

103^D CONGRESS
2^D SESSION

H. R. 4089

To amend the Internal Revenue Code of 1986 to increase the tax on tobacco products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1994

Mr. STARK (for himself, Mr. DURBIN, Mr. HANSEN, Mr. WAXMAN, Mr. SYNAR, Mr. EVANS, Mr. OBERSTAR, Mr. ANDREWS of Texas, Mr. MEEHAN, Mr. VISCLOSKY, Ms. HARMAN, Ms. ROYBAL-ALLARD, and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to increase the tax on tobacco products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tobacco Health Tax and Agricultural Assistance Act of
6 1994”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
2 shall be considered to be made to a section or other provi-
3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. INCREASE IN EXCISE TAXES ON TOBACCO**
5 **PRODUCTS.**

6 (a) CIGARETTES.—Subsection (b) of section 5701 is
7 amended—

8 (1) by striking “\$12 per thousand (\$10 per
9 thousand on cigarettes removed during 1991 or
10 1992)” in paragraph (1) and inserting “\$100.00 per
11 thousand”,

12 (2) by striking “\$25.20 per thousand (\$21 per
13 thousand on cigarettes removed during 1991 or
14 1992)” in paragraph (2) and inserting “\$210.00 per
15 thousand”, and

16 (3) by adding at the end thereof the following
17 new paragraph:

18 “(3) ADDITIONAL TAX ON PACKS CONTAINING
19 FEWER THAN 20 CIGARETTES.—On any pack of
20 cigarettes containing fewer than 20 cigarettes, the
21 excess of \$2 over the tax imposed by paragraphs (1)
22 and (2) on the cigarettes in such pack.”

23 (b) CIGARS.—Subsection (a) of section 5701 is
24 amended—

1 (1) by striking “\$1.125 cents per thousand
2 (93.75 cents per thousand on cigars removed during
3 1991 or 1992)” in paragraph (1) and inserting
4 “\$89.14 per thousand”, and

5 (2) by striking “equal to” and all that follows
6 in paragraph (2) and inserting “equal to 105.8 per-
7 cent of the price for which sold but not more than
8 \$250.03 per thousand.”

9 (c) CIGARETTE PAPERS.—Subsection (c) of section
10 5701 is amended by striking “0.75 cent (0.625 cent on
11 cigarette papers removed during 1991 or 1992)” and in-
12 serting “6.24 cents”.

13 (d) CIGARETTE TUBES.—Subsection (d) of section
14 5701 is amended by striking “1.5 cents (1.25 cents on
15 cigarette tubes removed during 1991 or 1992)” and in-
16 serting “12.5 cents”.

17 (e) SMOKELESS TOBACCO.—Subsection (e) of section
18 5701 is amended—

19 (1) by striking “36 cents (30 cents on snuff re-
20 moved during 1991 or 1992)” in paragraph (1) and
21 inserting “\$29.70”, and

22 (2) by striking “12 cents (10 cents on chewing
23 tobacco removed during 1991 or 1992)” in para-
24 graph (2) and inserting “\$29.46”.

1 (f) PIPE TOBACCO.—Subsection (f) of section 5701
2 is amended by striking “67.5 cents (56.25 cents on pipe
3 tobacco removed during 1991 or 1992)” and inserting
4 “\$30.01”.

5 (g) INFLATION ADJUSTMENT OF TOBACCO TAX
6 RATES.—Section 5701 is amended by adding at the end
7 thereof the following new subsection:

8 “(i) INFLATION ADJUSTMENT.—

9 “(1) IN GENERAL.—In the case of articles re-
10 moved in any calendar year after 1994, each rate of
11 tax contained in this section shall be increased by an
12 amount equal to—

13 “(A) such rate, multiplied by

14 “(B) the greater of—

15 “(i) the cost-of-living adjustment de-
16 termined under section 1(f)(3) for the cal-
17 endar year in which the removal occurs by
18 substituting ‘calendar year 1993’ for ‘cal-
19 endar year 1992’ in subparagraph (B)
20 thereof, or

21 “(ii) the cost-of-living adjustment
22 which would be determined under clause
23 (i) if only changes in the tobacco and
24 smoking products component of the

1 Consumer Price Index (as defined in sec-
2 tion 1(f)(5)) were taken into account.

3 If any increase determined under this subsection is
4 not a multiple of $\frac{1}{4}$ cent, such increase shall be
5 rounded to the nearest $\frac{1}{4}$ cent.

