

HB357 INTRODUCED



1 HB357
2 7M9BE2E-1
3 By Representative Hollis
4 RFD: Ways and Means General Fund
5 First Read: 27-Feb-25



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SYNOPSIS:

This bill would define "cigarette" and "heated tobacco product."

This bill would also levy a tax on heated tobacco products.

A BILL
TO BE ENTITLED
AN ACT

Relating to the tobacco tax; to amend Sections 40-25-1 40-25-2, 40-25-4, 40-25-8, 40-25-8.1, 40-25-14, 40-25-18, 40-25-25, and 40-25-29, Code of Alabama 1975; to define "cigarette" and "heated tobacco products;" and to levy a tax on heated tobacco products.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-25-1, 40-25-2, 40-25-4, 40-25-8, 40-25-8.1, 40-25-14, 40-25-18, 40-25-25, and 40-25-29, Code of Alabama 1975, are amended to read as follows:

"§40-25-1

For the purposes of this article, the following terms shall have the respective meanings ascribed by this section:

(1) WHOLESALE DEALER AND JOBBER. Persons, firms, or corporations who buy tobacco products direct from the



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29 manufacturer or an affiliate of the manufacturer and sell at
30 wholesale only, any one or more of the articles taxed herein
31 to licensed wholesale dealers, jobbers, semijobbers, and
32 retail dealers for the purpose of resale only.

33 (2) ~~RETAILER~~RETAIL DEALER. Every person, firm, or
34 corporation, other than a wholesale dealer or jobber, who
35 shall sell or offer for sale any one or more of the articles
36 taxed herein, irrespective of quantity or amount, or the
37 number of sales; and all persons operating under a retail
38 dealer's license.

39 (3) SEMIJOBBER. Persons, firms, or corporations who buy
40 tobacco products from permitted wholesalers or obtain tobacco
41 from any other source and sell at wholesale any one or more of
42 the articles taxed herein to licensed retail dealers for the
43 purpose of resale only.

44 (4) STAMPS. The stamp or stamps by the use of which the
45 tax levied under this article is paid and shall be designated
46 Alabama Revenue Stamps.

47 (5) CIGARS, CHEROOTS, STOGIES, ETC. A roll for smoking
48 that is of any size or shape and that is made wholly or in
49 part of tobacco or any substitute therefor, irrespective of
50 whether the tobacco is pure or flavored, adulterated or mixed
51 with any other ingredient, if the roll has a wrapper made
52 wholly or in part of tobacco.

53 (6) HEATED TOBACCO PRODUCT. A product containing
54 tobacco that produces an inhalable aerosol by heating the
55 tobacco by means of a device without combustion of the tobacco
56 or by heat generated from a combustion source that only or



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57 primarily heats rather than burns the tobacco.

58 (7) CIGARETTE or CIGARETTES. Shall have the same
59 meaning as defined in Section 6-12-2 and shall include heated
60 tobacco products as defined herein."

61 "§40-25-2

62 (a) In addition to all other taxes of every kind now
63 imposed by law, every person, firm, corporation, club, or
64 association, within the State of Alabama, who sells or stores
65 or receives for the purpose of distribution to any person,
66 firm, corporation, club, or association within the State of
67 Alabama, cigars, cheroots, stogies, cigarettes, smoking
68 tobacco, chewing tobacco, snuff, heated tobacco products, or
69 any substitute therefor, either or all, shall pay to the State
70 of Alabama for state purposes only a license or privilege tax
71 which shall be measured by and graduated in accordance with
72 the volume of sales of such person, firm, corporation, club,
73 or association in Alabama. There is hereby levied license or
74 privilege taxes on articles containing tobacco enumerated in
75 this article in the following amounts:

76 (1) LITTLE CIGARS. Upon cigars of all descriptions,
77 including filtered cigars, made of tobacco, or any substitute
78 therefor, and weighing not more than three pounds per 1,000,
79 \$.04 for each ten cigars, or fractional part thereof.

80 (2) FILTERED CIGARS. Upon filtered cigars that have a
81 cellulose acetate or similar integrated filter, made of
82 tobacco, or any substitute therefor, and weighing more than
83 three pounds per 1,000, \$0.015 for each filtered cigar.

