

JAN 19 2012

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# A BILL FOR AN ACT

RELATING TO TOBACCO PRODUCTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 245-3, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) Every wholesaler or dealer, in addition to any other  
4 taxes provided by law, shall pay for the privilege of conducting  
5 business and other activities in the State:

6           (1) An excise tax equal to 5.00 cents for each cigarette  
7 sold, used, or possessed by a wholesaler or dealer  
8 after June 30, 1998, whether or not sold at wholesale,  
9 or if not sold then at the same rate upon the use by  
10 the wholesaler or dealer;

11           (2) An excise tax equal to 6.00 cents for each cigarette  
12 sold, used, or possessed by a wholesaler or dealer  
13 after September 30, 2002, whether or not sold at  
14 wholesale, or if not sold then at the same rate upon  
15 the use by the wholesaler or dealer;

16           (3) An excise tax equal to 6.50 cents for each cigarette  
17 sold, used, or possessed by a wholesaler or dealer  
18 after June 30, 2003, whether or not sold at wholesale,



1 or if not sold then at the same rate upon the use by  
2 the wholesaler or dealer;

3 (4) An excise tax equal to 7.00 cents for each cigarette  
4 sold, used, or possessed by a wholesaler or dealer  
5 after June 30, 2004, whether or not sold at wholesale,  
6 or if not sold then at the same rate upon the use by  
7 the wholesaler or dealer;

8 (5) An excise tax equal to 8.00 cents for each cigarette  
9 sold, used, or possessed by a wholesaler or dealer on  
10 and after September 30, 2006, whether or not sold at  
11 wholesale, or if not sold then at the same rate upon  
12 the use by the wholesaler or dealer;

13 (6) An excise tax equal to 9.00 cents for each cigarette  
14 sold, used, or possessed by a wholesaler or dealer on  
15 and after September 30, 2007, whether or not sold at  
16 wholesale, or if not sold then at the same rate upon  
17 the use by the wholesaler or dealer;

18 (7) An excise tax equal to 10.00 cents for each cigarette  
19 sold, used, or possessed by a wholesaler or dealer on  
20 and after September 30, 2008, whether or not sold at  
21 wholesale, or if not sold then at the same rate upon  
22 the use by the wholesaler or dealer;



1           (8)    An excise tax equal to 13.00 cents for each cigarette  
2                    sold, used, or possessed by a wholesaler or dealer on  
3                    and after July 1, 2009, whether or not sold at  
4                    wholesale, or if not sold then at the same rate upon  
5                    the use by the wholesaler or dealer;

6           (9)    An excise tax equal to 11.00 cents for each little  
7                    cigar sold, used, or possessed by a wholesaler or  
8                    dealer on and after October 1, 2009, whether or not  
9                    sold at wholesale, or if not sold then at the same  
10                  rate upon the use by the wholesaler or dealer;

11          (10)   An excise tax equal to 15.00 cents for each cigarette  
12                    or little cigar sold, used, or possessed by a  
13                    wholesaler or dealer on and after July 1, 2010,  
14                    whether or not sold at wholesale, or if not sold then  
15                    at the same rate upon the use by the wholesaler or  
16                    dealer;

17          (11)   An excise tax equal to 16.00 cents for each cigarette  
18                    or little cigar sold, used, or possessed by a  
19                    wholesaler or dealer on and after July 1, 2011,  
20                    whether or not sold at wholesale, or if not sold then  
21                    at the same rate upon the use by the wholesaler or  
22                    dealer;

- 1           (12) An excise tax equal to [~~seventy per cent of the~~  
2           ~~wholesale price of~~] \$ \_\_\_\_\_ for each article or  
3           item of tobacco products, other than large cigars,  
4           sold by the wholesaler or dealer on and after  
5           ~~[September 30, 2009,]~~ July 1, 2012, whether or not  
6           sold at wholesale, or if not sold then at the same  
7           rate upon the use by the wholesaler or dealer; [~~and~~]
- 8           (13) An excise tax equal to fifty per cent of the wholesale  
9           price of each large cigar of any length, sold, used,  
10          or possessed by a wholesaler or dealer on and after  
11          September 30, 2009, whether or not sold at wholesale,  
12          or if not sold then at the same rate upon the use by  
13          the wholesaler or dealer[~~-~~]; and
- 14          (14) An excise tax equal to \_\_\_\_\_ per cent of the wholesale  
15          price of each article or item of tobacco products,  
16          other than cigars, and for large cigars, an excise tax  
17          equal to \_\_\_\_\_ per cent of the wholesale price for  
18          those cigars sold by the wholesaler or dealer on and  
19          after July 1, 2012, whether or not sold at wholesale,  
20          or if not sold, then at the same rate upon the use by  
21          the wholesaler or dealer; provided that:



