

Bill as  
Introduced

HB 488-FN - AS INTRODUCED

2013 SESSION

13-0577

09/10

HOUSE BILL

**488-FN**

AN ACT

changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.

SPONSORS:

Rep. Almy, Graf 13

COMMITTEE:

Ways and Means

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ANALYSIS

This bill changes the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.

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Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Tobacco Tax; Definition of Cigarette. RSA 78:1, XVII is repealed and reenacted to read as  
2 follows:

3 XVII.(a) "Cigarette" means any product that contains nicotine, is intended to be burned or  
4 heated under ordinary conditions of use, and consists of or contains:

5 (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;  
6 or

7 (2) Tobacco, in any form, that is functional in the product, which, because of its  
8 appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered  
9 to, or purchased by, consumers as a cigarette; or

10 (3) Any roll of tobacco wrapped in any substance containing tobacco which, because  
11 of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be  
12 offered to, or purchased by, consumers as a cigarette described in subparagraph (a)(1).

13 (b) The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its  
14 appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased  
15 by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09  
16 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

17 2 Contingency. Section 1 of this act shall take effect on the effective date of the repeal of  
18 RSA 541-C and RSA 541-D relative to the state's participation in the Master Settlement Agreement.

19 3 Effective Date.

20 I. Section 1 of this act shall take effect as provided in section 2 of this act.

21 II. The remainder of this act shall take effect upon its passage.

LBAO  
13-0577  
01/17/13

**HB 488-FN - FISCAL NOTE**

**AN ACT** changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.

**FISCAL IMPACT:**

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, as introduced, at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

### HB 488 FISCAL NOTE

AN ACT changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.

#### FISCAL IMPACT:

The Department of Revenue Administration states this bill, **as introduced**, may have an indeterminable increase on state revenue in FY 2013 and each year thereafter. There will be no fiscal impact on state, county, and local expenditures, or county and local expenditures.

#### METHODOLOGY:

The Department of Revenue Administration states this bill would change the definition of cigarette under RSA 78:1, XVII if RSA 541-C and RSA 541-D, relative to the Master Settlement Agreement are repealed. The Department states if the definition change goes into effect, tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette, and accordingly would be taxed at the cigarette rate (\$1.68). The Department states it is unable to estimate the possible increase in revenue from this bill because there is currently no inventory of tobacco products other than cigarettes reported to the Department.

The Department of Justice states this bill would have no fiscal impact.

HB 488-FN - AS AMENDED BY THE HOUSE

6Mar2013... 0339h

2013 SESSION

13-0577  
09/10

HOUSE BILL

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*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 Tobacco Tax; Definition of Cigarette. RSA 78:1, XVII is repealed and reenacted to read as  
2 follows:

3 XVII.(a) In conformity with RSA 451-C:2, IV, "cigarette" means any product that contains  
4 nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or  
5 contains:

6 (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;  
7 or

8 (2) Tobacco, in any form, that is functional in the product, which, because of its  
9 appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered  
10 to, or purchased by, consumers as a cigarette; or

11 (3) Any roll of tobacco wrapped in any substance containing tobacco which, because  
12 of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be  
13 offered to, or purchased by, consumers as a cigarette described in subparagraph (a)(1).

14 (b) The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its  
15 appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased  
16 by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09  
17 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

18 2 Effective Date. This act shall take effect upon its passage.

CHAPTER 35  
HB 488-FN - FINAL VERSION

6Mar2013... 0339h  
04/18/13 1213s

2013 SESSION

13-0577  
09/10

HOUSE BILL            **488-FN**

AN ACT                changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.

SPONSORS:            Rep. Almy, Graf 13

COMMITTEE:           Ways and Means

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CHAPTER 35  
HB 488-FN - FINAL VERSION

6Mar2013... 0339h  
04/18/13 1213s

13-0577  
09/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 35:1 Tobacco Tax; Definition of Cigarette. RSA 78:1, XVII is repealed and reenacted to read as  
2 follows:

3 XVII.(a) In conformity with RSA 541-C:2, IV, "cigarette" means any product that contains  
4 nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or  
5 contains:

6 (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;  
7 or

8 (2) Tobacco, in any form, that is functional in the product, which, because of its  
9 appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered  
10 to, or purchased by, consumers as a cigarette; or

11 (3) Any roll of tobacco wrapped in any substance containing tobacco which, because  
12 of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be  
13 offered to, or purchased by, consumers as a cigarette described in subparagraph (a)(1).

14 (b) The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its  
15 appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased  
16 by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09  
17 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

18 35:2 Effective Date. This act shall take effect upon its passage.

