

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. \_\_\_\_\_

Tobacco tax.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; providing a  
2 definition; providing for the taxation of nicotine products  
3 unless there is a tax for the product on the basis of  
4 weight; making conforming changes; and providing for an  
5 effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 39-18-101(a)(iv), (v), (vii) and by  
10 creating a new paragraph (viii), 39-18-103(a)(iii), (iv),  
11 (c)(iii), (iv), 39-18-104(c) and (d), 39-18-106(a),  
12 39-18-107(a), (c)(i) and 39-18-108(c)(ii)(A), (vi), (vii)  
13 and (ix)(intro) are amended to read:

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1           **39-18-101. Definitions.**

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3           (a) As used in this article:

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5                   (iv) "Wholesale purchase price" means the  
6 established price for which a manufacturer sells the  
7 ~~tobacco~~ nicotine product to a wholesaler exclusive of any  
8 discount or other reduction;

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10                   (v) "Wholesaler" means any person who:

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12                           (A) Whether located within or without  
13 Wyoming, imports, sells or distributes cigarettes, cigars,  
14 snuff or other ~~tobacco~~ nicotine products into this state  
15 for sale or resale;

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17                           (B) Purchases cigarettes, cigars, snuff or  
18 other ~~tobacco~~ nicotine products in this state for sale or  
19 resale;

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21                           (vii) "Cigarette manufacturer" means any person  
22 who manufactures, fabricates, assembles, processes or  
23 labels a finished cigarette for sale in this state. ~~;~~ ;

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**39-18-103. Imposition.**

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(viii) "Nicotine product" means any product that delivers nicotine to a consumer and includes, without limitation, cigarettes, cigars, snuff and other tobacco products. Nicotine product does not include any item that is designed as a smoking cessation product including, without limitation, nicotine gum and nicotine transdermal patches.

(a) Taxable event. The following event shall constitute a taxable event under this article:

(iii) In addition to the other taxes imposed by this subsection, there is levied and assessed upon ~~cigars, snuff and other tobacco products purchased or imported into this state by wholesalers for resale, except cigarettes taxed under this subsection,~~ nicotine products an excise tax at the rate imposed by W.S. 39-18-104(c) of the wholesale purchase price at which the tobacco products are purchased by wholesalers from manufacturers. This tax

1 shall not apply if there is a tax in place for that product  
2 on the basis of weight;

3  
4 (iv) The tax imposed by paragraph (iii) of this  
5 subsection shall also be imposed upon the use or storage by  
6 consumers of ~~eigars, snuff and other tobacco~~ nicotine  
7 products in this state, and upon those consumers, at the  
8 rate imposed by W.S. 39-18-104(d) of the retail price of  
9 the ~~eigar, snuff or other tobacco~~ nicotine product. This  
10 tax shall not apply if the tax imposed by paragraph (iii)  
11 of this subsection has been paid or if there is a tax in  
12 place for the use or storage of that product on the basis  
13 of weight.

14  
15 (c) Taxpayer. The following taxpayers are liable for  
16 the tax imposed by this article:

17  
18 (iii) In addition to the other taxes imposed by  
19 this subsection, there is levied and assessed upon ~~eigars,~~  
20 ~~snuff and other tobacco products purchased or imported into~~  
21 ~~this state by wholesalers for resale, except cigarettes~~  
22 ~~taxed under this subsection,~~ nicotine products an excise  
23 tax at the rate imposed by W.S. 39-18-104(c) of the

1 wholesale purchase price at which the ~~tobacco~~ nicotine  
2 products are purchased by wholesalers from manufacturers.  
3 This tax shall not apply if there is a tax in place for  
4 that product on the basis of weight;

5  
6 (iv) The tax imposed by paragraph (iii) of this  
7 subsection shall also be imposed upon the use or storage by  
8 consumers of ~~cigars, snuff and other tobacco~~ nicotine  
9 products in this state, and upon those consumers, at the  
10 rate imposed by W.S. 39-18-104(d) of the retail price of  
11 the ~~cigar, snuff or other tobacco~~ nicotine product. This  
12 tax shall not apply if the tax imposed by paragraph (iii)  
13 of this subsection has been paid or if there is a tax in  
14 place for the use or storage of that product on the basis  
15 of weight.

16  
17 **39-18-104. Taxation rate.**

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19 (c) In addition to the other taxes imposed by this  
20 section, there is levied and assessed upon ~~cigars, snuff~~  
21 ~~and other tobacco~~ nicotine products purchased or imported  
22 into this state by wholesalers for resale, except  
23 ~~cigarettes~~ nicotine products taxed under this section on

1 the basis of weight, an excise tax at the rate of twenty  
2 percent (20%) of the wholesale purchase price at which the  
3 ~~tobacco~~ nicotine products are purchased by wholesalers from  
4 manufacturers.

