

COUNCIL OF THE DISTRICT OF COLUMBIA

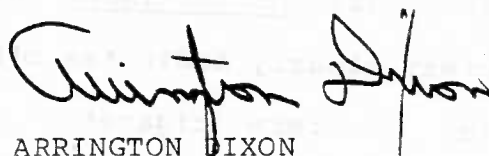
NOTICE

D.C. LAW 4-71

"Cigarette Tax Amendment Act of 1981".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 4-152 on first and second readings, October 27, 1981 and November 10, 1981, respectively. Following the signature of the Mayor on December 2, 1981, this legislation was assigned Act No. 4-118, published in the December 11, 1981 edition of the D.C. Register, (Vol. 28 page 5243) and transmitted to Congress on December 11, 1981 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 4-71, effective March 10, 1982.



ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

December	11,14,15,16
January	25,26,27,28,29
February	1,2,3,4,5,8,9,10,11,22,23,24,25,26
March	1,2,3,4,5,8,9

D.C. LAW 4-71
EFFECTIVE DATE MAR 10 1981

AN ACT

D.C. ACT 4-118

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 2 1981

To improve the enforcement of the cigarette tax laws of the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Cigarette Tax Amendment Act of 1981".

Sec. 2. Title VI of the District of Columbia Revenue Act of 1949, approved May 27, 1949 (63 Stat. 136; D.C. Code, sec. 47-2801 et seq.) is amended to read as follows:

"Sec. 601. SHORT TITLE. This title may be cited as the 'District of Columbia Cigarette Tax Act of 1981'.

"Sec. 602. DEFINITIONS. As used in this title, unless the context clearly indicates otherwise:

"(a) The term 'cigarette' means any roll of tobacco, or any substitute therefor, which is wrapped in paper or in any substance other than tobacco.

"(b) The word 'consumer' means any person who manufactures or possesses cigarettes for his own consumption or for transfer, without consideration, to another consumer, but not for transfer to other persons or for transfer with consideration.

"(c) The term 'District' means the District of

CODIFICATION
Note,
D.C. Code,
sec. 47-2401
(1981 ed.)

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(1981 ed.)

Columbia.

"(d) The term 'Mayor' means the Mayor of the District of Columbia or his authorized representatives.

"(e) The term 'original package' means the individual package, box, parcel, or other container in which cigarettes are put up by the manufacturer. The term 'original package' also includes any wrapper immediately enclosing such package, box, parcel, or other container that is prescribed by the Mayor as part of the original package.

"(f) The term 'person' means any individual, partnership, society, club, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee, and any person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise; any combination of individuals or entities acting as a unit, or any officer or employee of a corporation or member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect to which the violation occurs.

"(g) The term 'possession' includes actual or constructive possession, having legal title or an equitable interest which entitles a person to such possession, and the exercise of any right or power incident to such ownership or possession.

"(h) The term 'sell' or 'sale' means any transaction where title or possession, or both, of cigarettes is, or is to be, transferred in any manner or by any means whatsoever,

whether with or without consideration. The word 'sell' or 'sale' includes offering for sale, keeping for sale, or displaying for sale.

"(i) The term 'stamp' means any fusion decal stamps, impressions made by metering devices, or other indicia authorized by the Mayor as evidence that the tax levied and imposed by this title has been paid.

"Sec. 603. IMPOSITION AND PAYMENT OF TAX.

"(a) Except as otherwise provided in section 604, a tax is levied and imposed on the sale or possession of all cigarettes in the District at the rate of thirteen cents (13¢) for each twenty (20) cigarettes or fraction thereof.

"(b) Cigarettes on which the taxes levied and imposed by this section have been paid shall not be subject to additional taxation under this section: PROVIDED, That the burden of proof that the taxes levied and imposed by this section have been paid shall be upon the person who sells or possesses cigarettes in the District, against whom a tax assessment has been made, who has submitted an application for a refund, or whose cigarettes have been seized. For the purposes of this section, the term 'person' includes any officer or employee of a corporation responsible for payment of the tax, or any member of a partnership or association responsible for the payment of the tax.

"(c) The tax leveled and imposed by this section shall be paid by the affixture of stamps, purchased from the Mayor, evidencing the payment of the amount of tax imposed

D.C.Code,
sec. 47-2402
(1981 ed.)

by this section. Such stamps shall be affixed to the original packages of cigarettes and shall be cancelled, in the manner prescribed by the Mayor.

"(d) Except as otherwise provided in this subsection and subsection (f), each licensed wholesaler shall affix a stamp or stamps, evidencing the payment of the amount of tax imposed by this section, to each original package of cigarettes to be kept for sale, offered for sale, displayed for sale, or sold within the District. Such stamps shall be affixed to each original package of such cigarettes within seventy-two (72) hours after the receipt of such cigarettes and prior to the sale of such cigarettes unless such cigarettes are exempt from taxation under the provisions of this title. Whenever any cigarettes are found in the place of business of a licensed wholesaler without the stamps affixed as herein provided, or not segregated or marked as having been received within the preceding seventy-two (72) hours, or not segregated or marked as being held for sale outside of the limits of the District, or not segregated or marked as being held for sale to the United States or the District government, or any instrumentalities thereof, or not segregated or marked for other exempt purposes under this title, a prima facie presumption shall arise that such cigarettes are subject to the tax levied and imposed by this section and are possessed in violation of the provisions of this title.

