

110TH CONGRESS  
2D SESSION

# H. R. 6791

To amend the Internal Revenue Code of 1986 to increase Federal excise taxes on tobacco products and to dedicate the revenues from the increased taxes to the war on cancer.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2008

Mr. HIGGINS (for himself and Mr. ISRAEL) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to increase Federal excise taxes on tobacco products and to dedicate the revenues from the increased taxes to the war on cancer.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Cancer Fund  
5   Act of 2008”.

### 6   **SEC. 2. PURPOSES.**

7       The purposes of this Act are—

1           (1) to establish a National Cancer Fund in  
2           order to accelerate progress in the war on cancer  
3           and to expand federally funded cancer research and  
4           control programs with the goal of reducing cancer  
5           mortality to zero, to benefit cancer patients, ensure  
6           a high quality of life for cancer survivors, and pro-  
7           vide for palliative and end-of-life care,

8           (2) to prepare for the looming impact of an  
9           aging American population and the anticipated fi-  
10          nancial burden associated with medical treatment  
11          and lost productivity, along with the toll of human  
12          suffering that accompanies a cancer diagnosis, and

13          (3) to support the advancement of science and  
14          the development of advanced technologies and medi-  
15          cine to improve the prevention, early detection, and  
16          treatment of cancer.

17 **SEC. 3. NATIONAL CANCER FUND.**

18          (a) IN GENERAL.—Subchapter A of chapter 98 of the  
19 Internal Revenue Code of 1986 (relating to trust fund  
20 code) is amended by adding at the end thereof the fol-  
21 lowing new section:

22 **“SEC. 9511. NATIONAL CANCER FUND.**

23          “(a) CREATION OF TRUST FUND.—There is estab-  
24 lished in the Treasury of the United States a trust fund  
25 to be known as the ‘National Cancer Fund’, consisting of

1 such amounts as may be appropriated or credited to the  
2 National Cancer Fund as provided in this section or sec-  
3 tion 9602(b).

4 “(b) TRANSFER OF FUNDS TO THE NATIONAL CAN-  
5 CER FUND.—There are hereby appropriated to the Na-  
6 tional Cancer Fund amounts equivalent to so much of the  
7 taxes received in the Treasury under chapter 52 (relating  
8 to tobacco products and cigarette papers and tubes) as  
9 are attributable to the amendments made by the National  
10 Cancer Fund Act of 2008.

11 “(c) EXPENDITURES FROM NATIONAL CANCER  
12 FUND.—Amounts in the National Cancer Fund shall be  
13 available, as provided by appropriation Acts, for making  
14 expenditures for—

15 “(1) cancer research, with an emphasis on most  
16 lethal forms of cancer, defined as those cancers with  
17 5 year survival rates below 50 percent, along with an  
18 additional emphasis on rare cancers, and focusing on  
19 the development of effective prevention, early detec-  
20 tion tools, and treatments,

21 “(2) development and expansion of NIH cancer  
22 programs to explore cancer biology, expand high-risk  
23 high-reward research, support large-scale collabo-  
24 rative projects, and support other programs to accel-  
25 erate the research and development, and the delivery

1 of cancer prevention and early detection tools, treat-  
2 ments, and therapies,

3 “(3) increased study of the long-term effects of  
4 cancer treatment on cancer survivors and the chal-  
5 lenges associated with access to quality follow up  
6 care and may provide for the expansion and coordi-  
7 nation of cancer survivorship research activities at  
8 National Cancer Institute-designated cancer centers,

9 “(4) expansion of breast and cervical cancer  
10 early detection and treatment programs that cover  
11 screening and treatment for women who do not have  
12 access to health care,

13 “(5) expansion of colorectal cancer early detec-  
14 tion and treatment programs to cover men and  
15 women who do not otherwise have access to health  
16 care,

17 “(6) development and expansion of early detec-  
18 tion and treatment programs to cover men and  
19 women who do not otherwise have access to health  
20 care,

21 “(7) expansion of access to cancer-related clin-  
22 ical trials and health care for underserved and  
23 underinsured populations,

24 “(8) increased access for federally sponsored  
25 cancer clinical trials,

1 “(9) implementation of a nationwide tobacco  
2 cessation program, and

3 “(10) expansion and support of regulatory  
4 sciences to speed the development of biomarkers, ad-  
5 vanced disease modeling, co-development of  
6 diagnostics and therapeutics, enhanced clinical trial  
7 design, biological standards for baseline metrics, and  
8 other tools for assessing the efficacy of new thera-  
9 peutic agents in order to expedite the delivery of  
10 more effective cancer treatments to patients,

11 “(11) development and expansion of the cancer  
12 workforce, and

13 “(12) other such cancer-related activities as  
14 deemed appropriate.”.