84 (3) CHEROOTS, STOGIES, CIGARS, ETC. Upon all other



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85 cigars of any descriptions made of tobacco, or any substitute
86 therefor, \$40.50 per thousand cigars, or \$0.0405 each.

87 (4) CIGARETTES. Upon all cigarettes made of tobacco, or
88 any substitute therefor, other than heated tobacco products,
89 33.75 mills on each such cigarette.

90 (5) SMOKING TOBACCO. Upon all smoking tobacco,
91 including granulated, plug cut, crimp cut, ready rubbed, and
92 other kinds and forms of tobacco prepared in such manner as to
93 be suitable for smoking in a pipe or cigarette, upon each
94 package: Weighing not more than one and one-eighth ounces, tax
95 \$.04; over one and one-eighth ounces, not exceeding two
96 ounces, tax \$.10; over two ounces, not exceeding three ounces,
97 tax \$.16; over three ounces, not exceeding four ounces, tax
98 \$.21; \$.06 additional tax for each ounce or fractional part
99 thereof over four ounces.

100 (6) CHEWING TOBACCO. Upon all chewing tobacco prepared
101 in such manner as to be suitable for chewing only and not
102 suitable for smoking as described and taxed in subdivision (9)
103 of this subsection: \$.015 per ounce or fractional part
104 thereof.

105 (7) SNUFF. Upon each can or package of snuff weighing
106 not more than five-eighths ounces, one cent tax; over
107 five-eighths ounces and not exceeding one and five-eighths
108 ounces, \$.02 tax; over one and five-eighths ounces and not
109 exceeding two and one-half ounces, \$.04 tax; over two and
110 one-half ounces and not exceeding five ounces (cans, packages,
111 gullets), \$.06 tax; over three ounces and not exceeding five
112 ounces (glasses, tumblers, bottles), seven cents tax; over



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113 five ounces and not exceeding six ounces, \$.08 tax; weighing
114 over six ounces, an additional \$.12 for each ounce or
115 fractional part thereof.

116 (8) HEATED TOBACCO PRODUCTS. Beginning October 1, 2025,
117 upon all heated tobacco products, the tax on a single-use
118 consumable unit shall be \$0.017 per single-use consumable
119 unit.

120 (b) Whenever in this article reference is made to any
121 manufactured tobacco products on which the tax is based on
122 weight, the weight as shown by the manufacturer or the federal
123 internal revenue stamp shall apply.

124 (c) When any articles or commodities subject to tax in
125 this article are given as prizes on punch boards, shooting
126 galleries, premiums, etc., the tax shall be based on the tax
127 rates in subsection (a) of such articles.

128 (d) The tax herein levied, except for the taxes levied
129 by subsections (i) and (j), -shall be paid to the state
130 through the use of stamps as herein provided. However, every
131 wholesaler, distributor, jobber, semijobber, or retail dealer
132 shall add the amount of the tax levied herein to the price of
133 the tobacco or tobacco products sold, it being the purpose and
134 intent of this provision that the tax levied is in fact a levy
135 on the ultimate consumer or user with the wholesaler,
136 distributor, jobber, semijobber, or retail dealer acting
137 merely as an agent of the state for the collection and payment
138 of the tax to the state. Therefore, notwithstanding any
139 exemptions from taxes which any such seller may now or
140 hereafter enjoy under the Constitution or laws of this or any



