

House Bill 2533

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases tax on cigarettes. Distributes tax revenues from increase. Applies to cigarette distributions occurring on or after January 1, 2012, or first day of calendar month following effective date of Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax on cigarettes; creating new provisions; amending ORS 323.030 and 323.455; pre-
3 scribing an effective date; and providing for revenue raising that requires approval by a three-
4 fifths majority.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 323.030 is amended to read:

7 323.030. (1) Every distributor shall pay a tax upon distributions of cigarettes at the rate of [29]
8 **150.0125** mills for the distribution of each cigarette in this state.

9 (2) The taxes imposed by ORS 323.005 to 323.482 are in lieu of all other state, county or mu-
10 nicipal taxes on the sale or use of cigarettes.

11 (3) Any cigarette with respect to which a tax has been prepaid under ORS 323.068 or has oth-
12 erwise once been imposed under ORS 323.005 to 323.482 is not subject upon a subsequent distrib-
13 ution to the taxes imposed by ORS 323.005 to 323.482.

14 **SECTION 2.** ORS 323.455 is amended to read:

15 323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS
16 323.030 (1) shall be paid over to the State Treasurer to be held in a suspense account established
17 under ORS 293.445. The department may pay expenses for administration of ORS 323.005 to 323.482
18 out of moneys received from the tax imposed under ORS 323.030 (1). Amounts necessary to pay ad-
19 ministrative expenses are continuously appropriated to the department from the suspense account.
20 After the payment of administrative expenses and refunds, [89.65] **44.44** percent shall be credited to
21 the General Fund, **49.77 shall be credited to the Oregon Health Plan Fund established under**
22 **ORS 414.109**, [3.45] **1.93** percent is appropriated to the cities of this state, [3.45] **1.93** percent is ap-
23 propriated to the counties of this state and [3.45] **1.93** percent is continuously appropriated to the
24 Department of Transportation for the purpose of financing and improving transportation services for
25 elderly individuals and individuals with disabilities as provided in ORS 391.800 to 391.830.

26 (2) The moneys so appropriated to cities and counties shall be paid on a monthly basis within
27 35 days after the end of the month for which a distribution is made. Each city shall receive such
28 share of the money appropriated to all cities as its population, as determined under ORS 190.510 to
29 190.590 last preceding such apportionment, bears to the total population of the cities of the state,
30 and each county shall receive such share of the money as its population, determined under ORS

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 190.510 to 190.590 last preceding such apportionment, bears to the total population of the state.

2 (3) The moneys appropriated to the Department of Transportation under subsection (1) of this
3 section shall be distributed and transferred to the Elderly and Disabled Special Transportation Fund
4 established by ORS 391.800 at the same time as the cigarette tax moneys are distributed to cities
5 and counties under this section.

6 (4) Of the moneys credited to the General Fund under this section [51.92] **51.91** percent shall
7 be dedicated to funding the maintenance and expansion of the number of persons eligible for the
8 medical assistance program under ORS chapter 414, or to funding the maintenance of the benefits
9 available under the program, or both, and [5.77] **5.78** percent shall be credited to the Tobacco Use
10 Reduction Account established under ORS 431.832.

11 **SECTION 3. The amendments to ORS 323.030 and 323.455 by sections 1 and 2 of this 2011**
12 **Act apply to cigarette distributions occurring on or after the later of January 1, 2012, or the**
13 **first day of the calendar month following the effective date of this 2011 Act.**

14 **SECTION 4. Section 5 of this 2011 Act is added to and made a part of ORS 323.005 to**
15 **323.482.**

16 **SECTION 5. ORS 323.031 does not apply to cigarette distributions occurring on or after**
17 **the later of January 1, 2012, or the first day of the calendar month following the effective**
18 **date of this 2011 Act.**

19 **SECTION 6. (1) Notwithstanding ORS 323.030 (3) and in addition to and not in lieu of any**
20 **other tax, for the privilege of holding or storing cigarettes for sale, use or consumption, a**
21 **floor tax is imposed upon every dealer at the rate of 90.0125 mills for each cigarette in the**
22 **possession of or under the control of the dealer in this state at 12:01 a.m. on the later of**
23 **January 1, 2012, or the first day of the calendar month following the effective date of this**
24 **2011 Act.**

25 (2) The tax imposed by this section is due and payable on or before 20 days after the later
26 of January 1, 2012, or the first day of the calendar month following the effective date of this
27 2011 Act. Any amount of tax that is not paid within the time required shall bear interest at
28 the rate established under ORS 305.220 per month, or fraction of a month, from the date on
29 which the tax is due to be paid, until paid.

