

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P4			dwalker 2/22/2019		State

FE Sent For:

<END>

Lunder, Erika

From: Cathlene Hanaman <cathleneh@gmail.com>
Sent: Thursday, December 27, 2018 3:29 PM
To: Kreye, Joseph; Lunder, Erika
Subject: Fwd: Statutory Language Drafting Request - 2019-21
Attachments: Little Cigars-Drafting Instructions.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "john.gilchrist@wisconsin.gov" <john.gilchrist@wisconsin.gov>
Date: December 27, 2018 at 2:08:45 PM MST
To: <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: <Paul2.Ziegler@wisconsin.gov>, <John.Gilchrist@wisconsin.gov>
Subject: **Statutory Language Drafting Request - 2019-21**
Reply-To: <john.gilchrist@wisconsin.gov>

Biennial Budget: 2019-21

Topic: Taxing "Little Cigars"

Tracking Code: BB0159

SBO Team: TLGED

SBO Analyst: Gilchrist, John
Phone: 608-266-7597
E-mail: john.gilchrist@wisconsin.gov

Agency Acronym: 566

Agency Number: 566

Priority: Low

Intent:

Impose the cigarette tax rate on "little cigars". Please see attachment for details.

Attachments: True

Please send completed drafts to SBOSTatlanguage@spmail.enterprise.wistate.us

TITLE: Impose the cigarette tax rate on "little cigars"
DRAFTING INSTRUCTIONS

Create the following definitions of "Cigar" and "Little Cigar" in sec. 139.75, Wis. Stats:

"Cigar" means any roll of tobacco for smoking that is of any size or shape that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in part of tobacco. "Cigar" does not include a cigarette.

"Little Cigars" means any cigar (as defined above) with an integrated cellulose acetate filter, and is wrapped in any substance containing tobacco.

Amend SUBCHAPTER II CIGARETTE TAXES, Sections 139.30 through 139.46 to add "or little cigars" wherever "cigarettes" appears in those statutes. For example:

Sec. 139.31 (1) An excise tax is imposed on the sale, offering or exposing for sale, possession with intent to sell or removal for consumption or sale of cigarettes, or little cigars or other disposition for any purpose whatsoever. The tax is imposed at the time and place of the first taxable event occurring in this state. All cigarettes or little cigars received in this state for sale or distribution within this state, except cigarettes or little cigars actually sold as provided in sub. (3), shall be subject to such tax. Any person licensed under ch. 100 and this chapter to have untaxed cigarettes or little cigars in his or her possession which are lost, stolen, destroyed or which have mysteriously disappeared shall be liable for and shall pay the tax thereon. The tax shall be at the following rates:

- (a) On cigarettes or little cigars weighing not more than 3 pounds per thousand, 126 mills on each cigarette or little cigar.
- (b) On cigarettes or little cigars weighing more than 3 pounds per thousand, 252 mills on each cigarette or little cigar.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1161(?)
EKL: cdc

DOA:.....Gilchrist, BB0159 - Imposing the cigarette tax on little cigars

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

IN: 1/7
DUE: 1/10

1 AN ACT [⊕]...; relating to: the budget.

Analysis by the Legislative Reference Bureau
TAXATION

GENERAL TAXATION

^eThis bill imposes the cigarette excise tax on little cigars. A “little cigar” is any cigar that has an integrated cellulose acetate filter and is wrapped in any substance containing tobacco. Under the bill, little cigars are taxed at the same rate and in the same manner as cigarettes.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 139.30 (1m) of the statutes is renumbered 139.30 (1m) (intro) and
3 amended to read:

4 139.30 (1m) (intro.) “Cigarette” means any all of the following:

5 (a) Any roll of tobacco wrapped in paper or any substance other than tobacco.

^eHistory: 1979 c. 34, 221; 1983 a. 27, 189; 1985 a. 302; 1993 a. 16, 482; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 25; 2013 a. 20; 2015 a. 216.



P2

DOA:.....Gilchrist, BB0159 - Imposing the cigarette tax on little cigars

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

IN: 2/20

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

GENERAL TAXATION

1. Excise tax on little cigars

The bill imposes the cigarette excise tax on little cigars. A "little cigar" is any cigar that has an integrated cellulose acetate filter and is wrapped in any substance containing tobacco. Under the bill, little cigars are taxed at the same rate and in the same manner as cigarettes.

INS-A →

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 139.30 (1m) of the statutes is renumbered 139.30 (1m) (intro) and
3 amended to read:

4 139.30 (1m) (intro.) "Cigarette" means any all of the following:

1 (a) Any roll of tobacco wrapped in paper or any substance other than tobacco.

2 SECTION 2. 139.30 (1m) (b) of the statutes is created to read:

3 139.30 (1m) (b) Any little cigar.

4 SECTION 3. 139.30 (6p) of the statutes is created to read:

5 139.30 (6p) "Little cigar" means a cigar that has an integrated cellulose acetate
6 filter and is wrapped in any substance containing tobacco. "Little cigar" does not
7 include a cigarette as defined in sub. (1m) (a) or in s. 995.10 (1) (d) 1.

IWS 2-8 →

8 SECTION 9437. Effective dates; Revenue.

9 (1) LITTLE CIGARS. The treatment of s. 139.30 (6p), the renumbering and
10 amendment of s. 139.30 (1m), and the creation of s. 139.30 (1m) (b) take effect on the
11 first day of the 3rd month beginning after publication. (S)

12 (END)

ss. 139.75 (1m), (4t), and (12), 139.76 (1) and (1m), and
139.78 (1) and (1m)

2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1161/P1ins
EKL:cdc

slc ✓

1 INS-A

2 The bill taxes little cigars at the same rate as the excise tax imposed on
3 cigarettes. Under current law, all cigars are taxed at the rate of 71 percent of the
4 manufacturer's established list price, limited to 50 cents per cigar. Under the bill,
5 little cigars weighing no more than ^{three} 3 pounds per thousand are taxed at the rate of
6 126 mills per little cigar and all other little cigars are taxed at the rate of 25²/₈ mills
7 per little cigar. The bill defines "little cigar" to mean a cigar that has an integrated
8 cellulose acetate filter and is wrapped in any substance containing tobacco.