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141 other state, or of the United States, he or she shall collect
142 the tax imposed hereunder from the purchaser or consumer, and
143 the amount of the tax shall constitute a debt from the
144 purchaser or consumer to the seller until paid. It shall be
145 unlawful for any person, firm, corporation, association, or
146 copartnership to fail or refuse to add to the sales price and
147 collect from the purchaser the amount of the tax to be added
148 to the sales price and collected from the purchaser hereunder.
149 Stamps in denominations to the amount of the tax or in
150 denominations specified pursuant to subsection (e) of this
151 section shall be affixed to the box or other container from or
152 in which tobacco products taxed by this section are normally
153 sold at retail. The stamps shall be affixed in such a manner
154 that their removal will require continued application of
155 water, steam, or heat; and in case of cigars, cheroots,
156 chewing tobacco and like manufactured tobacco products, where
157 sales are made from the original container, the stamps shall
158 be affixed to the box or container in such a way that the
159 stamps shall be torn in two or mutilated when such containers
160 or boxes are opened for the sale of the tobacco products. In
161 the case of cigarettes, smoking tobacco, snuff, heated tobacco
162 products, and like products sold at retail in packages, the
163 required amount of stamps to cover the tax shall be affixed to
164 each individual package or container. All taxable tobaccos
165 herein enumerated, when offered for sale, either at wholesale
166 or retail, without having stamps affixed in the manner set out
167 by this article, or without payment of the tax by return by
168 the wholesaler, jobber, semijobber, or registered retailer,



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169 shall be subject to confiscation, in the manner provided for
170 contraband goods as set out in this article.

171 (e) The Commissioner of Revenue shall prepare and issue
172 stamps in denominations for the amount of the tax imposed by
173 this article provided that if the commissioner determines that
174 it is not economical for the state to have a stamp prepared
175 and issued for one or more particular types of packages of
176 tobacco products, then the commissioner may by regulation
177 prescribe the use of a stamp in a denomination other than for
178 the amount of the tax imposed with the difference between the
179 amount of tax actually imposed and the amount of tax
180 denominated by the stamp paid with the use of a monthly
181 report; or may require a monthly report without use of a stamp
182 to report the amount of taxes due.

183 (f) The increases levied by this section shall be
184 exclusive and shall be in lieu of any other or additional
185 local taxes and/or license fees, county or municipal, imposed
186 on the sale or use of cigarettes, heated tobacco products,
187 and/or other tobacco products. Notwithstanding the foregoing,
188 an act of the Legislature or an ordinance or resolution by a
189 taxing authority passed or enacted on or before May 18, 2004,
190 imposing a local tax and/or license fee shall remain
191 operative, but no additional local tax and/or license fee may
192 thereafter be levied on the sale of cigarettes, heated tobacco
193 products, and/or other tobacco products.

194 (g) Local taxes and/or license fees, county or
195 municipal, imposed on the sale or use of cigarettes shall be
196 paid to the local government through the use of stamps affixed



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197 to the product as provided herein for the state tax. Provided,
198 however, this requirement shall not be interpreted to require
199 the Department of Revenue to prepare all stamps or to collect
200 all local taxes. Local governments may contract with another
201 entity to collect their local cigarette tax but all local
202 taxes must be collected as provided herein.

203 (h) Notwithstanding any other provision of this
204 chapter, revenue from the additional tax in subsection (a) (4)
205 imposed by Act 2015-535 shall be deposited into the State
206 General Fund for the Medicaid Program.

207 (i) In the counties that have a local tobacco tax,
208 there is hereby levied an additional county license or
209 privilege tax on heated tobacco products, which shall equal
210 half of the state tax rate as provided in subdivision (a) (8)
211 and shall be paid to the county in which the heated tobacco
212 products were sold to the purchaser. Notwithstanding any other
213 provision of this chapter, the taxes imposed by subdivision
214 (a) (8) and this subsection shall be collected by the
215 wholesaler, jobber, semijobber, or registered retailer from
216 the purchaser at the time of purchase.

217 (j) In the municipalities that have a local tobacco
218 tax, there is hereby levied an additional municipal license or
219 privilege tax on heated tobacco products, which shall equal
220 half of the local municipal tax or license fee as applied to
221 the sale of cigarettes and shall be paid to the municipality
222 in which the heated tobacco products were sold to the
223 purchaser. Notwithstanding any other provision of this
224 chapter, the taxes imposed by subdivision (a) (8) and this



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225 subsection shall be collected by the wholesaler, jobber,
226 semijobber, or registered retailer from the purchaser at the
227 time of purchase."

