

SECOND REGULAR SESSION

SENATE BILL NO. 1095

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS GOODE, JACOB, BRAY, DAYS, DOUGHERTY, COLEMAN AND MATHEWSON.

Read 1st time January 20, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

3661S.03I

AN ACT

To repeal sections 149.015 and 149.160, RSMo, and to enact in lieu thereof six new sections relating to the health care for Missouri's people program, with a referendum clause.

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

Section A. Sections 149.015 and 149.160, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 149.015, 149.160, 191.1006, 191.1008, 191.1010, and 191.1012, to read as follows:

149.015. 1. A tax shall be levied upon the sale of cigarettes at an amount equal to **[eight] twenty-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

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

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

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

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

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

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

attendance basis, except as provided in section 163.031, RSMo.

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

9. The additional twenty mills tax imposed, effective January 1, 2005, less any three percent reduction allowed pursuant to the provisions of section 149.021, shall be deposited in the state's general revenue fund.

10. In the event of a cigarette tax increase, each licensee shall make a final actual inventory of all unstamped cigarettes and all unapplied stamps in the licensee's possession. This final actual inventory shall be taken December 31, 2004, and shall be certified to the department. The increased tax amount shall apply to the final actual inventory, and payment of the additional amount shall be paid by February 28, 2005. The increased tax amount shall apply to all stamps sold by the department beginning on January 1, 2005. Between approval of the voters and January 1, 2005, the department shall limit sales of stamps to no more than one hundred and ten percent of the licensee's average purchase over the previous year.

149.160. 1. A tax is levied upon the first sale of tobacco products, other than cigarettes, within the state. The tax on tobacco products shall be at the rate of [ten] **thirty-three and one-half** percent of the manufacturer's invoice price before discounts and deals, and shall be paid by the person making the first sale within the state. Licensed persons making first sales within the state shall be allowed approved credit for returned merchandise provided the tax was paid on the returned merchandise and the purchaser was given a refund or credit. Such licensed person shall take such approved credit on the return for the month in which the purchaser was given the refund or credit.

2. [The tax shall not apply to tobacco products when the first sale within the state has occurred on such tobacco products prior to October 1, 1993.

3.] Amounts generated by the tax levied in this section shall be deposited in the health initiatives fund created by section 191.831, RSMo.

3. Amounts generated by the additional twenty-three and one-half percent tax imposed, effective January 1, 2005, shall be deposited in the state's general revenue fund.

4. When the general assembly appropriates an amount equal to twenty-five percent

of the net federal reimbursement allowance to the health initiatives fund, this section shall expire. 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.

5. Amounts generated for the health care for Missouri's people program in excess of one hundred fifty million dollars per year shall be deposited in the state's general revenue fund.

191.1006. 1. As used in sections 191.1006 to 191.1012, the following terms mean:

(1) "Board", advisory board of the "Health Care for Missouri's People" program;

(2) "Department", the department of health and senior services;

(3) "Qualified health centers", those defined in Section 1905 and Section 1861 of the Social Security Act, that serve a population that is medically underserved as defined in section 330 of the Public Health Service (PHS) Act;

(4) "Fund", the health care for Missouri's people fund.

2. The "Health Care for Missouri's People" program is hereby created for the purpose of providing health care services for the uninsured and under-insured residents of this state. The program shall have as its goals:

(1) Placement of health care practitioners, including but not limited to; physicians, dentists, advanced practice nurses, physician assistants, dental hygienists, mental health practitioners, and chiropractors in qualified health centers. Additional health care practitioners may be included based upon the quantifiable health needs of the populations served by the qualified health center;

(2) Delivering timely access to needed health services of the highest quality;

(3) Implementing, expanding, or maintaining access to services such as medical, oral health, certain specialty services, outreach and enabling services through the development of qualified health centers;

(4) Funding the program and reducing smoking in the state of Missouri by assessing a cigarette tax;

(5) Funding evidence-based prevention and cessation programs;

(6) Increasing the availability of affordable pharmaceuticals through distribution at qualified health centers.

191.1008. 1. The health care for Missouri's people program shall, subject to appropriations, be administered by the department of health and senior services with an advisory board composed of fourteen members:

(1) Twelve of whom shall be appointed by the governor with the advice and consent of the senate as follows:

- (a) One representative of a qualified health center;
- (b) One mental health care provider;
- (c) One family practice physician;
- (d) One physician with a public health degree;
- (e) One dentist;
- (f) One nurse;
- (g) One dental hygienist;
- (h) One physician assistant;
- (i) One representative of an advocacy group for the poor;
- (j) One licensed health care professional other than a physician or a nurse;
- (k) One representative of a smoking cessation or prevention organization;
- (l) One person sixty-five years of age or older;
- (2) Two of whom shall be ex-officio members:
 - (a) The director of the department of health and senior services;
 - (b) The director of the department of social services.

2. Every practical effort shall be made to ensure that the board reflects the racial and ethnic diversity of the state.

3. The initial terms of the members appointed to the advisory board shall be staggered as follows: two shall be appointed for two years, two shall be appointed for three years, and one shall be appointed for four years. Thereafter, all terms shall be for a term of four years each, but a member appointed to fill a vacancy in an unexpired term shall serve only for the remainder of that term. No member may be appointed to serve more than two consecutive terms.

191.1010. The department, with the advice of the advisory board of the health care for Missouri's people program, shall:

(1) Establish a grant process for qualified health centers to place physicians, dentists, advanced practice nurses, dental hygienists, mental health practitioners, physician assistants, chiropractors, and other necessary health care professionals;

(2) Establish a grant process whereby qualified health centers implement, expand, or maintain access to services such as medical, oral health, certain specialty services, outreach, and enabling services;

(3) Establish a grant process for organizations to establish evidence-based smoking prevention and cessation services. Grants shall not total more than three million four hundred thousand dollars in any given year; and

(4) Apply for grants to further support the funding for activities specified in sections 191.1006 to 191.1012.

191.1012. There is hereby created the "Health Care for Missouri's People Fund" into which the following may be deposited when received:

- (1) Any moneys appropriated by the general assembly;**
- (2) Any moneys received pursuant to sections 149.015 and 149.160, RSMo;**
- (3) The provisions of section 33.080, RSMo, to the contrary notwithstanding, any moneys in the health care for Missouri's people fund shall not lapse at the end of the biennium and the balance shall not be transferred to the general revenue fund.**

Section B. This act is hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on Tuesday next following the first Monday in November, 2004, pursuant to the laws and constitutional provisions of this state for the submission of referendum measures by the general assembly, and this act shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise.

Unofficial

Bill

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