9 INS 2-8

10 SECTION 1. 139.75 (1m) of the statutes is created to read:

11 139.75 (1m) "Cigar" means a roll, of any size or shape, of tobacco for smoking
12 that is made wholly or in part of tobacco, regardless of whether the tobacco is pure,
13 flavored, adulterated, or mixed with an ingredient.

14 SECTION 2. 139.75 (4t) of the statutes is created to read:

15 139.75 (4t) "Little cigar" means a cigar that has an integrated cellulose acetate
16 filter and is wrapped in a substance containing tobacco.

17 SECTION 3. 139.75 (12) of the statutes is amended to read:

18 139.75 (12) "Tobacco products" means cigars; little cigars; cheroots; stogies;
19 periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco;
20 snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut
21 and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings
22 of tobacco and other kinds and forms of tobacco prepared in such manner as to be
23 suitable for chewing or smoking in a pipe or otherwise, or both for chewing and

1 smoking; but “tobacco products” does not include cigarettes, as defined under s.
2 139.30 (1m).

History 1981 c. 20; 1985 a. 302; 1997 a. 27; 1999 a. 9; 2005 a. 25, 49; 2007 a. 20; 2015 a. 216.

3 **SECTION 4.** 139.76 (1) of the statutes is amended to read:

4 139.76 (1) An excise tax is imposed upon the sale, offering or exposing for sale,
5 possession with intent to sell or removal for consumption or sale or other disposition
6 for any purpose of tobacco products by any person engaged as a distributor of them
7 at the rate, for tobacco products, not including moist snuff and little cigars, of 71
8 percent of the manufacturer’s established list price to distributors without
9 diminution by volume or other discounts on domestic products-and, for moist snuff,
10 at the rate of 100 percent of the manufacturer’s established list price to distributors
11 without diminution by volume or other discounts on domestic products. The tax
12 imposed under this subsection on cigars, except little cigars, shall not exceed an
13 amount equal to 50 cents for each cigar. On products imported from another country,
14 not including moist snuff and little cigars, the rate of tax is 71 percent of the amount
15 obtained by adding the manufacturer’s list price to the federal tax, duties and
16 transportation costs to the United States. On moist snuff imported from another
17 country, the rate of the tax is 100 percent of the amount obtained by adding the
18 manufacturer’s list price to the federal tax, duties, and transportation costs to the
19 United States. The tax attaches at the time the tobacco products are received by the
20 distributor in this state. The tax shall be passed on to the ultimate consumer of the
21 tobacco products. All tobacco products received in this state for sale or distribution
22 within this state, except tobacco products actually sold as provided in sub. (2), shall
23 be subject to such tax.

History 1981 c. 20; 1983 a. 27; 1989 a. 56; 1999 a. 9; 2001 a. 16; 2005 a. 22; 2007 a. 20; 2009 a. 28.

Cross-reference: See also ch. Tax 9, Wis. adm. code.

1 **SECTION 5.** 139.76 (1m) of the statutes is created to read:

2 139.76 (1m) The tax under sub. (1) is imposed on little cigars at the following
3 rates:

4 (a) On little cigars weighing not more than 3 pounds per thousand, 126 mills
5 on each little cigar.

6 (b) On little cigars weighing more than 3 pounds per thousand, 252 mills on
7 each little cigar.

8 **SECTION 6.** 139.78 (1) of the statutes is amended to read:

9 139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco
10 products in this state at the rate, for tobacco products, not including moist snuff and
11 little cigars, of 71 percent of the cost of the tobacco products and, for moist snuff, at
12 the rate of 100 percent of the manufacturer's established list price to distributors
13 without diminution by volume or other discounts on domestic products. The tax
14 imposed under this subsection on cigars, except little cigars, shall not exceed an
15 amount equal to 50 cents for each cigar. The tax does not apply if the tax imposed
16 by s. 139.76 (1) on the tobacco products has been paid or if the tobacco products are
17 exempt from the tobacco products tax under s. 139.76 (2).

History: 1981 c. 20; 1985 a. 332; 1987 a. 312 s. 17; 1991 a. 39; 1997 a. 27; 2001 a. 16; 2007 a. 20; 2009 a. 28.

18 **SECTION 7.** 139.78 (1m) of the statutes is created to read:

19 139.78 (1m) The tax under sub. (1) is imposed on little cigars at the following
20 rates:

21 (a) On little cigars weighing not more than 3 pounds per thousand, 126 mills
22 on each little cigar.

23 (b) On little cigars weighing more than 3 pounds per thousand, 252 mills on
24 each little cigar.

Lunder, Erika

From: Gilchrist, John M - DOA
Sent: Tuesday, February 19, 2019 3:30 PM
To: Lunder, Erika
Subject: Little Cigar Excise Tax LRB Draft #19-1161_P1
Attachments: Excise - Impose Cigarette Tax Rate on Little Cigars.docx

Good afternoon Erika,

DOR emailed me a critique of the "Little Cigar" draft. I've included their comments below and attached their proposed language.

LRB 1161/P1 Imposing Cigarette Tax Rate on Little Cigars

- We have serious concerns with the draft bill because it revises the definition of cigarette to include little cigars. The Tobacco Master Settlement Agreement (MSA) requires the state (DOR and DOJ) to diligently enforce provisions of the agreement relating to the sale of cigarettes in Wisconsin. Collectively the state's diligent enforcement actions secure the state's continued receipt of approximately \$130 million in MSA payments annually. At this time little cigars are not considered cigarettes for the purpose of MSA enforcement. As drafted, DOR would have to expand enforcement activity to include:
 - Identifying the substantial number of manufacturers and brands of little cigars
 - Getting the manufacturers of little cigars into compliance with the MSA as either a participating manufacturer (PM) or non-participating manufacturer (NPM)
 - Certifying the brands of little cigars as approved for legal sale in Wisconsin
 - Listing the brands of little cigars on the Attorney General's Directory of Certified Tobacco Brands,
 - Getting payments into escrow for NPM brands

- DOR respectfully requests drafting the bill similar to our legislative proposal (attached)

