

FIRST REGULAR SESSION

# HOUSE BILL NO. 1591

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WRIGHT.

3099H.021

JOSEPH ENGLER, Chief Clerk

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## AN ACT

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

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Section A. Section 149.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 149.015, to read as follows: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

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 the director may prescribe, and shall be of such design, character, color combinations, color  
19 changes, sizes and material as the director may, by rules and regulations, determine to afford  
20 the greatest security to the state. It shall be the duty of the director to manufacture or contract  
21 for revenue stamps required by this chapter; provided that if the stamps are contracted for, the  
22 manufacturer thereof shall be within the jurisdiction of the criminal and civil courts of this  
23 state, unless the stamps cannot be obtained in this state at a fair price or of acceptable quality.  
24 If stamps are manufactured outside of the state, the director shall take any precautions which  
25 he deems necessary to safeguard the state against forgery and misdelivery of any stamps. The  
26 director may require of the manufacturer from whom stamps are purchased a bond in an  
27 amount to be determined by him commensurate with the monetary value of the stamps,  
28 containing such 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  
31 shall be considered as an advance payment and shall thereafter be added to the price of the  
32 cigarettes and recovered from the ultimate consumer or user with the person first selling the  
33 cigarettes acting as an agent of the state for the payment and collection of the tax to the state,  
34 except that in furtherance of the intent of this chapter no refund of any tax collected and  
35 remitted by a retailer upon gross receipts from a sale of cigarettes subject to tax pursuant to  
36 this chapter shall be claimed pursuant to chapter 144 for any amount illegally or erroneously  
37 overcharged or overcollected as a result of imposition of sales tax by the retailer upon  
38 amounts representing the tax imposed pursuant to this chapter and any such tax shall either be  
39 refunded to the person who paid such tax or paid to the director. The director may recoup  
40 from any retailer any tax illegally or erroneously overcharged or overcollected unless such tax  
41 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 gross sales. The tax shall be evidenced by appropriate stamps attached  
44 to each package of cigarettes sold. Notwithstanding any other law to the contrary, no tax  
45 stamp need be attached to a package of cigarettes transported in the state between wholesalers  
46 or 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  
49 basis at the rate set forth in this section, and payment of the tax shall be remitted to the  
50 director at such time and in such manner as he may prescribe.

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

54 the fair share fund shall be transferred monthly to the state school moneys fund and  
55 distributed to the school 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  
60 reimbursement allowance to the health initiatives fund, this subsection shall expire. The  
61 additional two mills tax levied pursuant to this section shall not apply to an amount of  
62 stamped cigarettes in the possession of licensed wholesalers on October 1, 1993, up to thirty-  
63 five percent of the total cigarette sales made by such licensed wholesaler during the six  
64 months immediately preceding October 1, 1993.

65 9. **(1) Beginning January 1, 2027, in addition to the tax levied on the sale of**  
66 **cigarettes in subsection 1 of this section, a tax shall be levied upon the sale of cigarettes**  
67 **at an amount equal to the lowest amount of tax levied on the sale of cigarettes by any**  
68 **other state or ten mills per cigarette, whichever is lower.**

69 **(2) The department of revenue shall monitor the rates of tax imposed on**  
70 **cigarettes by the other states as provided under subdivision (1) of this subsection and**  
71 **annually publish the cigarette tax rate not later than October first of each year.**  
72 **Modifications to the cigarette tax shall take effect on January first of each calendar year**  
73 **and shall apply to stamps purchased on or after the effective date of the rate change.**  
74 **The department of revenue shall adjust and update the tax rate to effectuate the**  
75 **provisions of this subsection.**

76 **(3) The additional tax imposed under this subsection shall apply only to stamps**  
77 **purchased on or after the effective date of a rate change as provided under this**  
78 **subsection. For a period up to six months prior to the effective date of a tax**  
79 **modification under this subsection, licensees shall not be allowed to purchase stamps in**  
80 **a number greater than one hundred ten percent of the number that were purchased by**  
81 **such licensee during the same period in the preceding year.**

82 **(4) The revenue generated by the additional tax imposed under this subsection,**  
83 **less any three percent reduction allowed under the provisions of section 149.021, shall be**  
84 **deposited in the health initiatives fund created under section 191.831.**

Section B. Section A of this act is hereby submitted to the qualified voters of this state  
2 for approval or rejection at an election which is hereby ordered and which shall be held and  
3 conducted on Tuesday next following the first Monday in November, 2026, under the  
4 applicable laws and constitutional provisions of this state for the submission of referendum

5 measures by the general assembly, and this act shall become effective when approved by a  
6 majority of the votes cast thereon at such election and not otherwise.

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