228 "§40-25-4

229 The license taxes imposed by this article shall be paid
230 by affixing stamps in the manner and at the time herein set
231 forth. In the case of cigars, stogies, cheroots, chewing
232 tobacco, and like products, the stamps shall be affixed to the
233 box or container in which or from which normally sold at
234 retail. In the case of cigarettes, smoking tobacco, heated
235 tobacco products, and snuff, the stamps shall be affixed to
236 each individual package. Time allowed for affixing stamps
237 shall be as follows: Every wholesale or retail dealer in this
238 state, except wholesalers who are issued a permit by the
239 Department of Revenue, shall immediately after receipt of any
240 unstamped cigars, stogies, cheroots, chewing tobacco,
241 cigarettes, smoking tobacco, heated tobacco products, or
242 snuff, unless sooner offered for sale, cause the same to have
243 the requisite denominations and amount of stamp or stamps to
244 represent the tax affixed as stated herein. The stamping of
245 the cigars, stogies, cheroots, chewing tobacco, cigarettes,
246 smoking tobacco, heated tobacco products, and snuff shall
247 actually begin within one hour after receipt of the cigars,
248 stogies, cheroots, chewing tobacco, cigarettes, smoking
249 tobacco, heating tobacco products, and snuff in the premises
250 of the wholesale or retail dealer, except wholesalers who are
251 issued a permit by the Department of Revenue, and the stamping
252 shall be continued with reasonable diligence by the wholesale



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253 or retail dealer until all of the unstamped cigars, stogies,
254 cheroots, chewing tobacco, cigarettes, smoking tobacco,
255 heating tobacco products, and snuff have been stamped.
256 Wholesalers who have been issued a permit by the department
257 shall affix the required stamps prior to any sale. Every
258 wholesale dealer shall at the time of shipping or delivering
259 any tobacco products as enumerated herein make a true
260 duplicate invoice of the same which shall show full and
261 complete details of the sale or delivery of the taxable
262 article, shall state the tobacco tax separately from the price
263 of the tobacco products, and shall retain the same subject to
264 the use and inspection of the Department of Revenue, or its
265 duly authorized agents for a period of three years. Wholesaler
266 invoices must be computer or machine generated and the
267 seller's or supplier's name must be on the invoice.
268 Handwritten invoices may not be considered legitimate
269 documentations to substantiate proof of sale. Wholesale and
270 retail dealers shall also keep a record of purchases of all
271 tobacco products enumerated and defined in this article and
272 hold all books, records, and memoranda pertaining to the
273 purchase and sale of those tobacco products open to the
274 inspection of the Department of Revenue or its duly authorized
275 agents at any and all times. Every wholesale dealer shall
276 furnish to the Department of Revenue a monthly report, between
277 the first and twentieth of each month for the preceding month,
278 of all orders for tobacco products purchased through the
279 wholesale dealer from without this state on a drop shipment
280 and consigned direct to the person, firm, corporation, or



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281 association of persons ordering the tobacco products from
282 without this state through the wholesale dealer. If, upon
283 examination of invoices of any tobacco product sold by a
284 wholesaler or purchased or received, or both, by a retail
285 dealer, he or she is unable to furnish evidence to the
286 Department of Revenue of sufficient stamp purchases to cover
287 the unstamped tobaccos purchased, the prima facie presumption
288 shall arise that the tobacco products were sold without the
289 proper stamps affixed thereto. Any wholesaler or retailer who
290 fails or refuses to comply with any or all of the above
291 provisions shall be deemed a violator of this section and,
292 upon conviction, punished by a fine of not less than \$500 nor
293 more than \$1,000, or imprisonment in the county jail for a
294 period of six months, either or both, at the discretion of the
295 court."

296 "§40-25-8

297 Any cigarettes, smoking tobacco, heated tobacco
298 products, cigars, stogies, cheroots, chewing tobacco, snuff,
299 or other products taxable under this article found at any
300 point within the State of Alabama, which the cigarettes,
301 smoking tobacco, heated tobacco products, cigars, stogies,
302 cheroots, chewing tobacco, snuff, or other products taxable
303 under this article shall have been within the State of Alabama
304 for a period of two hours, or longer, in possession of any
305 retailer or semijobber not having affixed to the package the
306 stamps as provided in this article, or in the case of products
307 not requiring a stamp to be affixed where purchase invoices do
308 not itemize the applicable tobacco taxes, are declared to be