Respectfully,
John Gilchrist
Executive Policy & Budget Analyst
State Budget Office
Wisconsin Department of Administration
608-266-7597

**2019 - 2021 Legislative Proposal Summary
Wisconsin Department of Revenue
Division of Income, Sales & Excise**

TITLE: Impose the Cigarette Tax Rate on "Little Cigars"

DESCRIPTION OF CURRENT LAW AND PROBLEM

In April of 2012, the U.S. Government Accounting Office (GAO) issued a report noting large disparities in federal excise tax for smoking products that caused significant shifts in the tobacco market.¹ According to the GAO, tobacco manufacturers began manipulating their products in order to avoid tax increases and regulation of cigarettes as a result of federal legislation enacted in 2009 (the Children's Health Insurance Program Reauthorization Act (CHIPRA) and the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act). CHIPRA raised the federal excise tax on cigarettes, small cigars and roll-your-own tobacco (RYO), but taxed large cigars and pipe tobacco at a much lower rate.² The Tobacco Control Act prohibits the use of "reduced harm" marketing claims on cigarettes, such as "light", "low" and "mild"; the act also bans the use of fruit and candy flavors in cigarettes. These restrictions do not apply to other tobacco products such as cigars. As a result, some tobacco manufacturers have manipulated their products by increasing the weight of little cigars so they meet the federal definition of a "large cigar."³ The Centers for Disease Control and Prevention (CDC) report⁴ that from 2000 to 2013, total consumption of cigarettes declined from 435.6 billion sticks to 293.8 billion sticks, a 33% decrease. During the same period, consumption of large cigars increased by 233.1%. The largest changes occurred from 2008 to 2011 when large cigars consumption increased from 5.7 billion to 12.9 billion (a 126% increase).

The same trend of a decline in cigarette consumption and an increase in tobacco purchases including "little cigars" has been observed in Wisconsin. In Wisconsin, between CY2000 and CY2017 consumption of cigarettes declined by 51.3%. Between FY2000 and FY2013, consumption of other tobacco products increased by 512%.

Altering tobacco products so they are labeled as cigars and no longer taxed as cigarettes results in unequal tax treatment of essentially the same tobacco products. Little cigars are virtually indistinguishable from cigarettes; they share many of the same characteristics such as size, packaging, marketing, and consumption method. The main difference is that little cigars are typically wrapped in brown paper (which contains some tobacco) rather than white paper. In contrast, large cigars are wrapped with a tobacco wrapper (not paper) and are packaged in a variety of sizes; whereas little cigars are mass-produced on cigarette rolling machines and sold in packs of twenty that are the same size as standard packaged cigarettes.

¹ GAO, *Tobacco Taxes: Large Disparities in Rates for Smoking Products Trigger Significant Market Shifts to Avoid Higher Taxes*, April 2012, gao.gov/assets/600/590192.pdf.

² CHIPRA put the federal excise tax (FET) on cigarette-like small cigars and RYO cigarettes at directly parallel levels. (The FET on small cigars went from \$1.83/1,000 to \$50.33/1000. In contrast, the FET on large cigars went from 20.719% of sales price to 52.75% of sales price).

³ Federal tax classifications define cigars into two categories based on weight: small cigars (also known as little cigars) and large cigars. Little cigars weigh less than three pounds per thousand, large cigars weigh more than three pounds per thousand.

⁴ CDC "Consumption of Cigarettes and Combustible Tobacco – United States, 2000-2011," MMWR 61(30) August 3, 2012, cdc.gov/mmwr/pdf/wk/mm6130.pdf.

RECOMMENDATION FOR ACTION

The department proposes to create a definition of cigar in state statutes (currently Wisconsin statutes do not separately define cigars, cigars are included in the general definition of "tobacco products found in sec. 139.75(12), Wis. Stats.) and further define "little cigar" as a subset of cigars so that the cigarette tax can be imposed on this type of tobacco product, which is indistinguishable from cigarettes. This action would make Wisconsin's taxation of little cigars comparable to the tax treatment of seventeen states and Washington D.C., which currently tax little cigars at the same rate as cigarettes. These states are: CA, CT, HI, IA, IL, MA, MN, MT, NH, NM, NY, PA, RI, TN, UT, VT, and WA.

IMPACT ON JOBS CREATION

Minimal. Some reduction in the sale of "little cigars" could be expected, in response to the higher tax rate, but as cigarettes dominate the smoking tobacco market, accounting for approximately 95 percent of tobacco sales in 2017, the effect of higher "little cigars" prices on a relatively small market segment is not expected to significantly impact retail sales activity and employment levels of tobacco retailers or distributors. Therefore, the overall impact on job creation of this change is likely to be minimal.

FISCAL EFFECT

Taxing little cigars as cigarettes (whether the "little cigars" are below or above the federal 3 lb. per 1000 weight threshold) is expected to increase state tax collections by approximately \$3.9 million annually.

DRAFTING INSTRUCTIONS

Create the following definitions of "Cigar" and "Little Cigar" in sec. 139.75, Wis. Stats:

"Cigar" means any roll of tobacco for smoking that is of any size or shape that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in part of tobacco. "Cigar" does not include a cigarette.

"Little Cigars" means any cigar (as defined above) with an integrated cellulose acetate filter, and is wrapped in any substance containing tobacco.

Amend SUBCHAPTER II CIGARETTE TAXES, Sections 139.30 through 139.46 to add "or little cigars" wherever "cigarettes" appears in those statutes. For example:

Sec. 139.31 (1) An excise tax is imposed on the sale, offering or exposing for sale, possession with intent to sell or removal for consumption or sale of cigarettes, or little cigars or other disposition for any purpose whatsoever. The tax is imposed at the time and place of the first taxable event occurring in this state. All cigarettes or little cigars received in this state for sale or distribution within this state, except cigarettes or little cigars actually sold as provided in sub. (3), shall be subject to such tax. Any person licensed under ch. 100 and this chapter to have untaxed cigarettes or little cigars in his or her possession which are lost, stolen, destroyed or which have mysteriously disappeared shall be liable for and shall pay the tax thereon. The tax shall be at the following rates:

- (a) On cigarettes or little cigars weighing not more than 3 pounds per thousand, 126 mills on each cigarette or little cigar.
- (b) On cigarettes or little cigars weighing more than 3 pounds per thousand, 252 mills on each cigarette or little cigar.

