products are
8 stored within or without the state of Iowa by the holder of an
9 Iowa permit or kept for the purpose of sale or consumption; or if
10 sold from any vehicle or train, the vehicle or train on which
11 or from which such cigarettes, tobacco products, alternative
12 nicotine products, or vapor products are sold shall constitute
13 a place of business; or for a business within or without the
14 state that conducts delivery sales, any place where alternative
15 nicotine products or vapor products are sold or where alternative
16 nicotine products or vapor products are kept for the purpose of
17 sale.

18 Sec. 10. Section 453A.15, subsections 1, 2, and 4, Code 2026,
19 are amended to read as follows:

20 1. The director may prescribe the forms necessary for the
21 efficient administration of this subchapter and may require
22 uniform books and records to be used and kept by each permit
23 holder or other person as deemed necessary. The director
24 may also require each permit holder or other person to keep
25 and retain in the director's possession evidence on prescribed
26 forms of all transactions involving the purchase and sale of
27 cigarettes, tobacco products, alternative nicotine products, or
28 vapor products, or the purchase and use of stamps. The evidence
29 shall be kept for a period of three years from the date of each
30 transaction, for the inspection at all times by the department.

31 2. Where a state permit holder sells cigarettes, tobacco
32 products, alternative nicotine products, or vapor products at
33 retail, the holder shall be required to maintain detailed records
34 for sales of cigarettes, tobacco products, alternative nicotine
35 products, or vapor products to be sold at retail and ~~the~~

1 cigarette such sales records shall be kept separate and apart.

2 4. Every permit holder or other person shall, when requested
3 by the department, make additional reports as the department
4 deems necessary and proper and shall at the request of the
5 department furnish full and complete information pertaining to
6 any transaction of the permit holder or other person involving
7 the purchase or sale or use of cigarettes, tobacco products,
8 alternative nicotine products, or vapor products, or purchase of
9 cigarette stamps.

10 Sec. 11. Section 453A.24, Code 2026, is amended to read as
11 follows:

12 **453A.24 Carrier to permit access to records.**

13 1. Every common carrier or person in this state having
14 custody of books or records showing the transportation of
15 cigarettes, tobacco products, alternative nicotine products, or
16 vapor products, both interstate and intrastate, shall give and
17 allow the department free access to those books and records.

18 2. The director may require by rule that common carriers or
19 the appropriate persons provide monthly reports to the department
20 detailing all information the department deems necessary on
21 shipments into and out of Iowa of cigarettes, and tobacco
22 products, alternative nicotine products, or vapor products as set
23 forth in this subchapter I and subchapter II of this chapter. A
24 report required to be submitted by the director pursuant to this
25 section shall be filed electronically.

26 Sec. 12. Section 453A.32, subsection 6, Code 2026, is amended
27 to read as follows:

28 6. The provisions of this section applying to cigarettes
29 shall also apply to tobacco products and vapor products taxed
30 under subchapter II of this chapter.

31 Sec. 13. Section 453A.33, Code 2026, is amended to read as
32 follows:

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

34 The seizure, forfeiture, and sale of cigarettes, tobacco
35 products, vapor products, and other property under the terms and

1 conditions set out in section 453A.32, shall not constitute any
2 defense to the person owning or having control or possession of
3 the property from criminal prosecution for any act or omission
4 made or offense committed under this chapter or from liability to
5 pay penalties provided by this chapter.

6 Sec. 14. Section 453A.35, subsection 1, paragraph b, Code
7 2026, is amended to read as follows:

8 b. The revenues generated from the tax on cigarettes pursuant
9 to section 453A.6, ~~subsection 1~~ subsections 1 and 8, from the tax
10 on tobacco products as specified in section 453A.43, subsections
11 1, 2, 3, and 4, and from the fees and penalties specified in
12 subchapter III shall be credited to the health care trust fund
13 created in section 453A.35A.

14 Sec. 15. Section 453A.35A, subsection 1, Code 2026, is
15 amended to read as follows:

16 1. A health care trust fund is created in the office of the
17 treasurer of state. The fund consists of the revenues generated
18 from the tax on cigarettes pursuant to section 453A.6, ~~subsection~~
19 ~~1~~ subsections 1 and 8, from the tax on tobacco products and
20 vapor products as specified in section 453A.43, subsections 1,
21 2, 3, and 4, and from the fees and penalties specified in
22 subchapter III, that are credited to the health care trust fund,
23 annually, pursuant to section 453A.35. Moneys in the fund shall
24 be separate from the general fund of the state and shall not be
25 considered part of the general fund of the state. Moneys in the
26 fund shall be used only as specified in this section and shall
27 be appropriated only for the uses specified. Moneys in the fund
28 are not subject to section 8.33 and shall not be transferred,
29 used, obligated, appropriated, or otherwise encumbered, except
30 as provided in this section. Notwithstanding section 12C.7,
31 subsection 2, interest or earnings on moneys deposited in the
32 fund shall be credited to the fund.

33 Sec. 16. Section 453A.39, subsection 1, Code 2026, is amended
34 to read as follows:

35 1. A manufacturer, distributor, wholesaler, retailer, or

1 distributing agent, or an agent thereof of a manufacturer,
2 distributor, wholesaler, retailer, or distributing agent, shall
3 not give away cigarettes, ~~or~~ tobacco products, alternative
4 nicotine products, or vapor products at any time in connection
5 with the manufacturer's, distributor's, wholesaler's, retailer's,
6 or distributing agent's business or for promotion of the business
7 or product, except as provided in subsection 2.