15 (b) CLERICAL AMENDMENT.—The table of sections  
16 for such subchapter A is amended by adding at the end  
17 the following new item:

“Sec. 9511. National Cancer Fund.”.

18 **SEC. 4. PRESIDENT’S CANCER PANEL.**

19 (a) IN GENERAL.—Section 415(a) of the Public  
20 Health Service Act (42 U.S.C. 285a–4) is amended to  
21 read as follows:

22 “(a) MEMBERSHIP.—

23 “(1) The President’s Cancer Panel (hereafter in  
24 this section referred to as the ‘Panel’) shall be com-  
25 posed of 5 persons appointed by the President who,

1 by virtue of their training, experience, and back-  
2 ground, are exceptionally qualified to appraise the  
3 cancer research, control, and regulatory programs of  
4 the Federal Government. At least 3 members of the  
5 Panel shall be distinguished scientists or physicians,  
6 including one who is an expert in public health, and  
7 one who has a related area of expertise in basic re-  
8 search.

9 “(2) Members of the Panel shall be appointed  
10 for five-year terms, except that (i) any member ap-  
11 pointed to fill a vacancy occurring prior to the expi-  
12 ration of the term for which the member’s prede-  
13 cessor was appointed shall be appointed only for the  
14 remainder of such term, and (ii) a member may  
15 serve until the member’s successor has taken office.  
16 If a vacancy occurs in the Panel, the President shall  
17 make an appointment to fill the vacancy not later  
18 than 90 days after the date the vacancy occurred.”.

19 (b) DUTIES.—Section 415(b) of the Public Health  
20 Service Act (42 U.S.C. 285a–4) is amended to read as  
21 follows:

22 “(b) DUTIES.—

23 “(1) The Panel shall monitor the development  
24 and execution of the cancer-related programs and  
25 activities of the Federal Government and shall re-

1 port directly to the President and Congress. Any  
2 delays or blockages in rapid execution of these pro-  
3 grams and activities shall immediately be brought to  
4 the attention of the President and Congress.

5 “(2) The Panel shall submit to the President  
6 periodic progress reports on the National Cancer  
7 Program and shall submit to the President, the Sec-  
8 retary, and the Congress an annual evaluation of the  
9 efficacy of the Program and suggestions for im-  
10 provements, and shall submit such other reports as  
11 the President shall direct.

12 “(3) The Panel shall submit an annual report  
13 of the short and long-term needs and opportunities  
14 of federally funded cancer programs and make rec-  
15 ommendations on how to better integrate and co-  
16 ordinate these activities in furtherance of advancing  
17 progress in the war on cancer. Such reports will be  
18 based on recommendations to be developed through  
19 one or more meetings convened at least once each  
20 year that would include the participation of individ-  
21 uals with extensive expertise in the areas of expendi-  
22 ture enumerated under section (3)(a) of this Act, in-  
23 cluding representation from the relevant federally-  
24 funded cancer programs.”.

1       (c) ALTERNATIVE FUNDING SOURCES FOR NA-  
2 TIONAL CANCER FUND.—Section 415 of the Public  
3 Health Service Act (42 U.S.C. 285a–4) is amended by  
4 adding at the end the following new subsection:

5       “(c) ALTERNATIVE FUNDING SOURCES FOR NA-  
6 TIONAL CANCER FUND.—

7               “(1) IN GENERAL.—Beginning no later than 6  
8 months after the date of the enactment of this sub-  
9 section, the Panel shall convene one or more meet-  
10 ings to support an examination of the feasibility of  
11 additional sources of funding that could be credited  
12 to the National Cancer Fund in order to determine  
13 which funding supplemental sources for federally  
14 funded cancer programs will provide the greatest op-  
15 portunities for strengthening these programs.

16              “(2) PARTICIPANTS.—Such meetings shall be  
17 comprised of individuals having expertise in public  
18 and private finance, capital investment, public  
19 health, cancer research, cancer prevention, cancer  
20 screening, and cancer treatment, in order to deter-  
21 mine the needs of the National Cancer Fund along  
22 with viable options for supporting the fund.

23              “(3) DEADLINE FOR REPORT.—Within 1 year  
24 after the date of the enactment of this subsection,  
25 the Panel shall issue a report to be delivered to Con-

1       gress with recommendations for funding the Na-  
2       tional Cancer Fund.”