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

First day of the third month following publication, to allow retailers at least three months to sell unstamped product, prior to the effective date.

INTERESTED/AFFECTED PARTIES

Cigarette and tobacco product manufacturers, distributors, and retailers. Campaign for Tobacco Free Kids, American Cancer Society, and other public health advocacy organizations.

DOR CONTACT PERSON

Diane Hardt, Division Administrator
(608) 266-6798
Diane.hardt@revenue.wi.gov

PREPARED BY:

Tom Ourada
(608) 266-8875
Thomas.Ourada@revenue.wi.gov

Date: January 25, 2019

Lunder, Erika

From: Gilchrist, John M - DOA
Sent: Thursday, February 21, 2019 10:05 AM
To: Lunder, Erika
Cc: Kreye, Joseph
Subject: FW: Little Cigar Excise Tax LRB Draft #19-1161_P2
Attachments: 19-1161_P2.pdf

Good morning Erika,

I spoke to DOR yesterday and they seemed receptive of Joe's views. Below are their requested edits.

Respectfully,
John Gilchrist
Executive Policy & Budget Analyst
State Budget Office
Wisconsin Department of Administration
608-266-7597

From: Weber, Nathaniel R - DOR
Sent: Wednesday, February 20, 2019 9:35 PM
To: Gilchrist, John M - DOA <John.Gilchrist@wisconsin.gov>
Cc: Hardt, Diane L - DOR <Diane.Hardt@wisconsin.gov>; Schmidt, Robert K - DOR <RobertK1.Schmidt@wisconsin.gov>
Subject: FW: Little Cigar Excise Tax LRB Draft #19-1161_P2

Hi John,

We appreciate and agree with Joe's concerns below. This draft will work with the following changes. Let us know if you have further questions.

Thanks,
Nate Weber

LRB -1161/P2 Imposing the cigarette tax rate on little cigars

- Page 2, SECTION 1 – add the following language:

139.75 (1m) "Cigar" means a roll, of any size or shape, of tobacco for smoking that is made wholly or in part of tobacco, regardless of whether the tobacco is pure, flavored, adulterated, or mixed with an ingredient, if the roll has a wrapper made wholly or in part of tobacco.

- Page 2 – insert a new section as follows:

SECTION 2.5. 139.75 (5b) of the statutes is created to read:

139.75 (5b) "Manufacturer's list price" means the total price of tobacco products charged by the manufacturer or other seller to an unrelated distributor.

The total price shall include all charges by the manufacturer or other seller that are necessary to complete the sale. The total price may not be reduced by any cost or expense, regardless of whether the cost or expense is separately stated on an invoice, that is incurred by the manufacturer or other seller, including fees, delivery, freight, transportation, packaging, handling, marketing, federal excise taxes, and import fees or duties. The total price may not be reduced by the value or cost of discounts or free promotional or sample products. For purposes of this subsection, a manufacturer or other seller is related to a distributor if the two parties have significant common purposes and substantial common membership or, directly or indirectly, substantial common direction or control.

- Page 4, SECTION 4 - change the subsection as follows:

139.76 (1) An excise tax is imposed upon the sale, offering or exposing for sale, possession with intent to sell or removal for consumption or sale or other disposition for any purpose of tobacco products by any person engaged as a distributor of them at the rate, for tobacco products, not including moist snuff and little cigars, of 71 percent of the manufacturer's established list price to distributors ~~without diminution by volume or other discounts on domestic products~~ and, for moist snuff, at the rate of 100 percent of the manufacturer's established list price to distributors ~~without diminution by volume or other discounts on domestic products~~. The tax imposed under this subsection on cigars, except little cigars, shall not exceed an amount equal to 50 cents for each cigar. ~~On products imported from another country, not including moist snuff and little cigars, the rate of tax is 71 percent of the amount obtained by adding the manufacturer's list price to the federal tax, duties and transportation costs to the United States. On moist snuff imported from another country, the rate of the tax is 100 percent of the amount obtained by adding the manufacturer's list price to the federal tax, duties, and transportation costs to the United States.~~ The tax attaches at the time the tobacco products are received by the distributor in this state. The tax shall be passed on to the ultimate consumer of the tobacco products. All tobacco products received in this state for sale or distribution within this state, except tobacco products actually sold as provided in sub. (2), shall be subject to such tax.

- Page 3, SECTION 6 - change the subsection as follows:

139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco products in this state at the rate, for tobacco products, not including moist snuff and little cigars, of 71 percent of the ~~cost~~ manufacturer's list price of the tobacco products and, for moist snuff, at the rate of 100 percent of the manufacturer's established list price to distributors ~~without diminution by volume or other discounts on domestic products~~. The tax imposed under this subsection on cigars, except little cigars, shall not exceed an amount equal to 50 cents for each cigar. The tax does not apply if the tax imposed by s. 139.76 (1) on the tobacco products has been paid or if the tobacco products are exempt from the tobacco products tax under s. 139.76 (2).

From: Gilchrist, John M - DOA

Sent: Wednesday, February 20, 2019 11:03 AM

To: Weber, Nathaniel R - DOR <Nathaniel.Weber@wisconsin.gov>

Subject: FW: Little Cigar Excise Tax LRB Draft #19-1161_P2

Good morning Nathan,

Attached is the latest edition of the "Little Cigar Excise Tax Modification". Below is an email chain from LRB concerning the previous instructions. I've already spoken to Erika this morning and we both feel that in order to speed the drafting process along that direct contact between your offices might be preferable to having me as a conduit.