- 1           (A) For large cigars, there shall be a minimum tax  
2           rate equal to the amount of the total tax on a  
3           pack of twenty cigarettes established by this  
4           chapter per package of five cigars, with a  
5           proportionate tax for any package or quantity of  
6           cigars consisting of fewer or more than five  
7           cigars; provided that no cigar with a wholesale  
8           price of less than \$1.00 per cigar shall be sold  
9           in packages of fewer than five;
- 10          (B) For any tobacco product other than cigarettes or  
11          cigars that is offered in discrete single-use  
12          lozenges, pouches, pills, capsules or other  
13          single-dose or single-use units, or in packages  
14          of single-use units, there shall be a minimum tax  
15          equal to the amount of the total tax per-  
16          cigarette established by this chapter per each  
17          single-use unit; provided that all tobacco  
18          products subject to this subparagraph shall be  
19          sold in packages containing at least twenty  
20          individual single-use units;
- 21          (C) For any smokeless tobacco product that consists  
22          of loose tobacco or that is otherwise not subject



1           to subparagraph (B), there shall be a minimum tax  
2           equal to the amount of the total tax on a pack of  
3           twenty cigarettes established by this chapter per  
4           1.2 ounces, with a proportionate tax on any  
5           weights of fewer or more than 1.2 ounces, based  
6           on the net weight as provided in good faith by  
7           the manufacturer; provided that all tobacco  
8           products subject to this paragraph shall be sold  
9           in packages containing at least one ounce;

10          (D) For roll-your-own tobacco and any other loose  
11          tobacco meant for smoking, there shall be a  
12          minimum tax equal to the amount of the total tax  
13          on a pack of twenty cigarettes established by  
14          this chapter per 0.65 ounces with a proportionate  
15          tax on any other weights, based on the net weight  
16          as provided in good faith by the manufacturer;  
17          provided that all tobacco products subject to  
18          this subparagraph shall be sold in packages  
19          containing at least 0.65 ounces; and

20          (E) For any other tobacco product, there shall be a  
21          minimum tax equal to the total tax under this  
22          chapter on twenty cigarettes per package or



1           container that contains any tobacco product  
2           subject to this subparagraph intended or expected  
3           for final sale to consumers, with the tax applied  
4           to the smallest package or container in any  
5           package or container intended or expected for  
6           sale to consumers that contains multiple smaller  
7           packages or containers.

8   Where the tax imposed has been paid on cigarettes, little  
9   cigars, or tobacco products that thereafter become the subject  
10  of a casualty loss deduction allowable under chapter 235, the  
11  tax paid shall be refunded or credited to the account of the  
12  wholesaler or dealer. The tax shall be applied to cigarettes  
13  through the use of stamps."

14           SECTION 2. Section 245-15, Hawaii Revised Statutes, is  
15  amended to read as follows:

16           "**§245-15 Disposition of revenues.** All moneys collected  
17  pursuant to this chapter shall be paid into the state treasury  
18  as state realizations to be kept and accounted for as provided  
19  by law; provided that, of the moneys collected under the tax  
20  imposed pursuant to:

21           (1) Section 245-3(a)(5), after September 30, 2006, and  
22           prior to October 1, 2007, 1.0 cent per cigarette shall



1 be deposited to the credit of the Hawaii cancer  
2 research special fund, established pursuant to section  
3 304A-2168, for research and operating expenses and for  
4 capital expenditures;

5 (2) Section 245-3(a)(6), after September 30, 2007, and  
6 prior to October 1, 2008:

7 (A) 1.5 cents per cigarette shall be deposited to the  
8 credit of the Hawaii cancer research special  
9 fund, established pursuant to section 304A-2168,  
10 for research and operating expenses and for  
11 capital expenditures;