3   **SEC. 5. INCREASE IN EXCISE TAX RATE ON TOBACCO PROD-**  
4                   **UCTS.**

5       (a) CIGARS.—Section 5701(a) of the Internal Rev-  
6   enue Code of 1986 is amended—

7           (1) by striking “\$1.828 cents per thousand  
8       (\$1.594 cents per thousand on cigars removed dur-  
9       ing 2000 or 2001)” in paragraph (1) and inserting  
10      “\$50.00 per thousand”,

11          (2) by striking “20.719 percent (18.063 percent  
12      on cigars removed during 2000 or 2001)” in para-  
13      graph (2) and inserting “52.988 percent”, and

14          (3) by striking “\$48.75 per thousand (\$42.50  
15      per thousand on cigars removed during 2000 or  
16      2001)” in paragraph (2) and inserting “\$3.00 per  
17      cigar”.

18      (b) CIGARETTES.—Section 5701(b) of such Code is  
19   amended—

20          (1) by striking “\$19.50 per thousand (\$17 per  
21      thousand on cigarettes removed during 2000 or  
22      2001)” in paragraph (1) and inserting “\$50.00 per  
23      thousand”, and

24          (2) by striking “\$40.95 per thousand (\$35.70  
25      per thousand on cigarettes removed during 2000 or

1       2001)” in paragraph (2) and inserting “\$105.00 per  
2       thousand”.

3       (c) CIGARETTE PAPERS.—Section 5701(c) of such  
4 Code is amended by striking “1.22 cents (1.06 cents on  
5 cigarette papers removed during 2000 or 2001)” and in-  
6 serting “3.13 cents”.

7       (d) CIGARETTE TUBES.—Section 5701(d) of such  
8 Code is amended by striking “2.44 cents (2.13 cents on  
9 cigarette tubes removed during 2000 or 2001)” and in-  
10 serting “6.26 cents”.

11       (e) SMOKELESS TOBACCO.—Section 5701(e) of such  
12 Code is amended—

13               (1) by striking “58.5 cents (51 cents on snuff  
14 removed during 2000 or 2001)” in paragraph (1)  
15 and inserting “\$1.50”, and

16               (2) by striking “19.5 cents (17 cents on chew-  
17 ing tobacco removed during 2000 or 2001)” in para-  
18 graph (2) and inserting “50 cents”.

19       (f) PIPE TOBACCO.—Section 5701(f) of such Code is  
20 amended by striking “\$1.0969 cents (95.67 cents on pipe  
21 tobacco removed during 2000 or 2001)” and inserting  
22 “\$2.8126 cents”.

23       (g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of  
24 such Code is amended by striking “\$1.0969 cents (95.67

1 cents on roll-your-own tobacco removed during 2000 or  
2 2001)” and inserting “\$8.8889 cents”.

3 (h) FLOOR STOCKS TAXES.—

4 (1) IMPOSITION OF TAX.—On tobacco products  
5 (other than cigars described in section 5701(a)(2) of  
6 the Internal Revenue Code of 1986) and cigarette  
7 papers and tubes manufactured in or imported into  
8 the United States which are removed before January  
9 1, 2009, and held on such date for sale by any per-  
10 son, there is hereby imposed a tax in an amount  
11 equal to the excess of—

12 (A) the tax which would be imposed under  
13 section 5701 of such Code on the article if the  
14 article had been removed on such date, over

15 (B) the prior tax (if any) imposed under  
16 section 5701 of such Code on such article.

17 (2) CREDIT AGAINST TAX.—Each person shall  
18 be allowed as a credit against the taxes imposed by  
19 paragraph (1) an amount equal to \$500. Such credit  
20 shall not exceed the amount of taxes imposed by  
21 paragraph (1) on January 1, 2009, for which such  
22 person is liable.

23 (3) LIABILITY FOR TAX AND METHOD OF PAY-  
24 MENT.—

1 (A) LIABILITY FOR TAX.—A person hold-  
2 ing tobacco products, cigarette papers, or ciga-  
3 rette tubes on January 1, 2009, to which any  
4 tax imposed by paragraph (1) applies shall be  
5 liable for such tax.

6 (B) METHOD OF PAYMENT.—The tax im-  
7 posed by paragraph (1) shall be paid in such  
8 manner as the Secretary shall prescribe by reg-  
9 ulations.

10 (C) TIME FOR PAYMENT.—The tax im-  
11 posed by paragraph (1) shall be paid on or be-  
12 fore April 1, 2009.