8 Sec. 17. Section 453A.42, subsections 1, 2, 8, 9, 10, 12, 14,
9 and 17, Code 2026, are amended to read as follows:

10 1. "Business" means any trade, occupation, activity, or
11 enterprise engaged in for the purpose of selling or distributing
12 tobacco products, alternative nicotine products, or vapor
13 products in this state.

14 2. "Consumer" means any person who has title to or possession
15 of tobacco products, alternative nicotine products, or vapor
16 products in storage, for use or other consumption in this state.

17 8. "Person" means any individual, firm, association,
18 partnership, joint stock company, ~~joint adventure~~ venture,
19 corporation, trustee, agency, or receiver, or any legal
20 representative of any of the foregoing individual, firm,
21 association, partnership, joint stock company, joint venture,
22 corporation, trustee, agency, or receiver.

23 9. "Place of business" means any place where tobacco products
24 are sold or where tobacco products, alternative nicotine
25 products, or vapor products are manufactured, stored, or kept
26 for the purpose of sale or consumption, including any vessel,
27 vehicle, airplane, train, or vending machine; or for a business
28 within or without the state that conducts delivery sales, any
29 place where alternative nicotine products or vapor products are
30 sold or where alternative nicotine products or vapor products are
31 kept for the purpose of sale, including delivery sales.

32 10. "Retail outlet" means each place of business from
33 which tobacco products, alternative nicotine products, or vapor
34 products are sold to consumers.

35 12. "Sale" means any transfer, exchange, or barter, in any

1 manner or by any means whatsoever, for a consideration, and
2 includes and means all sales made by any person. It includes
3 a gift by a person engaged in the business of selling tobacco
4 products, alternative nicotine products, or vapor products for
5 advertising, as a means of evading the provisions of this
6 subchapter, or for any other purposes whatsoever.

7 14. "Storage" means any keeping or retention of tobacco
8 products, alternative nicotine products, or vapor products for
9 use or consumption in this state.

10 17. "Use" means the exercise of any right or power incidental
11 to the ownership of tobacco products or vapor products.

12 Sec. 18. Section 453A.45, subsection 3, Code 2026, is amended
13 to read as follows:

14 3. Every retailer and subjobber shall procure itemized
15 invoices of all tobacco products, alternative nicotine products,
16 and vapor products purchased. The invoices shall show the name
17 and address of the seller and the date of purchase. The retailer
18 and subjobber shall preserve a legible copy of each invoice
19 for three years from the date of purchase. Invoices shall
20 be available for inspection by the director or the director's
21 authorized agents or employees at the retailer's or subjobber's
22 place of business.

23 Sec. 19. Section 453A.48, subsection 3, Code 2026, is amended
24 to read as follows:

25 3. The director may exchange information with the officers
26 and agencies of other states administering laws relating to the
27 taxation of tobacco products or vapor products.

28 Sec. 20. Section 453A.51, Code 2026, is amended to read as
29 follows:

30 **453A.51 Assessment of cost of audit.**

31 The department may employ auditors or other persons to
32 audit and examine the books and records of a permit holder or
33 other person dealing in tobacco products and vapor products to
34 ascertain whether the permit holder or other person has paid the
35 amount of the taxes required to be paid by the permit holder or

1 other person under the provisions of this chapter. If the taxes
2 have not been paid, as required, the department shall assess
3 against the permit holder or other person, as additional penalty,
4 the reasonable expenses and costs of the investigation and audit.

5 EXPLANATION

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

8 This bill increases the tax on cigarettes and vapor products.

9 DIVISION I — CIGARETTE AND VAPOR PRODUCT TAXATION. The bill
10 increases the cigarette tax from 6.8 cents per cigarette to 14.3
11 cents per cigarette. The overall tax on a pack of cigarettes
12 (20 cigarettes) goes from \$1.36 to \$2.86. The bill also raises
13 the tax on loose tobacco products inserted into a vending machine
14 from which assembled cigarettes are dispensed. The tax is
15 increased from 3.06 cents on each cigarette dispensed from the
16 vending machine to 6.43 cents.

17 Currently, a tax is imposed on the distributor of all tobacco
18 products (excluding cigarettes, little cigars, and snuff) at a
19 rate of 22 percent of the wholesale sales price under Code
20 section 453A.43(1)(a) and at a rate of 28 percent under Code
21 section 453A.43(1)(b) for a combined rate of 50 percent. The
22 bill applies this combined 50 percent wholesale tax rate to the
23 wholesale sales price on vapor products. Vapor products remain
24 subject to sales and use taxes.

25 By increasing the cigarette tax in the bill, the inventory
26 tax is also assessed on cigarettes remaining in inventories taxed
27 under the previous tax rate that is equal to the difference
28 between the previous tax rate and the new tax rate.

29 The bill also imposes the inventory tax on vapor products
30 remaining in inventories that have not been taxed under the new
31 tax that is equal to the difference between the previous tax rate
32 and the new tax rate.

33 DIVISION II — CONFORMING CHANGES. The bill makes numerous
34 conforming changes including inserting references to alternative
35 nicotine products in some instances where vapor product

1 references are inserted. Alternative nicotine products are not
2 subject to additional taxation in the bill.

unofficial