

Legislative Analysis



REMOVE SUNSET ON PER-CIGAR TAX CAP

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<http://www.house.mi.gov/hfa>

House Bill 4485 as reported from committee

Sponsor: Rep. Matt Hall

Committee: Tax Policy

Complete to 5-13-21

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 102 of 2021)

SUMMARY:

House Bill 4485 would amend the Tobacco Products Tax Act to remove the sunset (expiration date) on the current 50-cent per-cigar tax cap, thereby making the cap permanent.

The act levies a 32% tax on the wholesale price of cigars, non-cigarette smoking tobacco, and smokeless tobacco, but limits the per-cigar tax to 50 cents until October 1, 2021. The existing 50-cent cap means that the amount of tax imposed on any cigar with a wholesale price of \$1.5625 or more is the same (because the cap has been reached), which means that the tax rate declines as the wholesale price of a cigar increases. Eliminating the sunset date would allow the cap to remain in law indefinitely.

MCL 205.427

BACKGROUND:

The bill is a reintroduction of Senate Bill 304 of the 2017-18 legislative session.¹ That bill was passed by the House and Senate but was vetoed by Governor Snyder. In his veto message, the governor stated that he believed it was appropriate to allow the cap to expire in 2021, thereby returning the tax to 32% of the wholesale price.²

FISCAL IMPACT:

As written, the bill would have no immediate impact on tobacco tax revenue, since the cap is slated to remain in place through FY 2020-21.

In both 2018 and 2019, approximately 4.9 million “capped” cigars were sold, with total wholesale prices of about \$21 million per year. Assuming that these trends continue, beginning in FY 2021-22, when the cap is scheduled to sunset, tobacco tax revenue would be about \$4.3 million less per year if the cap remains in place and becomes permanent.

Revenue from the 32% wholesale tax on other tobacco products is distributed such that 25% accrues to the general fund, while the remainder is earmarked to the Medicaid Trust Fund.

¹ <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-0304-82D66372.pdf>

² https://content.govdelivery.com/attachments/MIGOV/2018/12/28/file_attachments/1130291/Veto%20Letter%20304.pdf

POSITIONS:

A representative of Wild Bill's Tobacco testified in support of the bill. (3-24-21)

The following entities indicated support for the bill:

- Cigar Association of America (3-24-21)
- Michigan Retailers Association (3-24-21)
- Mackinac Center for Public Policy (4-14-21)

Representatives of the Department of Treasury testified and indicated a neutral position on the bill. (3-24-21)

The following entities indicated opposition to the bill:

- American Heart Association (3-24-21)
- Michigan League for Public Policy (3-24-21)
- American Cancer Society Action Network (4-14-21)

Legislative Analyst: Jenny McInerney
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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.