Respectfully,
John Gilchrist
Executive Policy & Budget Analyst
State Budget Office
Wisconsin Department of Administration
608-266-7597

From: Kreye, Joseph A - LEGIS <joseph.kreye@legis.wisconsin.gov>
Sent: Wednesday, February 20, 2019 10:25 AM
To: Lunder, Erika K - LEGIS <erika.lunder@legis.wisconsin.gov>; Gilchrist, John M - DOA <John.Gilchrist@wisconsin.gov>
Subject: RE: Little Cigar Excise Tax LRB Draft #19-1161_P1

Hi John,

As a follow-up, the instructions we have received from DOR right from the start have been problematic. For example, the instructions indicate that a definition for "little cigar" should be created in the tobacco products subchapter. However, the instructions do not indicate that the definition should be used in that subchapter. If we create a definition there, it has to be used there. The instructions further indicated that we add references to "little cigars" in the cigarette tax subchapter and tax them like cigarettes. However, DOR did not instruct us to create a definition for use in that subchapter.

If we create a definition in the tobacco products subchapter that is not used and also modify the cigarette tax subchapter to impose that tax on little cigars, it appears that we are taxing and regulating little cigars under both subchapters (a little cigar would be taxed as a cigarette in one place and as a cigar in the other). The latest draft has the definitions in the tobacco products subchapter and taxes the little cigars at the same rate as cigarettes.

Joe

Joseph T. Kreye
Legal Services Manager
Legislative Reference Bureau
608 504-5857

From: Lunder, Erika <Erika.Lunder@legis.wisconsin.gov>
Sent: Wednesday, February 20, 2019 9:50 AM
To: Gilchrist, John M - DOA <John.Gilchrist@wisconsin.gov>
Cc: Kreye, Joseph <Joseph.Kreye@legis.wisconsin.gov>
Subject: RE: Little Cigar Excise Tax LRB Draft #19-1161_P1

Hi John,

We have redrafted -1161/p1 in a manner that we believe addresses the potential concerns raised by the department. The new draft defines "cigar" and "little cigar" in s. 139.75 and amends ss. 139.76 and 139.78 to tax little cigars at the same rate as cigarettes. You should have the new draft shortly.

Please do not hesitate to contact us with any questions or concerns.

Sincerely,
Erika

From: Gilchrist, John M - DOA <John.Gilchrist@wisconsin.gov>

Sent: Tuesday, February 19, 2019 3:30 PM

To: Lunder, Erika <Erika.Lunder@legis.wisconsin.gov>

Subject: Little Cigar Excise Tax LRB Draft #19-1161_P1

Good afternoon Erika,

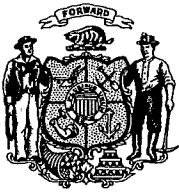
DOR emailed me a critique of the "Little Cigar" draft. I've included their comments below and attached their proposed language.

LRB 1161/P1 Imposing Cigarette Tax Rate on Little Cigars

- We have serious concerns with the draft bill because it revises the definition of cigarette to include little cigars. The Tobacco Master Settlement Agreement (MSA) requires the state (DOR and DOJ) to diligently enforce provisions of the agreement relating to the sale of cigarettes in Wisconsin. Collectively the state's diligent enforcement actions secure the state's continued receipt of approximately \$130 million in MSA payments annually. At this time little cigars are not considered cigarettes for the purpose of MSA enforcement. As drafted, DOR would have to expand enforcement activity to include:
 - Identifying the substantial number of manufacturers and brands of little cigars
 - Getting the manufacturers of little cigars into compliance with the MSA as either a participating manufacturer (PM) or non-participating manufacturer (NPM)
 - Certifying the brands of little cigars as approved for legal sale in Wisconsin
 - Listing the brands of little cigars on the Attorney General's Directory of Certified Tobacco Brands,
 - Getting payments into escrow for NPM brands

- DOR respectfully requests drafting the bill similar to our legislative proposal (attached)

Respectfully,
John Gilchrist
Executive Policy & Budget Analyst
State Budget Office
Wisconsin Department of Administration
608-266-7597



P3

DOA:.....Gilchrist, BB0159 - Imposing the cigarette tax on little cigars

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

1st 2/21
DNOTE

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

GENERAL TAXATION

1. Excise tax on little cigars

This bill taxes little cigars at the same rate as the excise tax imposed on cigarettes. Under current law, all cigars are taxed at the rate of 71 percent of the manufacturer's established list price, limited to 50 cents per cigar. Under the bill, little cigars weighing no more than three pounds per thousand are taxed at the rate of 126 mills per little cigar and all other little cigars are taxed at the rate of 252 mills per little cigar. The bill defines "little cigar" to mean a cigar that has an integrated cellulose acetate filter and is wrapped in any substance containing tobacco.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 139.75 (1m) of the statutes is created to read:

1 139.75 (1m) "Cigar" means a roll, of any size or shape, of tobacco for smoking
2 that is made wholly or in part of tobacco, regardless of whether the tobacco is pure,
3 flavored, adulterated, or mixed with an ingredient.

4 SECTION 2. 139.75 (4t) of the statutes is created to read:

5 139.75 (4t) "Little cigar" means a cigar that has an integrated cellulose acetate
6 filter and is wrapped in a substance containing tobacco.

7 SECTION 3. 139.75 (12) of the statutes is amended to read:

8 139.75 (12) "Tobacco products" means cigars; little cigars; cheroots; stogies;
9 periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco;
10 snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut
11 and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings
12 of tobacco and other kinds and forms of tobacco prepared in such manner as to be
13 suitable for chewing or smoking in a pipe or otherwise, or both for chewing and
14 smoking; but "tobacco products" does not include cigarettes, as defined under s.
15 139.30 (1m).