19 Approved: May 31, 2013

20 Effective Date: May 31, 2013

# Amendments

Senate Ways and Means  
April 2, 2013  
2013-1213s  
09/01



Amendment to HB 488-FN

1 Amend the introductory paragraph of RSA 78:1, XVII(a) as inserted by section 1 of the bill by  
2 replacing it with the following:

3

4 XVII.(a) In conformity with RSA 541-C:2, IV, "cigarette" means any product that contains  
5 nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or  
6 contains:

# Committee Minutes

**AMENDED**  
**SENATE CALENDAR NOTICE**  
**WAYS AND MEANS**

Printed: 03/28/2013 at 12:31 pm

Senator Bob Odell Chairman  
Senator Lou D'Allesandro V Chairman  
Senator Andrew Hosmer  
Senator Chuck Morse  
Senator Jim Rausch

|  |                                   |
|--|-----------------------------------|
| For Use by Senate Clerk's<br>Office ONLY |                                   |
| <input type="checkbox"/>                 | Bill Status                       |
| <input type="checkbox"/>                 | Docket                            |
| <input type="checkbox"/>                 | Calendar                          |
| Proof: <input type="checkbox"/>          | Calendar <input type="checkbox"/> |
|  | Bill Status                       |

**Date: March 28, 2013**

**HEARINGS**

**Tuesday**

**4/2/2013**

WAYS AND MEANS

SH 103

9:15 AM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

**Comments:** \*\*Please note new hearing times. Each bill has been moved back by 15 minutes\*\*

|          |              |  |
|----------|--------------|--|
| 9:15 AM  | HB488-FN     | changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement. |
| 9:30 AM  | HB581-FN-L   | relative to recovering moneys from a neighboring state for mitigation of flooding.   |
| 9:45 AM  | HB598        | relative to the reasonable compensation deduction under the business profits tax.  |
| 10:00 AM | HB676-FN-A-L | (New Title) extending the Coos county job creation tax credit.   |

**Sponsors:**

**HB488-FN**

Rep. Susan Almy

**HB581-FN-L**

Rep. Mario Ratzki

Rep. David Karrick

Rep. Scott Burns

**HB598**

Rep. David Hess

**HB676-FN-A-L**

Rep. William Butynski

Sen. Molly Kelly

Rep. Catherine Mulholland

Rep. Lorrie Carey

Sen. Sylvia Larsen

Rep. Ian Raymond

Rep. Harold Reilly

Sen. Andrew Hosmer

Rep. John Mann

Rep. Norman Major

Rep. Robert Theberge

Sen. Bob Odell

Sonja Caldwell 271-2117

Sen. Bob Odell

Chairman

# Ways and Means Committee

*Sonja Caldwell, Legislative Aide*

**HB488-FN** - *changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.*

**Hearing date:** April 2, 2013

**Members present:** Sen. Odell, Sen. D'Allesandro, Sen. Morse, Sen. Rausch, Sen. Hosmer

**Members absent:**

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**Sponsor(s):** Rep. Almy, Graf 13

**What the bill does:** This bill changes the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.

**Who supports the bill:** Rep. Almy, Mindy Cyr (Dept. of Revenue), Richard Head (Dept. of Justice), Mike Rollo (American Cancer Society)

**Who opposes the bill:** No one

**Summary of testimony received:**

**Rep Almy**

- There is a need for an amendment. The drafter transposed the RSA number in line 3. It should read 541 rather than 451.
- The Master Settlement Agreement is requiring that we track better than we do currently, how many cigarettes are sold. It's difficult for the Attorney General to do that because we have 2 definitions of a cigarette right now.
- Definition of premium cigars stays in place.
- This puts exact language that it is in 541-C:2 into 78:1 as XVII.
- This language mirrors language in the Master Settlement Agreement.

**Richard Head and Mindy Cyr**

- This bill is needed in order to be in a better position to protect the annual payment.
- It brings the 2 definitions together and allows for simpler sharing of information between the Dept. of Revenue and the Attorney General's Office.
- Can't estimate a fiscal impact. May result in more revenue as some of the other tobacco products will now be taxed at the cigarette rate.

# Speakers





# Voting Sheets

Need Amendment

**Senate Ways & Means Committee**  
**EXECUTIVE SESSION**

Bill # HB 488

Hearing date: 4-2-13  
Executive session date: 4-2-13  
Motion of: OTP/A

Room: State House - Room 100

VOTE: 5-0  
Consent Rausch

|                 |              |                                     |                    |              |                                     |
|-----------------|--------------|-------------------------------------|--------------------|--------------|-------------------------------------|
| <u>Made by</u>  | Odell        | <input type="checkbox"/>            | <u>Seconded</u>    | Odell        | <input type="checkbox"/>            |
| <u>Senator:</u> | D'Allesandro | <input checked="" type="checkbox"/> | <u>by Senator:</u> | D'Allesandro | <input type="checkbox"/>            |
|                 | Morse        | <input type="checkbox"/>            |                    | Morse        | <input type="checkbox"/>            |
|                 | Rausch       | <input type="checkbox"/>            |                    | Rausch       | <input type="checkbox"/>            |
|                 | Hosmer       | <input type="checkbox"/>            |                    | Hosmer       | <input checked="" type="checkbox"/> |

| <u>Committee Member</u> | <u>Present</u>                      | <u>YES</u>                          | <u>NO</u>                | <u>Reported out by</u> |
|-------------------------|-------------------------------------|-------------------------------------|--------------------------|------------------------|
| Senator Odell           | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                        |
| Senator D'Allesandro    | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | D'Allesandro           |
| Senator Morse           | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                        |
| Senator Rausch          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Rausch                 |
| Senator Hosmer          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                        |

\*Amendments: Amendment LD 2JR

NOTES: Making consistent the definitions

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: April 2, 2013

THE COMMITTEE ON Ways and Means

to which was referred House Bill 488-FN

AN ACT                    changing the definition of "cigarette" under the tobacco  
tax to match the definition of "cigarette" under the Master  
Settlement Agreement.

