WEST VIRGINIA LEGISLATURE
Regular Session, 2003

ENROLLED

SENATE BILL NO. 105

(By Senator Toms, President, and Speaker,
By Request of the Executive)

PASSED March 7, 2003

In Effect May 1, 2003
AN ACT to amend and reenact sections three and four, article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the tax on tobacco products; and increasing the rate of the tax on cigarettes from seventeen cents to fifty-five cents.

Be it enacted by the Legislature of West Virginia:

That sections three and four, article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 17. TOBACCO PRODUCTS EXCISE TAX ACT.

§11-17-3. Levy of tax; ratio; dedication of proceeds.

1. (a) Tax on cigarettes. – For the purpose of providing revenue for the general revenue fund of the state, an excise
tax is hereby levied and imposed on sales of cigarettes at
the rate of fifty-five cents on each twenty cigarettes or in
like ratio on any part thereof. Only one sale of the same
article shall be used in computing the amount of tax due
under this subsection.

(b) **Tax on tobacco products other than cigarettes.** —

Effective the first day of January, two thousand two, an
excise tax is hereby levied and imposed on the sale or use
of, other than cigarettes, tobacco products at a rate equal
to seven percent of the wholesale price of each article or
item of tobacco product other than cigarettes sold by the
wholesaler or subjobber dealer, whether or not sold at
wholesale, or if not sold, then at the same rate upon the
use by the wholesaler or dealer. Only one sale of the same
article shall be used in computing the amount of tax due
under this subsection. Revenues received from this tax
shall be deposited into the general revenue fund.

(c) **Effective date.** — The changes set forth herein to this
section and section four of this article shall become
effective the first day of May, two thousand three.

§11-17-4. Effect of rate changes; tobacco products on hand or in
inventory; report; discount.

(a) Notwithstanding other provisions of this article, it is
hereby declared to be the intent of the Legislature that one
rate of excise tax is applicable to all quantities of ciga-
rettes and another rate of excise tax is applicable to all
tobacco products other than cigarettes in this state on and
after the first day of July, two thousand one, under the
provisions of this article. Any tobacco products, on hand
or in inventory, on the effective date of any rate change
are hereby considered to have been purchased or received
on the effective date of the change in rate.

(b) Every wholesaler, subjobber, subjobber dealer, retail
dealer and vending machine operator who, on the effective
date of any rate change, has, on hand or in inventory, any
tobacco products or cigarette tax stamps, upon which the
tax or any portion of the tax has been previously paid,
shall take a physical inventory and shall file a report of the
inventory with the tax commissioner, in the format
required by the tax commissioner, within thirty days after
the inventory and shall pay to the tax commissioner any
additional tax due under an increased rate in accordance
with the following schedule:

(1) One-third at the time of filing the report;
(2) One-third not later than sixty days after the effective
date of the rate change; and
(3) One-third not later than ninety days after the effec-
tive date of the rate change.

A discount of four percent shall be allowed on all tax
due for persons who pay additional tax under this section.

(c) Imposition of the tax on tobacco products other than
cigarettes shall be treated as a change in rate on the
effective date of the tax.
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inventory with the tax commissioner, in the format
required by the tax commissioner, within thirty days after
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additional tax due under an increased rate in accordance
with the following schedule:

(1) One-third at the time of filing the report;
(2) One-third not later than sixty days after the effective
date of the rate change; and
(3) One-third not later than ninety days after the effec-
tive date of the rate change.

A discount of four percent shall be allowed on all tax
due for persons who pay additional tax under this section.
(c) Imposition of the tax on tobacco products other than
cigarettes shall be treated as a change in rate on the
effective date of the tax.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect May 1, 2003.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within... approved... this the... Day of... 2003.

Governor