6 “(2) SPECIAL RULE.—No adjustment shall be
7 made under paragraph (1) in the percentage rate set
8 forth in subsection (a)(2) but such adjustment shall
9 apply to the dollar amount contained therein.”

10 (h) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to articles removed (as defined in
12 section 5702(k) of the Internal Revenue Code of 1986,
13 as amended by this Act) after September 30, 1994.

14 (i) FLOOR STOCKS TAXES.—

15 (1) IMPOSITION OF TAX.—On tobacco products
16 and cigarette papers and tubes manufactured in or
17 imported into the United States which are removed
18 before October 1, 1994, and held on such date for
19 sale by any person, there is hereby imposed a tax in
20 an amount equal to the excess of—

21 (A) the tax which would be imposed under
22 section 5701 of the Internal Revenue Code of
23 1986 on the article if the article had been re-
24 moved on such date, over

1 (B) the prior tax (if any) imposed under
2 section 5701 or 7652 of such Code on such
3 article.

4 (2) AUTHORITY TO EXEMPT CIGARETTES HELD
5 IN VENDING MACHINES.—To the extent provided in
6 regulations prescribed by the Secretary, no tax shall
7 be imposed by paragraph (1) on cigarettes held for
8 retail sale on October 1, 1994, by any person in any
9 vending machine. If the Secretary provides such a
10 benefit with respect to any person, the Secretary
11 may reduce the \$500 amount in paragraph (3) with
12 respect to such person.

13 (3) CREDIT AGAINST TAX.—Each person shall
14 be allowed as a credit against the taxes imposed by
15 paragraph (1) an amount equal to \$500. Such credit
16 shall not exceed the amount of taxes imposed by
17 paragraph (1) for which such person is liable.

18 (4) LIABILITY FOR TAX AND METHOD OF PAY-
19 MENT.—

20 (A) LIABILITY FOR TAX.—A person hold-
21 ing on October 1, 1994, articles to which any
22 tax imposed by paragraph (1) applies shall be
23 liable for such tax.

24 (B) METHOD OF PAYMENT.—The tax im-
25 posed by paragraph (1) shall be paid in such

1 manner as the Secretary shall prescribe by reg-
2 ulations.

3 (C) TIME FOR PAYMENT.—The tax im-
4 posed by paragraph (1) shall be paid on or be-
5 fore December 31, 1994.

6 (5) ARTICLES IN FOREIGN TRADE ZONES.—
7 Notwithstanding the Act of June 18, 1934 (48 Stat.
8 998, 19 U.S.C. 81a) and any other provision of law,
9 any article which is located in a foreign trade zone
10 on October 1, 1994, shall be subject to the tax im-
11 posed by paragraph (1) if—

12 (A) internal revenue taxes have been deter-
13 mined, or customs duties liquidated, with re-
14 spect to such article before such date pursuant
15 to a request made under the 1st proviso of sec-
16 tion 3(a) of such Act, or

17 (B) such article is held on such date under
18 the supervision of a customs officer pursuant to
19 the 2d proviso of such section 3(a).

20 (6) DEFINITIONS.—For purposes of this sub-
21 section:

22 (A) IN GENERAL.—Terms used in this sub-
23 section which are also used in section 5702 of
24 the Internal Revenue Code of 1986 shall have
25 the respective meanings such terms have in

1 such section, and the term “tobacco products”
2 shall include articles first subject to the tax im-
3 posed by section 5701 of such Code by reason
4 of the amendments made by this Act.

5 (B) SECRETARY.—The term “Secretary”
6 means the Secretary of the Treasury or his
7 delegate.

8 (7) CONTROLLED GROUPS.—Rules similar to
9 the rules of section 5061(e)(3) of such Code shall
10 apply for purposes of this subsection.