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309 contraband goods and may be seized by the Department of
310 Revenue, or its agents or by any peace officer of the State of
311 Alabama, without a warrant and the goods shall be delivered to
312 the Department of Revenue for destruction. Any of the goods,
313 wares, or merchandise when offered for sale, either at
314 wholesale or retail without the stamps having been first
315 affixed, or in the case of products not requiring a stamp to
316 be affixed where purchase invoices do not itemize the
317 applicable tobacco taxes, shall be subject to confiscation as
318 hereinabove provided. Any untaxed cigarettes, smoking tobacco,
319 heated tobacco products, cigars, stogies, cheroots, chewing
320 tobacco, snuff, or other products taxable under this article
321 found at any location within the State of Alabama, other than
322 the primary location of the permitted wholesaler or jobber,
323 registered semijobber, registered retailer or tobacco products
324 manufacturer who stores tobacco products at a bonded warehouse
325 in this state for resale, are declared to be contraband goods,
326 and those goods may be seized by the Department of Revenue, or
327 its agents or by any peace officer of the State of Alabama,
328 without a warrant and the goods shall be delivered to the
329 Department of Revenue for destruction. Any vehicle, not a
330 common carrier, used for the transportation for the purpose of
331 sale of unstamped articles as hereinabove enumerated shall
332 likewise be subject to confiscation and sale at public auction
333 to the highest bidder after due advertisement and notice to
334 the title owner of the vehicle. The proceeds of sale for any
335 vehicle sold hereunder shall be deposited into the State
336 Treasury by the Department of Revenue to be credited in the



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337 same manner as the tax otherwise due on the tobacco products
338 being transported. The cost of confiscation and sale shall be
339 paid out of the proceeds derived from the sale before making
340 remittance to the Treasurer. Should any unstamped tobaccos be
341 found in any vehicle which is engaged in the sale,
342 distribution, or delivery of taxable tobaccos, the same shall
343 be prima facie evidence that it was there for sale."

344 "§40-25-8.1

345 (a) Each person, firm, corporation, club, or
346 association that transports products required to be stamped as
347 provided in Section 40-25-8, which are not stamped or on which
348 tax has not been paid in accordance with this chapter and
349 Chapter 25A, upon the public highways, roads, or streets of
350 this state is required to have an active tobacco permit or
351 transporters permit under this chapter. Failure to obtain a
352 permit prior to transporting the products is a violation of
353 this section. A violation of this section may result in the
354 products being declared contraband goods that may be seized
355 without warrant by any law enforcement officer in this state.
356 The contraband goods may be disposed of or destroyed by the
357 law enforcement officer in accordance with this chapter. In
358 addition, a vehicle used in the transportation of confiscated
359 products may be subject to confiscation by the law enforcement
360 officer and sold at public auction to the highest bidder after
361 due advertisement pursuant to Chapter 13 of Title 32.

362 (b) The owner or driver, or both, of a vehicle used in
363 a violation of this section is guilty of a Class A misdemeanor
364 unless the tobacco products being transported exceeds any of



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365 the following quantities: 25,000 cigars, 50,000 filtered
366 cigars, 50,000 little cigars, 50,000 cigarettes, 50,000 heated
367 tobacco products, 25,000 cigar wraps, or 2,500 individual
368 containers of loose or smokeless tobacco, in which case the
369 owner or driver is guilty of a Class C felony. Any person
370 convicted of a second or subsequent offense for a violation of
371 this section is guilty of a Class C felony, regardless of the
372 amount of tobacco products involved in the violation.

373 (c) This section shall not apply to individuals
374 transporting tobacco for personal consumption as provided in
375 Section 40-25-25."