30 (3) On or before 20 days after the later of January 1, 2012, or the first day of the calendar
31 month following the effective date of this 2011 Act, every dealer must file a report with the
32 Department of Revenue in such form as the department may prescribe. The report must
33 state the number of cigarettes in the possession of or under the control of the dealer in this
34 state at 12:01 a.m. on the later of January 1, 2012, or the first day of the calendar month
35 following the effective date of this 2011 Act and the amount of tax due. Each report must
36 be accompanied by a remittance payable to the department for the amount of tax due.

37 **SECTION 7. Notwithstanding ORS 323.030 (3) and in addition to and not in lieu of any**
38 **other tax, for the privilege of distributing cigarettes as a distributor and for holding or**
39 **storing cigarettes for sale, use or consumption, a floor tax and cigarette adjustment indicia**
40 **tax is imposed upon every distributor in the amount of \$2.27 and 53/100 cents for each Oregon**
41 **cigarette tax stamp bearing the designation "25," in the amount of \$1.82 and 25/100 cents for**
42 **each Oregon cigarette tax stamp bearing the designation "20," in the amount of 90 and**
43 **12.5/100 cents for each Oregon cigarette tax stamp bearing the designation "10" and in the**
44 **amount of 9 and 11/100 cents for each Oregon cigarette tax stamp bearing the designation**
45 **"1" that is affixed to any package of cigarettes in the possession of or under the control of**

1 the distributor at 12:01 a.m. on the later of January 1, 2012, or the first day of the calendar
 2 month following the effective date of this 2011 Act.

3 **SECTION 8.** (1) Every distributor must take an inventory as of 12:01 a.m. on the later
 4 of January 1, 2012, or the first day of the calendar month following the effective date of this
 5 2011 Act of all packages of cigarettes to which are affixed Oregon cigarette tax stamps and
 6 of all unaffixed Oregon cigarette tax stamps in the possession of or under the control of the
 7 distributor.

8 (2) Every distributor must file a report with the Department of Revenue on or before 20
 9 days after the later of January 1, 2012, or the first day of the calendar month following the
 10 effective date of this 2011 Act in such form as the department may prescribe, showing:

11 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that
 12 were affixed to packages of cigarettes in the possession of or under the control of the dis-
 13 tributor at 12:01 a.m. on the later of January 1, 2012, or the first day of the calendar month
 14 following the effective date of this 2011 Act; and

15 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the
 16 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.
 17 on the later of January 1, 2012, or the first day of the calendar month following the effective
 18 date of this 2011 Act.

19 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette
 20 tax stamps shall be computed pursuant to section 7 of this 2011 Act and remitted with the
 21 distributor's report. Any amount of tax not paid within the time specified for the filing of
 22 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-
 23 tion of a month, from the due date of the report until paid.

24 (4) Notwithstanding ORS 323.320, the department may establish a date after which the
 25 value of stamps sold prior to the effective date of this 2011 Act will not be refunded or
 26 credited to a distributor.

27 **SECTION 9.** All moneys received by the Department of Revenue from the taxes imposed
 28 by sections 6 and 7 of this 2011 Act shall be paid over to the State Treasurer to be held in
 29 a suspense account established under ORS 293.445. After the payment of refunds, the net
 30 amount of revenues remaining shall be distributed as prescribed in ORS 323.455.

31 **SECTION 10.** The Department of Revenue may take administrative actions it considers
 32 necessary to implement sections 6 to 8 of this 2011 Act and the amendments to ORS 323.030
 33 and 323.455 by sections 1 and 2 of this 2011 Act, including but not limited to:

- 34 (1) Limiting sales of stamps prior to the effective date of this 2011 Act;
- 35 (2) Selling stamps at the increased rate prior to the effective date of this 2011 Act; or
- 36 (3) Establishing a date after which stamps sold prior to the effective date of this 2011
 37 Act will not be redeemed.

38 **SECTION 11.** This 2011 Act takes effect on the 91st day after the date on which the 2011
 39 session of the Seventy-sixth Legislative Assembly adjourns sine die.