12 (B) 0.25 cents per cigarette shall be deposited to  
13 the credit of the trauma system special fund  
14 established pursuant to section 321-22.5; and

15 (C) 0.25 cents per cigarette shall be deposited to  
16 the credit of the emergency medical services  
17 special fund established pursuant to section 321-  
18 234;

19 (3) Section 245-3(a)(7), after September 30, 2008, and  
20 prior to July 1, 2009:

21 (A) 2.0 cents per cigarette shall be deposited to the  
22 credit of the Hawaii cancer research special





1 fund, established pursuant to section 304A-2168,  
2 for research and operating expenses and for  
3 capital expenditures;

4 (B) 0.5 cents per cigarette shall be deposited to the  
5 credit of the trauma system special fund  
6 established pursuant to section 321-22.5;

7 (C) 0.25 cents per cigarette shall be deposited to  
8 the credit of the community health centers  
9 special fund established pursuant to section 321-  
10 1.65; and

11 (D) 0.25 cents per cigarette shall be deposited to  
12 the credit of the emergency medical services  
13 special fund established pursuant to section 321-  
14 234;

15 (4) Section 245-3(a)(8), after June 30, [2009,] 2012, and  
16 prior to July 1, 2013:

17 (A) [~~2.0~~] 1.0 cents per cigarette shall be  
18 [~~deposited~~] distributed to the [~~credit of the~~  
19 ~~Hawaii cancer research special fund, established~~  
20 ~~pursuant to section 304A-2168, for research and~~  
21 ~~operating expenses and for capital expenditures,]~~  
22 department of human services for the purpose of

1           offsetting costs incurred by that department to  
2           administer the medicaid program;

3           (B) 0.75 cents per cigarette shall be deposited to  
4           the credit of the trauma system special fund  
5           established pursuant to section 321-22.5;

6           (C) 0.75 cents per cigarette shall be deposited to  
7           the credit of the community health centers  
8           special fund established pursuant to section 321-  
9           1.65; and

10          (D) 0.5 cents per cigarette shall be deposited to the  
11          credit of the emergency medical services special  
12          fund established pursuant to section 321-234; and

13          (5) Section 245-3(a)(11), after June 30, 2013, and  
14          thereafter:

15          (A) [~~2.0~~] 1.0 cents per cigarette shall be  
16          [~~deposited~~] distributed to the [~~credit of the~~  
17          ~~Hawaii cancer research special fund, established~~  
18          ~~pursuant to section 304A-2168, for research and~~  
19          ~~operating expenses and for capital expenditures,]~~  
20          department of human services for the purpose of  
21          offsetting costs incurred by that department to  
22          administer the medicaid program;



1 (B) 1.5 cents per cigarette shall be deposited to the  
2 credit of the trauma system special fund  
3 established pursuant to section 321-22.5;

4 (C) 1.25 cents per cigarette shall be deposited to  
5 the credit of the community health centers  
6 special fund established pursuant to section 321-  
7 1.65; [and]

8 (D) 1.25 cents per cigarette shall be deposited to  
9 the credit of the emergency medical services  
10 special fund established pursuant to section 321-  
11 234 [-]; and

12 (6) Section 245-3(a)(12), after July 1, 2012, and  
13 thereafter per article or item of tobacco  
14 products, other than large cigars, sold by the  
15 wholesaler or dealer on and after July 1, 2012,  
16 whether or not sold at wholesale, shall be expended by  
17 the department of health for tobacco prevention  
18 programs and tobacco dependence treatment services.

19 The department shall provide an annual accounting of these  
20 dispositions to the legislature."

21 SECTION 3. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



# S.B. NO. 2132

1 SECTION 4. This Act shall take effect on July 1, 2012.

2

INTRODUCED BY: *Shiranne Chun Clelland*  
By Request



# S.B. NO. 2132

**Report Title:**

Tobacco Products; Tax

**Description:**

Imposes an excise tax on tobacco products other than cigarettes, little cigars, and large cigars. Imposes an excise tax on bulk and small quantity purchases of tobacco products and cigars. Requires a portion of the tax to be expended for tobacco prevention programs and services and to the department of health to offset medicaid administrative costs. Effective 7/1/12.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