13 (4) ARTICLES IN FOREIGN TRADE ZONES.—  
14 Notwithstanding the Act of June 18, 1934 (com-  
15 monly known as the Foreign Trade Zone Act, 48  
16 Stat. 998, 19 U.S.C. 81a et seq.) or any other provi-  
17 sion of law, any article which is located in a foreign  
18 trade zone on January 1, 2009, shall be subject to  
19 the tax imposed by paragraph (1) if—

20 (A) internal revenue taxes have been deter-  
21 mined, or customs duties liquidated, with re-  
22 spect to such article before such date pursuant  
23 to a request made under the 1st proviso of sec-  
24 tion 3(a) of such Act, or

1 (B) such article is held on such date under  
2 the supervision of an officer of the United  
3 States Customs and Border Protection of the  
4 Department of Homeland Security pursuant to  
5 the 2d proviso of such section 3(a).

6 (5) DEFINITIONS.—For purposes of this sub-  
7 section—

8 (A) IN GENERAL.—Any term used in this  
9 subsection which is also used in section 5702 of  
10 the Internal Revenue Code of 1986 shall have  
11 the same meaning as such term has in such  
12 section.

13 (B) SECRETARY.—The term “Secretary”  
14 means the Secretary of the Treasury or the  
15 Secretary’s delegate.

16 (6) CONTROLLED GROUPS.—Rules similar to  
17 the rules of section 5061(e)(3) of such Code shall  
18 apply for purposes of this subsection.

19 (7) OTHER LAWS APPLICABLE.—All provisions  
20 of law, including penalties, applicable with respect to  
21 the taxes imposed by section 5701 of such Code  
22 shall, insofar as applicable and not inconsistent with  
23 the provisions of this subsection, apply to the floor  
24 stocks taxes imposed by paragraph (1), to the same  
25 extent as if such taxes were imposed by such section

1       5701. The Secretary may treat any person who bore  
 2       the ultimate burden of the tax imposed by para-  
 3       graph (1) as the person to whom a credit or refund  
 4       under such provisions may be allowed or made.

5       (i) EFFECTIVE DATE.—The amendments made by  
 6       this section shall apply to articles removed (as defined in  
 7       section 5702(j) of the Internal Revenue Code of 1986)  
 8       after December 31, 2009.

9       **SEC. 6. ADMINISTRATIVE IMPROVEMENTS.**

10       (a) PERMIT, REPORT, AND RECORD REQUIREMENTS  
 11       FOR MANUFACTURERS AND IMPORTERS OF PROCESSED  
 12       TOBACCO.—

13               (1) PERMITS.—

14                       (A) APPLICATION.—Section 5712 of the  
 15               Internal Revenue Code of 1986 is amended by  
 16               inserting “or processed tobacco” after “tobacco  
 17               products”.

18                       (B) ISSUANCE.—Section 5713(a) of such  
 19               Code is amended by inserting “or processed to-  
 20               bacco” after “tobacco products”.

21       (2) INVENTORIES AND REPORTS.—

22                       (A) INVENTORIES.—Section 5721 of such  
 23               Code is amended by inserting “, processed to-  
 24               bacco,” after “tobacco products”.

1 (B) REPORTS.—Section 5722 of such Code  
2 is amended by inserting “, processed tobacco,”  
3 after “tobacco products”.

4 (3) RECORDS.—Section 5741 of such Code is  
5 amended by inserting “, processed tobacco,” after  
6 “tobacco products”.

7 (4) MANUFACTURER OF PROCESSED TO-  
8 BACCO.—Section 5702 of such Code is amended by  
9 adding at the end the following new subsection:

10 “(p) MANUFACTURER OF PROCESSED TOBACCO.—

11 “(1) IN GENERAL.—The term ‘manufacturer of  
12 processed tobacco’ means any person who processes  
13 any tobacco other than tobacco products.

14 “(2) PROCESSED TOBACCO.—The processing of  
15 tobacco shall not include the farming or growing of  
16 tobacco or the handling of tobacco solely for sale,  
17 shipment, or delivery to a manufacturer of tobacco  
18 products or processed tobacco.”.

19 (5) CONFORMING AMENDMENT.—Section  
20 5702(k) of such Code is amended by inserting “, or  
21 any processed tobacco,” after “nontaxpaid tobacco  
22 products or cigarette papers or tubes”.

23 (6) EFFECTIVE DATE.—The amendments made  
24 by this subsection shall take effect on January 1,  
25 2009.

