

As Introduced

**128th General Assembly
Regular Session
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S. B. No. 37

Senator Miller, D.

Cosponsors: Senators Miller, R., Schiavoni

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A B I L L

To amend sections 5743.51, 5743.62, and 5743.63 of
the Revised Code to increase the tobacco products
excise tax rate and to credit some of the
additional revenue to the Tobacco Use Prevention
Fund.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5743.51, 5743.62, and 5743.63 of the
Revised Code be amended to read as follows:

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Sec. 5743.51. (A) To provide revenue for the general revenue
fund of the state, an excise tax on tobacco products is hereby
levied at the rate of ~~seventeen~~ fifty-four per cent of the
wholesale price of the tobacco product received by a distributor
or sold by a manufacturer to a retail dealer located in this
state. Each distributor who brings tobacco products, or causes
tobacco products to be brought, into this state for distribution
within this state, or any out-of-state distributor who sells
tobacco products to wholesale or retail dealers located in this
state for resale by those wholesale or retail dealers is liable
for the tax imposed by this section. Only one sale of the same
article shall be used in computing the amount of the tax due.

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(B) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of the receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to section 5743.53 of the Revised Code. The treasurer shall credit forty per cent of the receipts from the tax levied under this section to the tobacco use prevention fund created in section 3701.841 of the Revised Code. The balance of the taxes collected under this section shall be paid into the general revenue fund.

(C) The commissioner may adopt rules as are necessary to assist in the enforcement and administration of sections 5743.51 to 5743.66 of the Revised Code, including rules providing for the remission of penalties imposed.

(D) A manufacturer is not liable for payment of the tax imposed by this section for sales of tobacco products to a retail dealer that has filed a signed statement with the manufacturer in which the retail dealer agrees to pay and be liable for the tax, as long as the manufacturer has provided a copy of the statement to the tax commissioner.

Sec. 5743.62. (A) To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the seller of tobacco products in this state at the rate of ~~seventeen~~ fifty-four per cent of the wholesale price of the tobacco product whenever the tobacco product is delivered to a consumer in this state for the storage, use, or other consumption of such tobacco products. The tax imposed by this section applies only to sellers having nexus in this state, as defined in section 5741.01 of the Revised Code.

(B) A seller of tobacco products who has nexus in this state as defined in section 5741.01 of the Revised Code shall register with the tax commissioner and supply any information concerning

the seller's contacts with this state as may be required by the 51
tax commissioner. A seller who does not have nexus in this state 52
may voluntarily register with the tax commissioner. A seller who 53
voluntarily registers with the tax commissioner is entitled to the 54
same benefits and is subject to the same duties and requirements 55
as a seller required to be registered with the tax commissioner 56
under this division. 57

(C) Each seller of tobacco products subject to the tax levied 58
by this section, on or before the last day of each month, shall 59
file with the tax commissioner a return for the preceding month 60
showing any information the tax commissioner finds necessary for 61
the proper administration of sections 5743.51 to 5743.66 of the 62
Revised Code, together with remittance of the tax due, payable to 63
the treasurer of state. The return and payment of the tax required 64
by this section shall be filed in such a manner that it is 65
received by the tax commissioner on or before the last day of the 66
month following the reporting period. If the return is filed and 67
the amount of the tax shown on the return to be due is paid on or 68
before the date the return is required to be filed, the seller is 69
entitled to a discount equal to two and five-tenths per cent of 70
the amount shown on the return to be due. 71

(D) The tax commissioner shall immediately forward to the 72
treasurer of state all money received from the tax levied by this 73
section, ~~and the treasurer.~~ The treasurer shall credit forty per 74
cent of the receipts from the tax levied under this section to the 75
tobacco use prevention fund created in section 3701.841 of the 76
Revised Code and shall credit the remaining amount to the general 77
revenue fund. 78

(E) Each seller of tobacco products subject to the tax levied 79
by this section shall mark on the invoices of tobacco products 80
sold that the tax levied by that section has been paid and shall 81
indicate the seller's account number as assigned by the tax 82

commissioner. 83

Sec. 5743.63. (A) To provide revenue for the general revenue 84
fund of the state, an excise tax is hereby levied on the storage, 85
use, or other consumption of tobacco products at the rate of 86
~~seventeen~~ fifty-four per cent of the wholesale price of the 87
tobacco product, provided the tax has not been paid by the seller 88
as provided in section 5743.62 of the Revised Code, or by the 89
distributor as provided in section 5743.51 of the Revised Code. 90

(B) Each person subject to the tax levied by this section, on 91
or before the last day of each month, shall file with the tax 92
commissioner a return for the preceding month showing any 93
information the tax commissioner finds necessary for the proper 94
administration of sections 5743.51 to 5743.66 of the Revised Code, 95
together with remittance of the tax due, payable to the treasurer 96
of state. The return and payment of the tax required by this 97
section shall be filed in such a manner that it is received by the 98
tax commissioner on or before the last day of the month following 99
the reporting period. 100

(C) The tax commissioner shall immediately forward to the 101
treasurer of state all money received from the tax levied by this 102
section, ~~and the treasurer.~~ The treasurer shall credit forty per 103
cent of the receipts from the tax levied under this section to the 104
tobacco use prevention fund created in section 3701.841 of the 105
Revised Code and shall credit the remaining amount to the general 106
revenue fund. 107

Section 2. That existing sections 5743.51, 5743.62, and 108
5743.63 of the Revised Code are hereby repealed. 109

Section 3. That the amendment of sections 5743.51, 5743.62, 110
and 5743.63 of the Revised Code by this act applies on and after 111
July 1, 2009. 112