

SENATE No. 1576

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the taxation of electronic smoking devices, cigars and smoking tobacco.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	<i>1/17/2017</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>1/27/2017</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>1/27/2017</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	<i>1/30/2017</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/30/2017</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>1/30/2017</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/31/2017</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>2/2/2017</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>2/3/2017</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>	<i>2/3/2017</i>

SENATE No. 1576

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1576) of Michael O. Moore, Michael J. Rodrigues, William C. Galvin, David T. Vieira and other members of the General Court for legislation to the tax electronic smoking devices, cigars and smoking tobacco. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the taxation of electronic smoking devices, cigars and smoking tobacco.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 7B of chapter 64C of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting in subsection (a) after the definition of “cigar
3 retailer”, the following:—

4 “Electronic smoking liquid”, any product in liquid form for use in a device that can
5 deliver nicotine to the user through inhalation of vapor. “Electronic smoking liquid” includes any
6 such product, regardless of whether the liquid contains nicotine, and whether or not it is sold
7 separately. “Electronic smoking liquid” does not include any product that has been approved by
8 the United States Food and Drug Administration for sale as a tobacco cessation product and is
9 being marketed and sold solely for the approved purpose.

10 SECTION 2. Said section 7B, as so appearing, is further amended by striking out
11 subsection (b) and inserting in its place the following:—

12 (b) An excise shall be imposed on all cigars, smoking tobacco, and electronic smoking
13 liquid held in the commonwealth at the rate of 40 per cent of the wholesale price of such
14 products; provided that, in the case of cigars, this excise shall not exceed fifty cents (\$0.50) per
15 cigar. As applied to cigars or smoking tobacco, this excise shall be imposed on cigar distributors
16 at the time the cigars or smoking tobacco are manufactured, purchased, imported, received or
17 acquired in the commonwealth. This excise shall not be imposed on any cigars or tobacco
18 products that (i) are exported from the commonwealth; or (ii) are not subject to taxation by the
19 commonwealth pursuant to any law of the United States. As applied to electronic smoking liquid,
20 this excise shall be imposed on the wholesalers of such products at the time the product is
21 purchased, received or acquired for retail sale in the commonwealth in accordance with such
22 regulations as may be promulgated by the commissioner.

23 SECTION 3. Said section 7B, as so appearing, is further amended by striking out
24 subsection (c) and inserting in its place the following:—

25 (c) Every cigar retailer shall be liable for the collection of the excise on all cigars or
26 smoking tobacco in his possession at any time, upon which the excise has not been paid by a
27 cigar distributor, and the failure of any cigar retailer to produce or exhibit to the commissioner or
28 his authorized representative, upon demand, an invoice by a cigar distributor for any cigars or
29 smoking tobacco in his possession, shall be presumptive evidence that the excise thereon has not
30 been paid and that such cigar retailer is liable for the collection of the excise thereon. Every
31 retailer of electronic smoking liquid shall be liable for the collection of the excise on all such
32 products in his possession at any time, upon which the excise has not been paid by a wholesaler,
33 and the failure of any such retailer to produce or exhibit to the commissioner or his authorized
34 representative, upon demand, an invoice by a wholesaler for any electronic smoking liquid in his

35 possession, shall be presumptive evidence that the excise thereon has not been paid and that such
36 retailer is liable for the collection of the excise thereon.

37 SECTION 4. Said section 7B, as so appearing, is further amended by striking out
38 subsection (d) and inserting in its place the following:—

39 (d) The amount of the excise advanced and paid, as provided in this section, shall be
40 added to and collected as part of, the sales price of the products subject to the excise.

41 SECTION 5. Said section 7B, as so appearing, is further amended by striking out
42 paragraph (1) of subsection (d) and inserting in its place the following:—

43 (e)(1) A cigar distributor shall be liable for the payment of the excise on cigars and
44 smoking tobacco that he imports or causes to be imported into the commonwealth or that he
45 manufactures in the commonwealth, and every cigar distributor authorized by the commissioner
46 to make returns and pay the excise on cigars or smoking tobacco sold, shipped or delivered by
47 him to any person in the commonwealth shall be liable for the collection and payment of the
48 excise on all cigars and smoking tobacco sold, shipped or delivered. A wholesaler of electronic
49 smoking liquid shall be liable for the payment of the excise on all such product that he imports or
50 causes to be imported into the commonwealth or that he manufactures in the commonwealth, and
51 every such wholesaler authorized by the commissioner to make returns and pay the excise on
52 electronic smoking liquid sold, shipped or delivered by him to any person in the commonwealth
53 shall be liable for the collection and payment of the excise on all such product sold, shipped or
54 delivered.

55 SECTION 6. Said section 7B, as so appearing, is further amended by striking out
56 subsection (g) and inserting in its place the following:—

57 (g) Every resident of the commonwealth shall be liable for the collection of the excise on
58 all cigars or smoking tobacco or electronic smoking liquid in his possession at any time, upon
59 which the excise has not been paid in accordance with this section. The failure of any such
60 consumer to produce or exhibit to the commissioner or his authorized representative, upon
61 demand, an invoice or sales receipt by a cigar distributor or cigar retailer for any cigars or
62 smoking tobacco in his possession or an invoice or sales receipt by a wholesaler or retailer of
63 electronic smoking liquid for any such product in his possession, shall be presumptive evidence
64 that the excise thereon has not been paid and that such consumer is liable for the collection of the
65 excise thereon.