16 SECTION 4. 139.76 (1) of the statutes is amended to read:

17 139.76 (1) An excise tax is imposed upon the sale, offering or exposing for sale,
18 possession with intent to sell or removal for consumption or sale or other disposition
19 for any purpose of tobacco products by any person engaged as a distributor of them
20 at the rate, for tobacco products, not including moist snuff and little cigars, of 71
21 percent of the manufacturer's established list price to distributors without
22 diminution by volume or other discounts on domestic products-and, for moist snuff,
23 at the rate of 100 percent of the manufacturer's established list price to distributors
24 without diminution by volume or other discounts on domestic products. The tax
25 imposed under this subsection on cigars, except little cigars, shall not exceed an

if the roll has a wrapper made wholly or in part of tobacco

1 amount equal to 50 cents for each cigar. On products imported from another country,
2 not including moist snuff and little cigars, the rate of tax is 71 percent of the amount
3 obtained by adding the manufacturer's list price to the federal tax, duties and
4 transportation costs to the United States. On moist snuff imported from another
5 country, the rate of the tax is 100 percent of the amount obtained by adding the
6 manufacturer's list price to the federal tax, duties, and transportation costs to the
7 United States. The tax attaches at the time the tobacco products are received by the
8 distributor in this state. The tax shall be passed on to the ultimate consumer of the
9 tobacco products. All tobacco products received in this state for sale or distribution
10 within this state, except tobacco products actually sold as provided in sub. (2), shall
11 be subject to such tax.

12 **SECTION 5.** 139.76 (1m) of the statutes is created to read:

13 139.76 (1m) The tax under sub. (1) is imposed on little cigars at the following
14 rates:

15 (a) On little cigars weighing not more than 3 pounds per thousand, 126 mills
16 on each little cigar.

17 (b) On little cigars weighing more than 3 pounds per thousand, 252 mills on
18 each little cigar.

19 **SECTION 6.** 139.78 (1) of the statutes is amended to read:

20 139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco
21 products in this state at the rate, for tobacco products, not including moist snuff and
22 little cigars, of 71 percent of the cost of the tobacco products and, for moist snuff, at
23 the rate of 100 percent of the manufacturer's established list price to distributors
24 without diminution by volume or other discounts on domestic products. The tax
25 imposed under this subsection on cigars, except little cigars, shall not exceed an

1 amount equal to 50 cents for each cigar. The tax does not apply if the tax imposed
2 by s. 139.76 (1) on the tobacco products has been paid or if the tobacco products are
3 exempt from the tobacco products tax under s. 139.76 (2).

4 **SECTION 7.** 139.78 (1m) of the statutes is created to read:

5 139.78 (1m) The tax under sub. (1) is imposed on little cigars at the following
6 rates:

7 (a) On little cigars weighing not more than 3 pounds per thousand, 126 mills
8 on each little cigar.

9 (b) On little cigars weighing more than 3 pounds per thousand, 252 mills on
10 each little cigar.

11 **SECTION 9437. Effective dates; Revenue.**

12 (1) LITTLE CIGARS. The treatment of ss. 139.75 (1m), (4t), and (12), 139.76 (1)
13 and (1m), and 139.78 (1) and (1m) takes effect on the first day of the 3rd month
14 beginning after publication.

15 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

3
LRB-1161/P2dn
EKL:cde✓

[date]

1 John Gilchrist:

2 This draft reconciles LRB-1161/P2✓ and LRB-1162/P4✓. Both of these drafts should
3 continue to appear in the compiled bill.

4
5
6
7
8

Erika Lunder
Legislative Attorney
(608) 504-5819
erika.lunder@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1161/P3dn
EKL:cdc

February 21, 2019

John Gilchrist:

This draft reconciles LRB-1161/P2 and LRB-1162/P4. Both of these drafts should continue to appear in the compiled bill.

Erika Lunder
Legislative Attorney
(608) 504-5819
erika.lunder@legis.wisconsin.gov

Lunder, Erika

From: Gilchrist, John M - DOA
Sent: Thursday, February 21, 2019 5:17 PM
To: Lunder, Erika
Subject: FW: Little Cigar Excise Tax LRB Draft #19-1161_P2

Good afternoon Erika,

A late request from DOR to bring other provisions in-line with the little cigar-related changes.

Respectfully,
John Gilchrist
Executive Policy & Budget Analyst
State Budget Office
Wisconsin Department of Administration
608-266-7597

From: Ourada, Thomas D - DOR
Sent: Thursday, February 21, 2019 4:54 PM
To: Gilchrist, John M - DOA <John.Gilchrist@wisconsin.gov>
Cc: Weber, Nathaniel R - DOR <Nathaniel.Weber@wisconsin.gov>; Hardt, Diane L - DOR <Diane.Hardt@wisconsin.gov>; Schmidt, Robert K - DOR <RobertK1.Schmidt@wisconsin.gov>
Subject: FW: Little Cigar Excise Tax LRB Draft #19-1161_P2

Hi John,

As noted in my voicemail, the department has identified several other administrative provisions that should be included in the /P2 draft imposing the cigarette tax rate on little cigars. Specifically, we wanted the following cigarette provisions to also apply to little cigars. Can these be added to the /P2 draft?

- Sec. 139.315 – inventory floor tax ✓
- Sec. 139.32 – stamping requirements ✓
- Sec. 139.321 – unlawful possession of unstamped product ✓
- Sec. 139.44(8) – penalty for unlawful possession of unstamped product ✓

From: Weber, Nathaniel R - DOR
Sent: Wednesday, February 20, 2019 9:35 PM
To: Gilchrist, John M - DOA <John.Gilchrist@wisconsin.gov>
Cc: Hardt, Diane L - DOR <Diane.Hardt@wisconsin.gov>; Schmidt, Robert K - DOR <RobertK1.Schmidt@wisconsin.gov>
Subject: FW: Little Cigar Excise Tax LRB Draft #19-1161_P2

Hi John,

We appreciate and agree with Joe's concerns below. This draft will work with the following changes. Let us know if you have further questions.

Thanks,
Nate Weber

LRB -1161/P2 Imposing the cigarette tax rate on little cigars

- Page 2, SECTION 1 – add the following language:

139.75 **(1m)** "Cigar" means a roll, of any size or shape, of tobacco for smoking that is made wholly or in part of tobacco, regardless of whether the tobacco is pure, flavored, adulterated, or mixed with an ingredient, if the roll has a wrapper made wholly or in part of tobacco.