1 (b) BASIS FOR DENIAL, SUSPENSION, OR REVOCATION OF PERMITS.—

3 (1) DENIAL.—Paragraph (3) of section 5712 of  
4 such Code is amended to read as follows:

5 “(3) such person (including, in the case of a  
6 corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

9 “(A) is, by reason of his business experience, financial standing, or trade connections or  
10 by reason of previous or current legal proceedings involving a felony violation of any  
11 other provision of Federal criminal law relating  
12 to tobacco products, cigarette paper, or cigarette tubes, not likely to maintain operations in  
13 compliance with this chapter,

17 “(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, cigarette paper, or cigarette tubes, or

21 “(C) has failed to disclose any material information required or made any material false  
22 statement in the application therefor.”.

1           (2) SUSPENSION OR REVOCATION.—Subsection  
2           (b) of section 5713 of such Code is amended to read  
3           as follows:

4           “(b) SUSPENSION OR REVOCATION.—

5                 “(1) SHOW CAUSE HEARING.—If the Secretary  
6           has reason to believe that any person holding a per-  
7           mit—

8                         “(A) has not in good faith complied with  
9                         this chapter, or with any other provision of this  
10                        title involving intent to defraud,

11                       “(B) has violated the conditions of such  
12                        permit,

13                       “(C) has failed to disclose any material in-  
14                        formation required or made any material false  
15                        statement in the application for such permit,

16                       “(D) has failed to maintain his premises in  
17                        such manner as to protect the revenue,

18                       “(E) is, by reason of previous or current  
19                        legal proceedings involving a felony violation of  
20                        any other provision of Federal criminal law re-  
21                        lating to tobacco products, cigarette paper, or  
22                        cigarette tubes, not likely to maintain oper-  
23                        ations in compliance with this chapter, or

24                       “(F) has been convicted of a felony viola-  
25                        tion of any provision of Federal or State crimi-

1           nal law relating to tobacco products, cigarette  
2           paper, or cigarette tubes,  
3       the Secretary shall issue an order, stating the facts  
4       charged, citing such person to show cause why his  
5       permit should not be suspended or revoked.

6           “(2) ACTION FOLLOWING HEARING.—If, after  
7       hearing, the Secretary finds that such person has  
8       not shown cause why his permit should not be sus-  
9       pended or revoked, such permit shall be suspended  
10      for such period as the Secretary deems proper or  
11      shall be revoked.”.

12          (3) EFFECTIVE DATE.—The amendments made  
13      by this subsection shall take effect on the date of the  
14      enactment of this Act.

15      (c) APPLICATION OF INTERNAL REVENUE CODE  
16      STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO  
17      EXCISE TAXES.—

18          (1) IN GENERAL.—Section 514(a) of the Tariff  
19      Act of 1930 (19 U.S.C. 1514(a)) is amended by  
20      striking “and section 520 (relating to refunds)” and  
21      inserting “section 520 (relating to refunds), and sec-  
22      tion 6501 of the Internal Revenue Code of 1986  
23      (but only with respect to taxes imposed under chap-  
24      ters 51 and 52 of such Code)”.

1           (2) EFFECTIVE DATE.—The amendment made  
2       by this subsection shall apply to articles imported  
3       after the date of the enactment of this Act.

4           (d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN  
5 TOBACCO.—

6           (1) IN GENERAL.—Section 5702(o) of the In-  
7       ternal Revenue Code of 1986 is amended by insert-  
8       ing “or cigars, or for use as wrappers thereof” be-  
9       fore the period at the end.

10          (2) EFFECTIVE DATE.—The amendment made  
11       by this subsection shall apply to articles removed (as  
12       defined in section 5702(j) of the Internal Revenue  
13       Code of 1986) after December 31, 2009.

14          (e) TIME OF TAX FOR UNLAWFULLY MANUFAC-  
15 TURED TOBACCO PRODUCTS.—

16          (1) IN GENERAL.—Section 5703(b)(2) of such  
17       Code is amended by adding at the end the following  
18       new subparagraph:

19               “(F) SPECIAL RULE FOR UNLAWFULLY  
20       MANUFACTURED TOBACCO PRODUCTS.—In the  
21       case of any tobacco products, cigarette paper,  
22       or cigarette tubes produced in the United  
23       States at any place other than the premises of  
24       a manufacturer of tobacco products, cigarette  
25       paper, or cigarette tubes that has filed the bond

1           and obtained the permit required under this  
2           chapter, tax shall be due and payable imme-  
3           diately upon manufacture.”.

4           (2) EFFECTIVE DATE.—The amendment made  
5           by this subsection shall take effect on the date of the  
6           enactment of this Act.

7   **SEC. 7. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
8                           **TAXES.**

9           Subparagraph (B) of section 401(1) of the Tax In-  
10          crease Prevention and Reconciliation Act of 2005 is  
11          amended by striking “114.75 percent” and inserting  
12          “113.75 percent”.

○