

SECOND REGULAR SESSION

HOUSE BILL NO. 1164

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOSMER.

Pre-filed December 10, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2715L.02I

AN ACT

To repeal section 149.015, RSMo, and to enact in lieu thereof one new section relating to cigarette taxes.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 149.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 149.015, to read as follows:

149.015. 1. A tax shall be levied upon the sale of cigarettes at an amount equal to eight and one-half mills per cigarette, until such time as the general assembly appropriates an amount equal to twenty-five percent of the net federal reimbursement allowance to the health initiatives fund, then the tax shall be six and one-half mills per cigarette beginning July first of the fiscal year immediately after such appropriation. As used in this section, "net federal reimbursement allowance" shall mean that amount of the federal reimbursement allowance in excess of the amount of state matching funds necessary for the state to make payments required by subsection 1 of section 208.471, RSMo, or, if the payments exceed the amount so required, the actual payments made for the purposes specified in subsection 1 of section 208.471, RSMo.

2. The tax shall be evidenced by stamps which shall be furnished by and purchased from the director or by an impression of the tax by the use of a metering machine when authorized by the director as provided in this chapter, and the stamps or impression shall be securely affixed to one end of each package in which cigarettes are contained. All cigarettes must be stamped before being sold in this state.

3. Cigarette tax stamps shall be purchased only from the director. All stamps shall be purchased by the director in proper denominations, shall contain such appropriate wording as the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 director may prescribe, and shall be of such design, character, color combinations, color changes,
18 sizes, and material as the director may, by rules and regulations, determine to afford the greatest
19 security to the state. It shall be the duty of the director to manufacture or contract for revenue
20 stamps required by this chapter; provided that if the stamps are contracted for, the manufacturer
21 thereof shall be within the jurisdiction of the criminal and civil courts of this state, unless the
22 stamps cannot be obtained in this state at a fair price or of acceptable quality. If stamps are
23 manufactured outside of the state, the director shall take any precautions which [he] **the director**
24 deems necessary to safeguard the state against forgery and misdelivery of any stamps. The
25 director may require of the manufacturer from whom stamps are purchased a bond in an amount
26 to be determined by [him] **the director** commensurate with the monetary value of the stamps,
27 containing such conditions as [he] **the director** may deem necessary in order to protect the state
28 against loss.

29 4. It shall be the intent of this chapter that the impact of the tax levied hereunder be
30 absorbed by the consumer or user and when the tax is paid by any other person, the payment shall
31 be considered as an advance payment and shall thereafter be added to the price of the cigarettes
32 and recovered from the ultimate consumer or user with the person first selling the cigarettes
33 acting as an agent of the state for the payment and collection of the tax to the state, except that
34 in furtherance of the intent of this chapter no refund of any tax collected and remitted by a
35 retailer upon gross receipts from a sale of cigarettes subject to tax pursuant to this chapter shall
36 be claimed pursuant to chapter 144, RSMo, for any amount illegally or erroneously overcharged
37 or overcollected as a result of imposition of sales tax by the retailer upon amounts representing
38 the tax imposed pursuant to this chapter and any such **overcharged or overcollected** tax shall
39 either be refunded to the person who paid such tax or paid to the director. The director may
40 recoup from any retailer **for** any tax illegally or erroneously overcharged or overcollected unless
41 such tax has been refunded to the person who paid such tax.

42 5. In making sales of cigarettes in the state, a wholesaler shall keep a record of the
43 amount of tax on [his] **the wholesaler's** gross sales. The tax shall be evidenced by appropriate
44 stamps attached to each package of cigarettes sold. Notwithstanding any other law to the
45 contrary, no tax stamp need be attached to a package of cigarettes transported in the state
46 between wholesalers or distributors unless and until such package is sold to a retailer or
47 consumer.

48 6. The tax on any cigarettes contained in packages of four, ten, twenty, or similar
49 quantities to be used solely for distribution as samples shall be computed on a per cigarette basis
50 at the rate set forth in this section, and payment of the tax shall be remitted to the director at such
51 time and in such manner as [he] **the director** may prescribe.

52 7. The revenue generated by the additional two mills tax imposed effective August 13,

53 1982, less any three percent reduction allowed pursuant to the provisions of section 149.021,
54 shall be placed in a separate fund entitled "The Fair Share Fund". Such moneys in the fair share
55 fund shall be distributed to the schools in this state on an average daily attendance basis, except
56 as provided in section 163.031, RSMo.

57 8. The revenue generated by the additional two mills tax imposed effective October 1,
58 1993, less any three percent reduction allowed pursuant to the provisions of section 149.021,
59 shall be deposited in the health initiatives fund created in section 191.831, RSMo. When the
60 general assembly appropriates an amount equal to twenty-five percent of the net federal
61 reimbursement allowance to the health initiatives fund, this subsection shall expire. The
62 additional two mills tax levied pursuant to this section shall not apply to an amount of stamped
63 cigarettes in the possession of licensed wholesalers on October 1, 1993, up to thirty-five percent
64 of the total cigarette sales made by such licensed wholesaler during the six months immediately
65 preceding October 1, 1993.