11 (8) OTHER LAWS APPLICABLE.—All provisions
12 of law, including penalties, applicable with respect to
13 the taxes imposed by section 5701 of such Code
14 shall, insofar as applicable and not inconsistent with
15 the provisions of this subsection, apply to the floor
16 stocks taxes imposed by paragraph (1), to the same
17 extent as if such taxes were imposed by such section
18 5701. The Secretary may treat any person who bore
19 the ultimate burden of the tax imposed by para-
20 graph (1) as the person to whom a credit or refund
21 under such provisions may be allowed or made.

1 **SEC. 3. MODIFICATIONS OF CERTAIN TOBACCO TAX PROVI-**
2 **SIONS.**

3 (a) EXEMPTION FOR EXPORTED TOBACCO PROD-
4 UCTS AND CIGARETTE PAPERS AND TUBES TO APPLY
5 ONLY TO ARTICLES MARKED FOR EXPORT.—

6 (1) Subsection (b) of section 5704 is amended
7 by adding at the end thereof the following new sen-
8 tence: “Tobacco products and cigarette papers and
9 tubes may not be transferred or removed under this
10 subsection unless such products or papers and tubes
11 bear such marks, labels, or notices as the Secretary
12 shall by regulations prescribe.”

13 (2) Section 5761 is amended by redesignating
14 subsections (c) and (d) as subsections (d) and (e),
15 respectively, and by inserting after subsection (b)
16 the following new subsection:

17 “(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE
18 PAPERS AND TUBES FOR EXPORT.—Except as provided
19 in subsections (b) and (d) of section 5704—

20 “(1) every person who sells, relands, or receives
21 within the jurisdiction of the United States any to-
22 bacco products or cigarette papers or tubes which
23 have been labeled or shipped for exportation under
24 this chapter,

25 “(2) every person who sells or receives such to-
26 bacco products or cigarette papers or tubes, and

1 “(b) CROSS REFERENCE.—

“**For penalty for the sale of cigarettes in the United States which are labeled for export, see section 5761(d).**”

2 (B) The table of sections for subpart F of chap-
3 ter 52 is amended by adding at the end thereof the
4 following new item:

“Sec. 5754. Restriction on importation of previously exported tobacco products.”

5 (b) IMPORTERS REQUIRED TO BE QUALIFIED.—

6 (1) Sections 5712, 5713(a), 5721, 5722,
7 5762(a)(1), and 5763 (b) and (c) are each amended
8 by inserting “or importer” after “manufacturer”.

9 (2) The heading of subsection (b) of section
10 5763 is amended by inserting “QUALIFIED IMPORT-
11 ERS,” after “MANUFACTURERS,”.

12 (3) The heading for subchapter B of chapter 52
13 is amended by inserting “**and Importers**” after
14 “**Manufacturers**”.

15 (4) The item relating to subchapter B in the
16 table of subchapters for chapter 52 is amended by
17 inserting “and importers” after “manufacturers”.

18 (c) REPEAL OF TAX-EXEMPT SALES TO EMPLOYEES
19 OF CIGARETTE MANUFACTURERS.—

20 (1) Subsection (a) of section 5704 is amend-
21 ed—

1 (A) by striking “EMPLOYEE USE OR” in
2 the heading, and

3 (B) by striking “for use or consumption by
4 employees or” in the text.

5 (2) Subsection (e) of section 5723 is amended
6 by striking “for use or consumption by their employ-
7 ees, or for experimental purposes” and inserting
8 “for experimental purposes”.

9 (d) REPEAL OF TAX-EXEMPT SALES TO UNITED
10 STATES.—Subsection (b) of section 5704 is amended by
11 striking “and manufacturers may similarly remove such
12 articles for use of the United States;”.

13 (e) BOOKS OF 25 OR FEWER CIGARETTE PAPERS
14 SUBJECT TO TAX.—Subsection (c) of section 5701 is
15 amended by striking “On each book or set of cigarette
16 papers containing more than 25 papers,” and inserting
17 “On cigarette papers,”.

18 (f) STORAGE OF TOBACCO PRODUCTS.—Subsection
19 (k) of section 5702 is amended by inserting “under section
20 5704” after “internal revenue bond”.

21 (g) AUTHORITY TO PRESCRIBE MINIMUM MANUFAC-
22 TURING ACTIVITY REQUIREMENTS.—Section 5712 is
23 amended by striking “or” at the end of paragraph (1),
24 by redesignating paragraph (2) as paragraph (3), and by
25 inserting after paragraph (1) the following new paragraph:

1 “(2) the activity proposed to be carried out at
2 such premises does not meet such minimum capacity
3 or activity requirements as the Secretary may pre-
4 scribe, or”.