"(e) Licensed retailers and vending machine operators

shall not accept deliveries of unstamped or improperly stamped cigarettes. Such licensees shall examine all packages of cigarettes immediately upon their receipt and shall immediately return any and all unstamped or improperly stamped cigarettes to the licensed wholesaler. Unless substantial evidence to the contrary is shown, the possession of any unstamped or improperly stamped cigarettes by such licensees shall be prima facie evidence that such cigarettes are possessed in violation of the provisions of this title. The Mayor may, however, authorize licensed retailers and vending machine operators to acquire and have in their possession cigarettes bearing cigarette tax stamps issued by any other state or jurisdiction: PROVIDED, That such cigarettes are intended for sale in such other state or jurisdiction. Licensed retailers and vending machine operators shall not purchase, acquire, or have in their possession District tax stamps. Notwithstanding the provisions of this subsection, licensed retailers or vending machine operators, other than licensed retailers or vending machine operators who are also licensed wholesalers, who either have in their possession unused cigarette tax stamps or unstamped cigarettes on the effective date of the Cigarette Tax Amendment Act of 1981 shall not be deemed in violation of this subsection: PROVIDED, That such licensed retailers and vending machine operators affix or redeem such unused cigarette tax stamps and pay the tax levied and imposed by this section on such unstamped cigarettes in the

manner and within the time specified by the Mayor.

"(f) On sales of cigarettes to other licensed wholesalers, a licensed wholesaler may deliver such cigarettes without affixing stamps thereon, and such other licensed wholesalers shall be liable for the tax imposed by this section on such cigarettes.

"(g) All packages of cigarettes placed in cigarette vending machines shall be placed in such manner that the District cigarette tax stamps are visible whenever the packages are within that area of the vending machine which permits visibility of the packages.

"(h) Except as authorized by this section or section 604, no person shall willfully or knowingly sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any unstamped or improperly stamped cigarettes.

"(i) No person shall sell, transfer, or offer to sell or transfer any cigarette tax stamps to any person other than the Mayor; nor shall any person buy, receive or offer to buy or receive any cigarette tax stamps from any person other than the Mayor.

"(j) The Mayor may by regulation provide for the purchase of stamps at a discount not exceeding ten percent (10%) of the face value of such stamps.

"(k) The taxes imposed under this section shall be deemed to be a part of the selling price of cigarettes and shall be in addition to, and not in lieu of, any taxes

imposed by any other law.

"Sec. 604. EXEMPTIONS.

D.C.Code,
sec. 47-2403
(1981 ed.)

"(a) Sale or possession of cigarettes in the District under the following circumstances shall be exempt from the tax levied and imposed by section 603:

"(1) sales of cigarettes to or by the United States or the District government, or any instrumentalities thereof; possession of cigarettes lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes; and transfers, without consideration, of cigarettes lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes to other persons legally entitled to purchase or receive such cigarettes from such governmental entities;

"(2) transfers, without consideration, of sample cigarettes in original packages containing five (5) or fewer cigarettes to consumers on behalf of manufacturers by persons authorized by the Mayor to make such transfers; possession of such cigarettes by such authorized persons; and transfers, without consideration, of such cigarettes acquired by such transfers from one consumer to another consumer;

"(3) possession of cigarettes by licensed wholesalers for sale outside of the limits of the District or for sale to other licensed wholesalers as provided for in section 603(f); sales of cigarettes by licensed wholesalers

to other licensed wholesalers as provided for in section 603(f); and possession by authorized licensed retailers and vending machine operators of cigarettes bearing cigarette tax stamps issued by any other state or jurisdiction for sale in such other state or jurisdiction: PROVIDED, That such authorized licensed retailers and vending machine operators are licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein:

"(4) possession by a consumer of two hundred (200) or fewer cigarettes, which do not bear proper evidence of the payment of the tax levied and imposed by section 603, transported into the District by a consumer or manufactured in the District by a consumer; transfers, without consideration, of such cigarettes from one consumer to another consumer; and

"(5) possession of cigarettes while being transported under such conditions that they are not deemed contraband under the provisions of section 606.

"(b) The burden of proof that any cigarettes are exempt from taxation under this title shall be upon the person who sells or possesses such cigarettes.

"Sec. 605. LICENSES.

"(a) No person shall manufacture for sale, keep for sale, offer for sale, display for sale in vending machines, or sell cigarettes in the District without having first obtained a license or licenses for such purpose or purposes

D.C. Code,
sec. 47-2404
(1981 ed.)