

FIRST REGULAR SESSION

# SENATE BILL NO. 220

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time January 28, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1174S.03I

## AN ACT

To repeal sections 143.011, 143.021, and 149.015, RSMo, and to enact in lieu thereof three new sections relating to taxation, with a referendum clause.

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

Section A. Sections 143.011, 143.021, and 149.015, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 143.011,  
3 143.021, and 149.015, to read as follows:

143.011. A tax is hereby imposed for every taxable year on the Missouri  
2 taxable income of every resident. The tax shall be determined by applying the  
3 tax table or the rate provided in section 143.021, which is based upon the  
4 following rates:

5 If the Missouri taxable income is:	The tax is:
6 [Not over \$1,000.00. . . . .	1 1/2% of the Missouri taxable income
8 Over \$1,000 but not over \$2,000	\$15 plus 2% of excess over \$1,000]
10 Over \$2,000 but not over \$3,000	[\$35 plus 2 1/2%] 1% of excess over \$2,000
12 Over \$3,000 but not over \$4,000	[\$60] <b>\$10</b> plus 3% of excess over \$3,000
14 Over \$4,000 but not over \$5,000	[\$90] <b>\$40</b> plus 3 1/2% of excess over \$4,000
16 Over \$5,000 but not over \$6,000	[\$125] <b>\$75</b> plus 4% of excess over \$5,000
18 Over \$6,000 but not over \$7,000	[\$165] <b>\$115</b> plus 4 1/2% of excess

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

19		over \$6,000
20	Over \$7,000 but not over \$8,000	[\$210] <b>\$160</b> plus 5% of excess
21		over \$7,000
22	Over \$8,000 but not over \$9,000	[\$260] <b>\$210</b> plus 5 1/2% of excess
23		over \$8,000
24	Over \$9,000 . . . . .	[\$315] <b>\$265</b> plus 6% of excess
25		over \$9,000

143.021. Every resident having a taxable income of less than nine thousand dollars shall determine his tax from a tax table prescribed by the director of revenue and based upon the rates provided in section 143.011. The tax table shall be on the basis of one hundred dollar increments of taxable income below nine thousand dollars. The tax provided in the table shall be the amount rounded to the nearest whole dollar by applying the rates in section 143.011 to the taxable income at the midpoint of each increment, except there shall be no tax on a taxable income of less than **[one hundred] two thousand** dollars. Every resident having a taxable income of nine thousand dollars or more shall determine his tax from the rate provided in section 143.011.

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 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

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

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

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

55 6. The tax on any cigarettes contained in packages of four, ten, twenty or

56 similar quantities to be used solely for distribution as samples shall be computed  
57 on a per cigarette basis at the rate set forth in this section, and payment of the  
58 tax shall be remitted to the director at such time and in such manner as he may  
59 prescribe.

60         7. The revenue generated by the additional two mills tax imposed effective  
61 August 13, 1982, less any three percent reduction allowed pursuant to the  
62 provisions of section 149.021, shall be placed in a separate fund entitled "The  
63 Fair Share Fund". Such moneys in the fair share fund shall be transferred  
64 monthly to the state school moneys fund and distributed to the school districts  
65 in this state as provided in section 163.031.

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

76         **9. In addition to the tax of eight and one-half mills per cigarette**  
77 **levied in subsection 1 of this section, the following additional taxes**  
78 **shall be levied upon the sale of cigarettes:**

79             **(1) Two and one-half mills per cigarette for a total tax of eleven**  
80 **mills per cigarette beginning on January 1, 2015;**

81             **(2) Two and one-half mills per cigarette for a total tax of thirteen**  
82 **and one-half mills per cigarette beginning on January 1, 2017; and**

83             **(3) One and one-half mills per cigarette for a total tax of fifteen**  
84 **mills per cigarette beginning on January 1, 2019.**

85         **10. The revenue generated in subsection 9 of this section, less**  
86 **any reduction allowed in section 149.021, shall be deposited in the**  
87 **general revenue fund.**

88         **11. The additional two and one-half mills per cigarette tax levied**  
89 **in subsection 9 of this section and effective on January 1, 2015 shall not**  
90 **apply to inventories of cigarettes in the possession of the retailer and**  
91 **wholesaler on December 31, 2014. The additional two and one-half mills**

92 per cigarette tax levied in subsection 9 of this section and effective on  
93 January 1, 2017 shall not apply to inventories of cigarettes in the  
94 possession of the retailer and wholesaler on December 31, 2016. The  
95 additional one and one-half mills per cigarette tax levied in subsection  
96 9 of this section and effective on January 1, 2019 shall not apply to  
97 inventories of cigarettes in the possession of the retailer and  
98 wholesaler on December 31, 2018.

99 12. Notwithstanding any state or federal law or rule to the  
100 contrary, the additional taxes levied in subsection 9 of this section shall  
101 immediately, automatically, and permanently be repealed, eliminated,  
102 and reduced to zero under any of the following events:

103 (1) In the event any tax or fee increase on some or all cigarettes  
104 or other tobacco products is placed or appears on any local or  
105 statewide ballot in Missouri on any election day after August 28, 2013;  
106 or

107 (2) In the event any provision of subsections 9 to 15 of this  
108 section is ruled null and void, invalid, unlawful, severable, or  
109 unconstitutional for any reason by any state or federal court of law.

110 13. The provisions of subsection 12 of this section are specifically  
111 meant to include, but are not limited to, any tax or fee increase on  
112 cigarettes or other tobacco products placed on any local or statewide  
113 ballot in Missouri at any time pursuant to chapters 115 and 116,  
114 sections 49 to 53 of article III of the Missouri Constitution, and article  
115 XII of the Missouri Constitution.

116 14. In the event any provision of subsection 12 of this section is  
117 triggered, the department of revenue shall automatically, immediately,  
118 and permanently cease the application and collection of any of the  
119 taxes levied in subsection 9 of this section, and the department of  
120 revenue shall notify the revisor of statutes and post on its public  
121 website the cessation of the application and collection of such  
122 taxes. The department of revenue shall authorize the state treasurer  
123 to make refunds for any erroneous payments or overpayments.

124 15. Notwithstanding the provisions of section 1.140 or any state  
125 or federal law or rule to the contrary, the provisions of subsections 9  
126 to 15 of this section are nonseverable. If any provision of subsections  
127 9 to 15 of this section is held to be null and void, invalid, unlawful,  
128 severable, or unconstitutional for any reason by any state or federal

129 **court of law, such decision shall automatically, immediately, and**  
130 **permanently invalidate, repeal, and make null and void all of**  
131 **subsections 9 to 15 of this section.**

Section B. 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  
3 be held and conducted on Tuesday next following the first Monday in November,  
4 2014, pursuant to the laws and constitutional provisions of this state for the  
5 submission of referendum measures by the general assembly, and this act shall  
6 become effective when approved by a majority of the votes cast thereon at such  
7 election and not otherwise.

Unofficial

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Bill

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