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OFFICE OF WEST VIRGINIA
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WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

SENATE BILL NO. 105

(By Senator Tambolin, Mr. President, and Sprouse,
By Request of the Executive)

PASSED March 7, 2003

In Effect May 1, 2003 **Passage**

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

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Senate Bill No. 105

(BY SENATORS TOMBLIN, MR. PRESIDENT,
AND SPROUSE, BY REQUEST OF THE EXECUTIVE)

[Passed March 7, 2003; to take 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
- 2 revenue for the general revenue fund of the state, an excise

3 tax is hereby levied and imposed on sales of cigarettes at
4 the rate of fifty-five cents on each twenty cigarettes or in
5 like ratio on any part thereof. Only one sale of the same
6 article shall be used in computing the amount of tax due
7 under this subsection.

8 (b) *Tax on tobacco products other than cigarettes.* —
9 Effective the first day of January, two thousand two, an
10 excise tax is hereby levied and imposed on the sale or use
11 of, other than cigarettes, tobacco products at a rate equal
12 to seven percent of the wholesale price of each article or
13 item of tobacco product other than cigarettes sold by the
14 wholesaler or subjobber dealer, whether or not sold at
15 wholesale, or if not sold, then at the same rate upon the
16 use by the wholesaler or dealer. Only one sale of the same
17 article shall be used in computing the amount of tax due
18 under this subsection. Revenues received from this tax
19 shall be deposited into the general revenue fund.

20 (c) *Effective date.* — The changes set forth herein to this
21 section and section four of this article shall become
22 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.**

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

11 (b) Every wholesaler, subjobber, subjobber dealer, retail
12 dealer and vending machine operator who, on the effective
13 date of any rate change, has, on hand or in inventory, any
14 tobacco products or cigarette tax stamps, upon which the
15 tax or any portion of the tax has been previously paid,

16 shall take a physical inventory and shall file a report of the
17 inventory with the tax commissioner, in the format
18 required by the tax commissioner, within thirty days after
19 the inventory and shall pay to the tax commissioner any
20 additional tax due under an increased rate in accordance
21 with the following schedule:

22 (1) One-third at the time of filing the report;

23 (2) One-third not later than sixty days after the effective
24 date of the rate change; and

25 (3) One-third not later than ninety days after the effec-
26 tive date of the rate change.

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

29 (c) Imposition of the tax on tobacco products other than
30 cigarettes shall be treated as a change in rate on the
31 effective date of the tax.

16 shall take a physical inventory and shall file a report of the
17 inventory with the tax commissioner, in the format
18 required by the tax commissioner, within thirty days after
19 the inventory and shall pay to the tax commissioner any
20 additional tax due under an increased rate in accordance
21 with the following schedule:

22 (1) One-third at the time of filing the report;

23 (2) One-third not later than sixty days after the effective
24 date of the rate change; and

25 (3) One-third not later than ninety days after the effec-
26 tive date of the rate change.

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

29 (c) Imposition of the tax on tobacco products other than
30 cigarettes shall be treated as a change in rate on the
31 effective date of the tax.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Calvin M. ...
.....
Chairman, Senate Committee

Greg Butcher
.....
Chairman House Committee

Originated in the Senate.

To take effect May 1, 2003.

Samuel Elders
.....
Clerk of the Senate

Bruce M. ...
.....
Clerk of the House of Delegates

Carl Ray ...
.....
President of the Senate

Robert Skiss
.....
Speaker House of Delegates

The within is approved this the 2nd
Day of April 2003.

Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/19/03

Time 4:30pm