5 (h) LIMITATION ON COVER OVER OF TAX ON TO-
6 BACCO PRODUCTS.—Section 7652 is amended by adding
7 at the end thereof the following new subsection:

8 “(h) LIMITATION ON COVER OVER OF TAX ON TO-
9 BACCO PRODUCTS.—For purposes of this section, with re-
10 spect to taxes imposed under section 5701 or this section
11 on any tobacco product or cigarette paper or tube, the
12 amount covered into the treasuries of Puerto Rico and the
13 Virgin Islands shall not exceed the rate of tax under sec-
14 tion 5701 in effect on the article on the day before the
15 date of the enactment of the Tobacco Tax Act of 1994.”

16 (i) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to articles removed (as defined in
18 section 5702(k) of the Internal Revenue Code of 1986,
19 as amended by this Act) after September 30, 1994.

20 **SEC. 4. IMPOSITION OF EXCISE TAX ON MANUFACTURE**
21 **OR IMPORTATION OF ROLL-YOUR-OWN TO-**
22 **BACCO.**

23 (a) IN GENERAL.—Section 5701 (relating to rate of
24 tax) is amended by redesignating subsection (g) as sub-

1 section (h) and by inserting after subsection (f) the follow-
2 ing new subsection:

3 “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own
4 tobacco, manufactured in or imported into the United
5 States, there shall be imposed a tax of \$29.34 per pound
6 (and a proportionate tax at the like rate on all fractional
7 parts of a pound).”

8 (b) ROLL-YOUR-OWN TOBACCO.—Section 5702 (re-
9 lating to definitions) is amended by adding at the end
10 thereof the following new subsection:

11 “(p) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-
12 your-own tobacco’ means any tobacco which, because of
13 its appearance, type, packaging, or labeling, is suitable for
14 use and likely to be offered to, or purchased by, consumers
15 as tobacco for making cigarettes.”

16 (c) TECHNICAL AMENDMENTS.—

17 (1) Subsection (c) of section 5702 is amended
18 by striking “and pipe tobacco” and inserting “pipe
19 tobacco, and roll-your-own tobacco”.

20 (2) Subsection (d) of section 5702 is amend-
21 ed—

22 (A) in the material preceding paragraph
23 (1), by striking “or pipe tobacco” and inserting
24 “pipe tobacco, or roll-your-own tobacco”, and

1 (B) by striking paragraph (1) and insert-
2 ing the following new paragraph:

3 “(1) a person who produces cigars, cigarettes,
4 smokeless tobacco, pipe tobacco, or roll-your-own to-
5 bacco solely for his own personal consumption or
6 use, and”.

7 (3) The chapter heading for chapter 52 is
8 amended to read as follows:

9 **“CHAPTER 52—TOBACCO PRODUCTS AND**
10 **CIGARETTE PAPERS AND TUBES”.**

11 (4) The table of chapters for subtitle E is
12 amended by striking the item relating to chapter 52
13 and inserting the following new item:

“Chapter 52. Tobacco products and cigarette papers and tubes.”

14 (d) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by
16 this section shall apply to roll-your-own tobacco re-
17 moved (as defined in section 5702(k) of the Internal
18 Revenue Code of 1986, as amended by this Act)
19 after September 30, 1994.

20 (2) TRANSITIONAL RULE.—Any person who—

21 (A) on the date of the enactment of this
22 Act is engaged in business as a manufacturer of
23 roll-your-own tobacco or as an importer of to-
24 bacco products or cigarette papers and tubes,
25 and

1 (B) before October 1, 1994, submits an
2 application under subchapter B of chapter 52
3 of such Code to engage in such business,
4 may, notwithstanding such subchapter B, continue
5 to engage in such business pending final action on
6 such application. Pending such final action, all pro-
7 visions of such chapter 52 shall apply to such appli-
8 cant in the same manner and to the same extent as
9 if such applicant were a holder of a permit under
10 such chapter 52 to engage in such business.