376 "§40-25-14

377 Each and every wholesaler or jobber qualifying as such
378 with the Department of Revenue shall be required to file a
379 report between the first and twentieth of each month, covering
380 the purchase or receipt by them of all tobacco products
381 enumerated and defined herein during the preceding month. Said
382 report shall give in detail the different kinds and quantities
383 of tobacco products so purchased or received by them during
384 the preceding month. The Department of Revenue shall furnish
385 any person seeking to bring an action under Section 8-19-10
386 with information permitting the identification of a
387 distributor which has affixed a stamp to a package of
388 cigarettes or heated tobacco products in accordance with this
389 section. In addition, between the first and twentieth of each
390 month, each person licensed to affix the state tax stamp to
391 cigarettes or heated tobacco products shall file with the
392 Department of Revenue, for all cigarettes or heated tobacco



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393 products imported into the United States to which such person
394 has affixed the Alabama revenue stamp in the preceding month,
395 copies of the customs certificates with respect to such
396 cigarettes or heated tobacco products required to be submitted
397 by 19 U.S.C. § 1681a(c). Any wholesaler or jobber failing or
398 refusing to file the above report in the manner and time
399 allowed shall be deemed a violator of this section and upon
400 conviction shall be fined not less than \$100 nor more than
401 \$500 for each offense."

402 "§40-25-18

403 (a) Persons failing to properly affix the required
404 stamps to any cigars, cheroots, stogies, cigarettes, smoking
405 tobacco, heated tobacco products, chewing tobacco, and snuff
406 shall be required to pay, as part of the tax imposed
407 hereunder, a penalty of not less than twenty-five dollars
408 (\$25) nor more than five hundred dollars (\$500). Each article
409 or commodity not having proper stamps affixed thereto as
410 herein required shall be deemed a separate offense. Any
411 cigars, cheroots, stogies, cigarettes, smoking tobacco, heated
412 tobacco products, chewing tobacco, and snuff in the place of
413 business of any person required by this article to stamp the
414 same shall be prima facie evidence that they are intended for
415 sale. The Department of Revenue, upon good cause shown, may
416 waive or remit any penalty or any part thereof provided for in
417 this section. Any person, firm, corporation, club, or
418 association of persons who has been found guilty of violating
419 this article and who, after being punished by fine, penalty,
420 assessment, or imprisonment, is found guilty of a second or



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421 subsequent violation of this article shall have their license,
422 as provided in Sections 40-12-72 and 40-12-73, revoked by the
423 department, and no further license or permit shall be issued
424 or granted to that person, firm, corporation, club, or
425 association of persons for a period of one year from the date
426 their license or permit has been revoked. Notice of the
427 revocation shall be mailed to the probate judge and license
428 inspector of the county in which the revocation was made.

429 (b) In addition to the penalty levied by the department
430 pursuant to subsection (a), the county license inspector,
431 license commissioner, revenue commissioner, tax assessor, or
432 tax collector of the county in which the untaxed tobacco
433 product is located may assess a penalty against any person
434 failing to affix the required stamps to any cigars, cheroots,
435 stogies, cigarettes, smoking tobacco, heated tobacco products
436 and snuff. The amount of the additional penalty shall be not
437 less than one hundred dollars (\$100) nor more than five
438 hundred dollars (\$500).

439 (c) The department and local taxing official may assess
440 the tax levied by this chapter pursuant to the assessment
441 procedures set out in Chapter 2A of this title."

442 "§40-25-29

443 Any excise, license, privilege, or other tax levied on
444 the sale of cigarettes or heated tobacco products by any
445 county or municipal government within the State of Alabama
446 shall be levied on the basis of a millage rate per cigarette
447 or per single-use consumable unit of heated tobacco product,
448 in a manner similar to the method of specifying the tax levied



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449 on cigarettes or heated tobacco products by ~~subdivision (8) of~~
450 ~~subsection (a) of~~ Section 40-25-2 (a), except where such taxing
451 authority has levied a per package tax on cigarettes without
452 any distinction as to the amount of cigarettes or heated
453 tobacco products per package. This provision does not specify
454 or limit the rate or amount of tax which may be levied on
455 cigarettes or heated tobacco products by such county or
456 municipal government. This provision is not to be construed as
457 limiting or extending the taxing authority of any county or
458 municipal government but rather this section specifies the
459 manner in which such taxing authority may be exercised by the
460 county or municipal government for the protection of the tax
461 revenues accruing to the state and said county or municipal
462 government, and for the protection of the public welfare,
463 health, peace and morals of the people of this state."

464 Section 2. This act shall become effective on October
465 1, 2025.