

FIRST EXTRAORDINARY SESSION

# HOUSE BILL NO. 9

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CARLSON.

0041L.01I

D. ADAM CRUMBLISS, Chief Clerk

## AN ACT

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

*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Section A. Section 149.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 149.015, to read as follows: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. **Except as provided in subsection 9 of this section**, 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 or, if the payments exceed the amount so required, the actual payments made for the purposes specified in subsection 1 of section 208.471.

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 the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 director may prescribe, and shall be of such design, character, color combinations, color changes,  
19 sizes and material as the director may, by rules and regulations, determine to afford the greatest  
20 security to the state. It shall be the duty of the director to manufacture or contract for revenue  
21 stamps required by this chapter; provided that if the stamps are contracted for, the manufacturer  
22 thereof shall be within the jurisdiction of the criminal and civil courts of this state, unless the  
23 stamps cannot be obtained in this state at a fair price or of acceptable quality. If stamps are  
24 manufactured outside of the state, the director shall take any precautions which he deems  
25 necessary to safeguard the state against forgery and misdelivery of any stamps. The director may  
26 require of the manufacturer from whom stamps are purchased a bond in an amount to be  
27 determined by him commensurate with the monetary value of the stamps, containing such  
28 conditions as he may deem necessary in order to protect the state 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 for any amount illegally or erroneously overcharged or  
37 overcollected as a result of imposition of sales tax by the retailer upon amounts representing the  
38 tax imposed pursuant to this chapter and any such tax shall either be refunded to the person who  
39 paid such tax or paid to the director. The director may recoup from any retailer any tax illegally  
40 or erroneously overcharged or overcollected unless such tax has been refunded to the person who  
41 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 gross sales. The tax shall be evidenced by appropriate stamps attached to  
44 each package of cigarettes sold. Notwithstanding any other law to the contrary, no tax stamp  
45 need be attached to a package of cigarettes transported in the state between wholesalers or  
46 distributors unless and until such package is sold to a retailer or consumer.

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

51 7. The revenue generated by the additional two mills tax imposed effective August 13,  
52 1982, less any three percent reduction allowed pursuant to the provisions of section 149.021,  
53 shall be placed in a separate fund entitled "The Fair Share Fund". Such moneys in the fair share

54 fund shall be transferred monthly to the state school moneys fund and distributed to the school  
55 districts in this state as provided in section 163.031.

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

65 9. **In addition to the tax levied on the sale of cigarettes in subsection 1 of this**  
66 **section, beginning January 1, 2012, but ending on December 31, 2014, a tax shall be levied**  
67 **upon the sale of cigarettes in an amount equal to five and sixty-five one hundredths mills**  
68 **per cigarette. The revenue generated by the additional tax imposed under this subsection,**  
69 **less any three percent reduction allowed under section 149.021, shall be deposited in the**  
70 **state general revenue fund, and shall be appropriated solely for natural disaster relief in**  
71 **this state.**

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