5  
6 (d) The tax imposed by subsection (c) of this section  
7 shall also be imposed upon the use or storage by consumers  
8 of ~~cigars, snuff and other tobacco~~ nicotine products in  
9 this state, and upon those consumers, at the rate of ten  
10 percent (10%) of the retail price of the ~~cigar, snuff or~~  
11 ~~other tobacco~~ nicotine product. This tax shall not apply  
12 if the tax imposed by subsection (c) of this section has  
13 been paid or if there is a tax in place for the use or  
14 storage of that product on the basis of weight.

15  
16 **39-18-106. Licensing; permits.**

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18 (a) Every wholesaler, cigarette importer and  
19 cigarette manufacturer who sells or offers to sell  
20 cigarettes, cigars, snuff or other ~~tobacco~~ nicotine  
21 products in this state must have a license to do so issued  
22 by the department. No license or renewal of a license shall  
23 be granted under this section unless the wholesaler states

1 in writing, under penalty for false swearing, that he shall  
2 comply fully with W.S. 9-4-1201 through 9-4-1209. The  
3 license fee is ten dollars (\$10.00) per year or fraction  
4 thereof and is valid through June 30 in each year. The  
5 license will be granted only to wholesalers who own or  
6 operate the place from which sales are made and additional  
7 licenses must be obtained for each separate location. The  
8 licenses are transferable pursuant to rules and regulations  
9 promulgated by the department.

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11 **39-18-107. Compliance; collection procedures.**

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13 (a) Returns and reports. The following shall apply:

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15 (i) Each wholesaler shall keep complete and  
16 accurate records of all cigarettes, cigars, snuff or other  
17 ~~tobacco~~ nicotine products purchased and sold for three (3)  
18 years. The records shall be in the form prescribed by the  
19 department and will be available for inspection by the  
20 department at any reasonable time. The department may  
21 investigate and examine the stock of cigarettes upon any  
22 premises where they are stored or sold;

23

1           (ii) On or before the tenth day of each calendar  
2 quarter, every consumer who, during the preceding calendar  
3 quarter, has acquired title to or possession of cigars,  
4 snuff or other ~~tobacco~~ nicotine products for use or storage  
5 in this state, upon which products the tax imposed by W.S.  
6 39-18-103(a)(iii) has not been paid, shall file a return  
7 with the department showing the quantity of such products  
8 so acquired. The return shall be made upon a form  
9 furnished and prescribed by the department and shall  
10 contain such other information as the department may  
11 require. The return shall be accompanied by a remittance  
12 for the full unpaid tax liability shown by it.

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14           (c) Timelines. The following shall apply:

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16           (i) No later than the twentieth day of the month  
17 following the sale of cigarettes, or the month following  
18 the end of the calendar quarter for cigars, snuff or other  
19 ~~tobacco~~ nicotine products each wholesaler shall return to  
20 the department the following information on forms furnished  
21 by the department:

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1 (D) The amount paid by the wholesaler to  
2 the manufacturer for cigars, snuff or other ~~tobacco~~  
3 nicotine products.

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5 **39-18-108. Enforcement.**

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7 (c) Penalties. The following shall apply:

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9 (ii) The following acts are misdemeanors  
10 punishable by a fine of not more than one hundred dollars  
11 (\$100.00) or imprisonment in the county jail for not more  
12 than six (6) months or both:

13  
14 (A) Selling or distributing cigarettes,  
15 cigars, snuff or other ~~tobacco~~ nicotine products as a  
16 wholesaler without a license;

17  
18 (vi) Any person who purchases any ~~tobacco~~  
19 nicotine product for resale in this state from other than a  
20 licensed wholesaler is liable for the tax and any penalties  
21 and interest imposed under this paragraph as if he were a  
22 wholesaler under this act and shall pay an additional  
23 penalty of twenty-five percent (25%) of any tax due. Any

1 wholesaler or other person who fails to file any return or  
2 to pay any tax within the time required or permitted by  
3 this subsection shall be subject to a penalty of five  
4 percent (5%) of the amount of the tax due, plus one percent  
5 (1%) of the tax for each month of delinquency or fraction  
6 thereof. The department may waive all or any part of this  
7 penalty for good cause shown;

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9 (vii) Any person who does any act prohibited by  
10 this article, or omits, neglects or refuses to comply with  
11 any duty imposed upon him by this article, or causes not to  
12 be done any of the things required by this article, or does  
13 any act prohibited by this article, may, in addition to any  
14 other penalty provided by this article, be liable for a  
15 penalty of not to exceed one thousand dollars (\$1,000.00)  
16 or five (5) times the retail value of the ~~tobacco~~ nicotine  
17 product at issue, whichever is lesser, to be recovered in a  
18 civil action;

19

20 (ix) Any fixture, equipment or other personal  
21 property used by a ~~tobacco~~ nicotine product wholesaler or  
22 retailer to commit any of the following acts shall be  
23 subject to forfeiture to the state, if the retail value of

1 the cigarettes involved or any tax involved in the act  
2 exceeds five hundred dollars (\$500.00):

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4 **Section 2.** This act is effective July 1, 2009.

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(END)