

FIRST REGULAR SESSION

# HOUSE BILL NO. 550

92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WHORTON.

Read 1<sup>st</sup> time February 25, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0230L.011

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## AN ACT

To repeal section 149.015, RSMo, and to enact in lieu thereof two new sections relating to taxation of tobacco products, with an effective date.

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

Section A. Section 149.015, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 149.015 and 149.087, to read as follows: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 director may prescribe, and shall be of such design, character, color combinations, color changes, 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 deems  
24 necessary to safeguard the state against forgery and misdelivery of any stamps. The director may  
25 require of the manufacturer from whom stamps are purchased a bond in an amount to be  
26 determined by him commensurate with the monetary value of the stamps, containing such  
27 conditions as he may deem necessary in order to protect the state against loss.

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

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

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

50         7. The revenue generated by the additional two mills tax imposed effective August 13,  
51 1982, less any three percent reduction allowed pursuant to the provisions of section 149.021,  
52 shall be placed in a separate fund entitled "The Fair Share Fund". Such moneys in the fair share  
53 fund shall be distributed to the schools in this state on an average daily attendance basis, except  
54 as provided in section 163.031, RSMo.

55           8. The revenue generated by the additional two mills tax imposed effective October 1,  
56 1993, less any three percent reduction allowed pursuant to the provisions of section 149.021,  
57 shall be deposited in the health initiatives fund created in section 191.831, RSMo. When the  
58 general assembly appropriates an amount equal to twenty-five percent of the net federal  
59 reimbursement allowance to the health initiatives fund, this subsection shall expire. The  
60 additional two mills tax levied pursuant to this section shall not apply to an amount of stamped  
61 cigarettes in the possession of licensed wholesalers on October 1, 1993, up to thirty-five percent  
62 of the total cigarette sales made by such licensed wholesaler during the six months immediately  
63 preceding October 1, 1993.

64           **9. In addition to the tax levied and imposed pursuant to this section, a tax of four**  
65 **mills per cigarette is hereby levied upon the sale of cigarettes, to be deposited and used**  
66 **exclusively as follows:**

67           **(1) The revenue derived from two mills, less any reduction allowed in section**  
68 **149.021, to be deposited in the state public school fund created in sections 166.011 to**  
69 **166.121, RSMo;**

70           **(2) The revenue derived from one and one-half mills, less any reduction allowed in**  
71 **section 149.021, to be deposited in the health initiative fund created in section 191.831,**  
72 **RSMo; and**

73           **(3) The revenue derived from one-half mill, less any reduction allowed in section**  
74 **149.021, to be deposited in the fire education fund created in section 320.094, RSMo, to be**  
75 **used exclusively for providing training and continuing education relating to fire**  
76 **department operations and personal safety of firefighters while performing fire**  
77 **department activities to members of volunteer fire departments, organizations, or**  
78 **associations.**

**149.087. In addition to the sales tax imposed in section 144.020, RSMo, there is**  
2 **hereby imposed a tax of four percent on the amount of sales at retail for all tobacco**  
3 **products other than cigarettes, to be deposited and used exclusively as follows:**

4           **(1) The revenue derived from one-half of the four percent tax imposed by this**  
5 **section shall be deposited in the state public school fund created in sections 166.011 to**  
6 **166.121, RSMo;**

7           **(2) The revenue derived from three-eighths of the four percent tax imposed by this**  
8 **section shall be deposited in the health initiative fund created in section 191.831, RSMo;**  
9 **and**

10           **(3) The revenue derived from one-eighth of the four percent tax imposed by this**  
11 **section shall be deposited in the fire education fund created in section 320.094, RSMo, to**  
12 **be used exclusively for providing training and continuing education relating to fire**

13 **department operations and personal safety of firefighters while performing fire**  
14 **department activities to members of volunteer fire departments, organizations, or**  
15 **associations.**

Section B. Section A of this act shall become effective January 1, 2004.