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS WITH AMENDMENT**

BY A VOTE OF:    5-0

AMENDMENT # 1213s

Senator Lou D'Allesandro  
For the Committee

Sonja Caldwell 271-2117

## New Hampshire General Court - Bill Status System

**Docket of HB488**

Docket Abbreviations

**Bill Title:** changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.

*Official Docket of HB488:*

| <b>Date</b> | <b>Body</b> | <b>Description</b>   |
|-------------|-------------|--|
| 1/3/2013    | H           | <b>Introduced</b> 1/3/2013 and Referred to Ways and Means; <b>HJ 12</b> , PG.197                       |
| 1/30/2013   | H           | Public Hearing: 2/5/2013 10:15 AM LOB 202  |
| 2/6/2013    | H           | Subcommittee Work Session: 2/12/2013 10:00 AM LOB 202  |
| 2/13/2013   | H           | Full Committee Work Session: 2/19/2013 3:00 PM LOB 202   |
| 2/13/2013   | H           | Executive Session: 2/19/2013 3:30 PM LOB 202   |
| 2/20/2013   | H           | Committee Report: Ought to Pass with Amendment #0339h for Mar 6 (Vote 18-0; CC); <b>HC 20</b> , PG.414 |
| 2/20/2013   | H           | Proposed Committee Amendment <b>#2013-0339h</b> ; <b>HC 20</b> , PG.454-455                            |
| 3/6/2013    | H           | Amendment #0339h: AA VV; <b>HJ 24</b> , PG.664   |
| 3/6/2013    | H           | <b>Ought to Pass with Amendment</b> #0339h: MA VV; <b>HJ 24</b> , PG.664                               |
| 3/7/2013    | S           | Introduced and Referred to Ways & Means  |
| 3/28/2013   | S           | Hearing: 4/2/13, Room 103, SH, 9:15 a.m.; <b>SC14</b>  |
| 4/8/2013    | S           | Committee Report: Ought to Pass with Amendment <b>#2013-1213s</b> , 4/18/13; <b>SC16</b>               |
| 4/18/2013   | S           | Committee Amendment 1213s, AA, VV;   |
| 4/18/2013   | S           | <b>Ought to Pass with Amendment</b> 1213s, MA, VV; OT3rdg;   |
| 5/8/2013    | H           | House Concurs with Senate AM #1213s (Rep Almy): MA VV; <b>HJ41</b> , PG.1386                           |
| 5/20/2013   | S           | Enrolled 5/2/13  |
| 5/20/2013   | H           | Enrolled, 5/8/13; <b>HJ41</b> , PG.1424  |
| 6/3/2013    | H           | Signed by Governor 05/31/2013; Effective 05/31/2013; Chapter 0035                                      |

NH House

NH Senate

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

HB488 ORIGINAL REFERRAL \_\_\_\_\_ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 1213      \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_  
\_\_\_\_\_ - AMENDMENT # \_\_\_\_\_      \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED       AS AMENDED BY THE HOUSE  
 FINAL VERSION      \_\_\_\_\_ AS AMENDED BY THE SENATE

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): \_\_\_\_\_

DATE DELIVERED TO SENATE CLERK 7-2-13      SLC  
BY COMMITTEE AIDE

## New Hampshire Department of Revenue Administration

### Fiscal Note Quick Guide

13-0577.1

**HB 488-FN**, *changing the definition of "cigarette" under the tobacco tax to match the definition of "cigarette" under the Master Settlement Agreement.*

House Ways & Means Committee

This bill, as amended, changes the definition of "cigarette" under RSA 78:1, XVII to be in conformity with the definition of "cigarette" under RSA 541-C:2, IV, relative to the Master Settlement Agreement. This bill, as amended, however, incorrectly cites the definition of "cigarette" under RSA 451-C:2, IV. It should be RSA 541-C:2, IV:

In Section 1, Line 3 the definition of "cigarette" is incorrectly cited as RSA 451:2, IV. It should read ". . .[i]n conformity with RSA 541-C:2, IV. . . " (emphasis added).

The bill, as amended, helps to ensure diligent enforcement of the Master Settlement Agreement (MSA) under RSA Chp. 541-C and RSA Chp. 541-D and continue to bring in approximately \$42,000,000 a year under the MSA.

Under this amendment, tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in RSA 541-C:2, IV (a) (1) would now be taxed at the current cigarette rate of \$1.68. The Department cannot estimate the possible revenue from this bill as amended because there is currently no inventory of OTP reported to the Department in order to calculate an estimate. Certain tobacco product that is currently taxed at the OTP rate of 48% of the wholesale sales price would now be taxed at the cigarette rate of \$1.68.