- Page 2 – insert a new section as follows:

SECTION 2.5. 139.75 (5b) of the statutes is created to read:

139.75 **(5b)** "Manufacturer's list price" means the total price of tobacco products charged by the manufacturer or other seller to an unrelated distributor. The total price shall include all charges by the manufacturer or other seller that are necessary to complete the sale. The total price may not be reduced by any cost or expense, regardless of whether the cost or expense is separately stated on an invoice, that is incurred by the manufacturer or other seller, including fees, delivery, freight, transportation, packaging, handling, marketing, federal excise taxes, and import fees or duties. The total price may not be reduced by the value or cost of discounts or free promotional or sample products. For purposes of this subsection, a manufacturer or other seller is related to a distributor if the two parties have significant common purposes and substantial common membership or, directly or indirectly, substantial common direction or control.

- Page 4, SECTION 4 - change the subsection as follows:

139.76 **(1)** An excise tax is imposed upon the sale, offering or exposing for sale, possession with intent to sell or removal for consumption or sale or other disposition for any purpose of tobacco products by any person engaged as a distributor of them at the rate, for tobacco products, not including moist snuff and little cigars, of 71 percent of the manufacturer's established list price to distributors ~~without diminution by volume or other discounts on domestic products~~ and, for moist snuff, at the rate of 100 percent of the manufacturer's established list price to distributors ~~without diminution by volume or other discounts on domestic products~~. The tax imposed under this subsection on cigars, except little cigars, shall not exceed an amount equal to 50 cents for each cigar. ~~On products imported from another country, not including moist snuff and little cigars, the rate of tax is 71 percent of the amount obtained by adding the manufacturer's list price to the federal tax, duties and transportation costs to the United States. On moist snuff imported from another country, the rate of the tax is 100 percent of the amount obtained by adding the manufacturer's list price to the federal tax, duties, and transportation costs to the United States.~~ The tax attaches at the time the tobacco products are received by the distributor in this state. The tax shall be passed on to the ultimate consumer of the tobacco products. All tobacco products received in this state for sale or distribution within this state, except tobacco products actually sold as provided in sub. (2), shall

be subject to such tax.

- Page 3, SECTION 6 - change the subsection as follows:

139.78 (1) A tax is imposed upon the use or storage by consumers of tobacco products in this state at the rate, for tobacco products, not including moist snuff and little cigars, of 71 percent of the ~~cost~~ manufacturer's list price of the tobacco products and, for moist snuff, at the rate of 100 percent of the manufacturer's ~~established~~ list price to distributors ~~without diminution by volume or other discounts on domestic products~~. The tax imposed under this subsection on cigars, except little cigars, shall not exceed an amount equal to 50 cents for each cigar. The tax does not apply if the tax imposed by s. 139.76 (1) on the tobacco products has been paid or if the tobacco products are exempt from the tobacco products tax under s. 139.76 (2).

From: Gilchrist, John M - DOA
Sent: Wednesday, February 20, 2019 11:03 AM
To: Weber, Nathaniel R - DOR <Nathaniel.Weber@wisconsin.gov>
Subject: FW: Little Cigar Excise Tax LRB Draft #19-1161_P2

Good morning Nathan,

Attached is the latest edition of the "Little Cigar Excise Tax Modification". Below is an email chain from LRB concerning the previous instructions. I've already spoken to Erika this morning and we both feel that in order to speed the drafting process along that direct contact between your offices might be preferable to having me as a conduit.

Respectfully,
John Gilchrist
Executive Policy & Budget Analyst
State Budget Office
Wisconsin Department of Administration
608-266-7597

From: Kreye, Joseph A - LEGIS <joseph.kreye@legis.wisconsin.gov>
Sent: Wednesday, February 20, 2019 10:25 AM
To: Lunder, Erika K - LEGIS <erika.lunder@legis.wisconsin.gov>; Gilchrist, John M - DOA <John.Gilchrist@wisconsin.gov>
Subject: RE: Little Cigar Excise Tax LRB Draft #19-1161_P1

Hi John,

As a follow-up, the instructions we have received from DOR right from the start have been problematic. For example, the instructions indicate that a definition for "little cigar" should be created in the tobacco products subchapter. However, the instructions do not indicate that the definition should be used in that subchapter. If we create a definition there, it has to be used there. The instructions further indicated that we add references to "little cigars" in the cigarette tax subchapter and tax them like cigarettes. However, DOR did not instruct us to create a definition for use in that subchapter.

If we create a definition in the tobacco products subchapter that is not used and also modify the cigarette tax subchapter to impose that tax on little cigars, it appears that we are taxing and regulating little cigars under both

subchapters (a little cigar would be taxed as a cigarette in one place and as a cigar in the other). The latest draft has the definitions in the tobacco products subchapter and taxes the little cigars at the same rate as cigarettes.

Joe

Joseph T. Kreye
Legal Services Manager
Legislative Reference Bureau
608 504-5857

From: Lunder, Erika <Erika.Lunder@legis.wisconsin.gov>
Sent: Wednesday, February 20, 2019 9:50 AM
To: Gilchrist, John M - DOA <John.Gilchrist@wisconsin.gov>
Cc: Kreye, Joseph <Joseph.Kreye@legis.wisconsin.gov>
Subject: RE: Little Cigar Excise Tax LRB Draft #19-1161_P1

Hi John,

We have redrafted -1161/p1 in a manner that we believe addresses the potential concerns raised by the department. The new draft defines "cigar" and "little cigar" in s. 139.75 and amends ss. 139.76 and 139.78 to tax little cigars at the same rate as cigarettes. You should have the new draft shortly.

Please do not hesitate to contact us with any questions or concerns.

Sincerely,
Erika

From: Gilchrist, John M - DOA <John.Gilchrist@wisconsin.gov>
Sent: Tuesday, February 19, 2019 3:30 PM
To: Lunder, Erika <Erika.Lunder@legis.wisconsin.gov>
Subject: Little Cigar Excise Tax LRB Draft #19-1161_P1

Good afternoon Erika,

DOR emailed me a critique of the "Little Cigar" draft. I've included their comments below and attached their proposed language.