11 **SEC. 5. ESTABLISHMENT OF TOBACCO CONVERSION AND**
12 **HEALTH EDUCATION TRUST FUND.**

13 (a) IN GENERAL.—Subchapter A of chapter 98 (re-
14 lating to trust fund code) is amended by adding at the
15 end thereof the following new section:

16 **“SEC. 9512. TOBACCO CONVERSION AND HEALTH EDU-**
17 **CATION TRUST FUND.**

18 “(a) CREATION OF TRUST FUND.—There is estab-
19 lished in the Treasury of the United States a trust fund
20 to be known as the ‘Tobacco Conversion and Health Edu-
21 cation Trust Fund’, consisting of such amounts as may
22 be appropriated or credited to such Trust Fund as pro-
23 vided in this section or section 9602(b).

24 “(b) TRANSFERS TO TRUST FUND.—

1 “(1) IN GENERAL.—There is hereby appro-
2 priated to the Tobacco Conversion and Health Edu-
3 cation Trust Fund amounts equivalent to 3 percent
4 (2 percent on and after October 1, 1999) of the net
5 revenue received in the Treasury from the 1994 to-
6 bacco tax increases.

7 “(2) NET REVENUES.—For purposes of para-
8 graph (1), the net revenue received in the Treasury
9 from the 1994 tobacco tax increases is the amount
10 estimated by the Secretary based on the excess of—

11 “(A) the additional taxes received in the
12 Treasury under section 5701 by reason of the
13 amendments made by the Tobacco Health Tax
14 and Agricultural Assistance Act of 1994 or
15 under section 2(i) of such Act, over

16 “(B) the decrease in the tax imposed by
17 chapter 1 resulting from such taxes.

18 “(c) TOBACCO CONVERSION ACCOUNT.—

19 “(1) IN GENERAL.—There is established in the
20 Tobacco Conversion and Health Education Trust
21 Fund a separate account to be known as the ‘To-
22 bacco Conversion Account’ consisting of such
23 amounts as may be transferred or credited to such
24 account as provided in this section or section
25 9602(b).

1 “(2) TRANSFERS TO ACCOUNT.—The Secretary
2 of the Treasury shall transfer to the Tobacco Con-
3 version Account two-thirds of the amounts appro-
4 priated to the Tobacco Conversion and Health Edu-
5 cation Trust Fund under subsection (b)(1) for peri-
6 ods before October 1, 1999.

7 “(3) EXPENDITURES FROM ACCOUNT.—
8 Amounts in the Tobacco Conversion Account shall
9 be available, as provided in appropriation Acts, for
10 making expenditures for purposes of—

11 “(A) assisting farmers in converting from
12 tobacco to other crops, and

13 “(B) providing grants to communities, and
14 persons involved in the production or manufac-
15 ture of tobacco or tobacco products, that are
16 adversely affected by the tax increases con-
17 tained in the Tobacco Health Tax and Agricul-
18 tural Assistance Act of 1994.

19 The grants referred to in subparagraph (B) shall in-
20 clude grants to assist in attracting nontobacco
21 sources of income and grants to farmers who retire
22 tobacco allotments.

23 “(d) HEALTH EDUCATION ACCOUNT.—

24 “(1) IN GENERAL.—There is established in the
25 Tobacco Conversion and Health Education Trust

1 Fund a separate account to be known as the ‘Health
2 Education Account’, consisting of such amounts as
3 may be transferred or credited to such account as
4 provided in this section or section 9602(b).

5 “(2) TRANSFERS TO ACCOUNT.—The Secretary
6 of the Treasury shall transfer to the Health Edu-
7 cation Account one-third (100 percent on and after
8 October 1, 1999) of the amounts appropriated to the
9 Tobacco Conversion and Health Education Trust
10 Fund under subsection (b)(1).

11 “(3) EXPENDITURES FROM ACCOUNT.—
12 Amounts in the Health Education Account shall be
13 available, as provided in appropriation Acts, to the
14 Secretary of Health and Human Services for making
15 expenditures to increase public awareness of health
16 risks, including tobacco use.”

17 (b) CLERICAL AMENDMENT.—The table of sections
18 for such subchapter A is amended by adding at the end
19 thereof the following new item:

“Sec. 9512. Tobacco Conversion and Health Education Trust
Fund.”

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