LRB 1161/P1 Imposing Cigarette Tax Rate on Little Cigars

- We have serious concerns with the draft bill because it revises the definition of cigarette to include little cigars. The Tobacco Master Settlement Agreement (MSA) requires the state (DOR and DOJ) to diligently enforce provisions of the agreement relating to the sale of cigarettes in Wisconsin. Collectively the state's diligent enforcement actions secure the state's continued receipt of approximately \$130 million in MSA payments annually. At this time little cigars are not considered cigarettes for the purpose of MSA enforcement. As drafted, DOR would have to expand enforcement activity to include:
 - Identifying the substantial number of manufacturers and brands of little cigars
 - Getting the manufacturers of little cigars into compliance with the MSA as either a participating manufacturer (PM) or non-participating manufacturer (NPM)

- Certifying the brands of little cigars as approved for legal sale in Wisconsin
 - Listing the brands of little cigars on the Attorney General's Directory of Certified Tobacco Brands,
 - Getting payments into escrow for NPM brands
- DOR respectfully requests drafting the bill similar to our legislative proposal (attached)

Respectfully,
John Gilchrist
Executive Policy & Budget Analyst
State Budget Office
Wisconsin Department of Administration
608-266-7597



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1161/P3
EKL:cdc

DOA:.....Gilchrist, BB0159 - Imposing the cigarette tax on little cigars

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

GENERAL TAXATION

1. Excise tax on little cigars

This bill taxes little cigars at the same rate as the excise tax imposed on cigarettes. Under current law, all cigars are taxed at the rate of 71 percent of the manufacturer's established list price, limited to 50 cents per cigar. Under the bill, little cigars weighing no more than three pounds per thousand are taxed at the rate of 126 mills per little cigar and all other little cigars are taxed at the rate of 252 mills per little cigar. The bill defines "little cigar" to mean a cigar that has an integrated cellulose acetate filter and is wrapped in any substance containing tobacco.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 139.75 (1m) of the statutes is created to read:

INS 1-2 →
2

1 **139.75 (1m)** "Cigar" means a roll, of any size or shape, of tobacco for smoking
2 that is made wholly or in part of tobacco, regardless of whether the tobacco is pure,
3 flavored, adulterated, or mixed with an ingredient if the roll has a wrapper made
4 wholly or in part of tobacco.

5 **SECTION 2.** 139.75 (4t) of the statutes is created to read:

6 **139.75 (4t)** "Little cigar" means a cigar that has an integrated cellulose acetate
7 filter and is wrapped in a substance containing tobacco.

8 **SECTION 3.** 139.76 (1m) of the statutes is created to read:

9 **139.76 (1m)** The tax under sub. (1) is imposed on little cigars at the following
10 rates:

11 (a) On little cigars weighing not more than 3 pounds per thousand, 126 mills
12 on each little cigar.

13 (b) On little cigars weighing more than 3 pounds per thousand, 252 mills on
14 each little cigar.

15 **SECTION 4.** 139.78 (1m) of the statutes is created to read:

16 **139.78 (1m)** The tax under sub. (1) is imposed on little cigars at the following
17 rates:

18 (a) On little cigars weighing not more than 3 pounds per thousand, 126 mills
19 on each little cigar.

20 (b) On little cigars weighing more than 3 pounds per thousand, 252 mills on
21 each little cigar.

INS 2-22 →
22

(END)

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1161/P3ins
EKL:cdc

1 INS 1-2

2 **SECTION 1.** 139.44 (4) of the statutes is amended to read:

3 139.44 (4) Any person who refuses to permit the examination or inspection
4 authorized in s. 139.39 (2) or 139.83 (1) may be fined not more than \$500 or
5 imprisoned not more than 90 days or both. Such refusal shall be cause for immediate
6 suspension or revocation of permit by the secretary.

History: 1981 c. 20; 1983 a. 63; 1985 a. 302; 1987 a. 399; 1989 a. 31; 1993 a. 16; 1997 a. 27, 283; 2001 a. 109; 2013 a. 20.

7 INS 2-22

8 **SECTION 2.** 139.83 of the statutes is renumbered 139.83 (1).

9 **SECTION 3.** 139.83 (2) of the statutes is created to read:

10 139.83 (2) Sections 139.315, 139.32, 139.321, and 139.44 (8), as they apply to
11 the tax under subch. II, apply to the administration and enforcement of this
12 subchapter for little cigars.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1161/P4
EKL:cdc

DOA:.....Gilchrist, BB0159 - Imposing the cigarette tax on little cigars

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

GENERAL TAXATION

1. Excise tax on little cigars

This bill taxes little cigars at the same rate as the excise tax imposed on cigarettes. Under current law, all cigars are taxed at the rate of 71 percent of the manufacturer's established list price, limited to 50 cents per cigar. Under the bill, little cigars weighing no more than three pounds per thousand are taxed at the rate of 126 mills per little cigar and all other little cigars are taxed at the rate of 252 mills per little cigar. The bill defines "little cigar" to mean a cigar that has an integrated cellulose acetate filter and is wrapped in any substance containing tobacco.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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3 imprisoned not more than 90 days or both. Such refusal shall be cause for immediate
4 suspension or revocation of permit by the secretary.

5 **SECTION 2.** 139.75 (1m) of the statutes is created to read:

6 139.75 (1m) "Cigar" means a roll, of any size or shape, of tobacco for smoking
7 that is made wholly or in part of tobacco, regardless of whether the tobacco is pure,
8 flavored, adulterated, or mixed with an ingredient if the roll has a wrapper made
9 wholly or in part of tobacco.

10 **SECTION 3.** 139.75 (4t) of the statutes is created to read:

11 139.75 (4t) "Little cigar" means a cigar that has an integrated cellulose acetate
12 filter and is wrapped in a substance containing tobacco.

13 **SECTION 4.** 139.76 (1m) of the statutes is created to read:

14 139.76 (1m) The tax under sub. (1) is imposed on little cigars at the following
15 rates:

16 (a) On little cigars weighing not more than 3 pounds per thousand, 126 mills
17 on each little cigar.

18 (b) On little cigars weighing more than 3 pounds per thousand, 252 mills on
19 each little cigar.

20 **SECTION 5.** 139.78 (1m) of the statutes is created to read:

21 139.78 (1m) The tax under sub. (1) is imposed on little cigars at the following
22 rates:

23 (a) On little cigars weighing not more than 3 pounds per thousand, 126 mills
24 on each little cigar.

