

# SB1850



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1850

Introduced 2/9/2023, by Sen. Elgie R. Sims, Jr.

### SYNOPSIS AS INTRODUCED:

35 ILCS 130/2

from Ch. 120, par. 453.2

Amends the Cigarette Tax Act. Makes changes concerning the distribution of moneys collected pursuant to (i) the Cigarette Tax Act, (ii) the Cigarette Use Tax Act, and (iii) the tax imposed on little cigars under the Tobacco Products Tax Act of 1995. Effective immediately.

LRB103 27454 HLH 53826 b

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Cigarette Tax Act is amended by changing  
5 Section 2 as follows:

6 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

7 Sec. 2. Tax imposed; rate; collection, payment, and  
8 distribution; discount.

9 (a) Beginning on July 1, 2019, in place of the aggregate  
10 tax rate of 99 mills previously imposed by this Act, a tax is  
11 imposed upon any person engaged in business as a retailer of  
12 cigarettes at the rate of 149 mills per cigarette sold or  
13 otherwise disposed of in the course of such business in this  
14 State.

15 (b) The payment of such taxes shall be evidenced by a stamp  
16 affixed to each original package of cigarettes, or an  
17 authorized substitute for such stamp imprinted on each  
18 original package of such cigarettes underneath the sealed  
19 transparent outside wrapper of such original package, as  
20 hereinafter provided. However, such taxes are not imposed upon  
21 any activity in such business in interstate commerce or  
22 otherwise, which activity may not under the Constitution and  
23 statutes of the United States be made the subject of taxation

1 by this State.

2 Out of the 149 mills per cigarette tax imposed by  
3 subsection (a), until July 1, 2023, the revenues received from  
4 4 mills shall be paid into the Common School Fund each month,  
5 not to exceed \$9,000,000 per month. Out of the 149 mills per  
6 cigarette tax imposed by subsection (a), until July 1, 2023,  
7 all of the revenues received from 7 mills shall be paid into  
8 the Common School Fund each month. Out of the 149 mills per  
9 cigarette tax imposed by subsection (a), until July 1, 2023,  
10 50 mills per cigarette each month shall be paid into the  
11 Healthcare Provider Relief Fund.

12 Beginning on July 1, 2006 and until July 1, 2023, all of  
13 the moneys received by the Department of Revenue pursuant to  
14 this Act and the Cigarette Use Tax Act, other than the moneys  
15 that are dedicated to the Common School Fund and, beginning on  
16 the effective date of this amendatory Act of the 97th General  
17 Assembly, other than the moneys from the additional taxes  
18 imposed by this amendatory Act of the 97th General Assembly  
19 that must be paid each month into the Healthcare Provider  
20 Relief Fund, and other than the moneys from the additional  
21 taxes imposed by this amendatory Act of the 101st General  
22 Assembly that must be paid each month under subsection (c),  
23 shall be distributed each month as follows: first, there shall  
24 be paid into the General Revenue Fund an amount that, when  
25 added to the amount paid into the Common School Fund for that  
26 month, equals \$29,200,000; then, from the moneys remaining, if

1 any amounts required to be paid into the General Revenue Fund  
2 in previous months remain unpaid, those amounts shall be paid  
3 into the General Revenue Fund; then from the moneys remaining,  
4 \$5,000,000 per month shall be paid into the School  
5 Infrastructure Fund; then, if any amounts required to be paid  
6 into the School Infrastructure Fund in previous months remain  
7 unpaid, those amounts shall be paid into the School  
8 Infrastructure Fund; then the moneys remaining, if any, shall  
9 be paid into the Long-Term Care Provider Fund. Any amounts  
10 required to be paid into the General Revenue Fund, the School  
11 Infrastructure Fund, the Long-Term Care Provider Fund, the  
12 Common School Fund, the Capital Projects Fund, or the  
13 Healthcare Provider Relief Fund under this subsection that  
14 remain unpaid as of July 1, 2023 shall be deemed satisfied on  
15 that date, eliminating any deficiency accrued through that  
16 date.

17 (c) Beginning on July 1, 2019 and until July 1, 2023, all  
18 of the moneys from the additional taxes imposed by Public Act  
19 101-31, except for moneys received from the tax on electronic  
20 cigarettes, received by the Department of Revenue pursuant to  
21 this Act, the Cigarette Use Tax Act, and the Tobacco Products  
22 Tax Act of 1995 shall be distributed each month into the  
23 Capital Projects Fund.

24 (c-5) Beginning on July 1, 2023, all of the moneys  
25 received by the Department of Revenue pursuant to (i) this  
26 Act, (ii) the Cigarette Use Tax Act, and (iii) the tax imposed

1 on little cigars under Section 10-10 of the Tobacco Products  
2 Tax Act of 1995 shall be paid each month as follows:

3 (1) 7% into the Common School Fund;

4 (2) 34% into the Healthcare Provider Relief Fund;

5 (3) 34% into the Capital Projects Fund; and

6 (4) 25% into the General Revenue Fund.

7 (d) Until July 1, 2023, except ~~Except~~ for moneys received  
8 from the additional taxes imposed by Public Act 101-31, moneys  
9 collected from the tax imposed on little cigars under Section  
10 10-10 of the Tobacco Products Tax Act of 1995 shall be included  
11 with the moneys collected under the Cigarette Tax Act and the  
12 Cigarette Use Tax Act when making distributions to the Common  
13 School Fund, the Healthcare Provider Relief Fund, the General  
14 Revenue Fund, the School Infrastructure Fund, and the  
15 Long-Term Care Provider Fund under this Section. Any amounts,  
16 including moneys collected from the tax imposed on little  
17 cigars under Section 10-10 of the Tobacco Products Tax Act of  
18 1995, that are required to be paid into the General Revenue  
19 Fund, the School Infrastructure Fund, the Long-Term Care  
20 Provider Fund, the Common School Fund, the Capital Projects  
21 Fund, or the Healthcare Provider Relief Fund under subsection  
22 (b) that remain unpaid as of July 1, 2023 shall be deemed  
23 satisfied on that date, eliminating any deficiency accrued  
24 through that date. Beginning on July 1, 2023, moneys collected  
25 from the tax imposed on little cigars under Section 10-10 of  
26 the Tobacco Products Tax Act of 1995 shall be included with the

1 moneys collected under the Cigarette Tax Act and the Cigarette  
2 Use Tax Act when making distributions under subsections (c-5).

3 (e) If the tax imposed herein terminates or has  
4 terminated, distributors who have bought stamps while such tax  
5 was in effect and who therefore paid such tax, but who can  
6 show, to the Department's satisfaction, that they sold the  
7 cigarettes to which they affixed such stamps after such tax  
8 had terminated and did not recover the tax or its equivalent  
9 from purchasers, shall be allowed by the Department to take  
10 credit for such absorbed tax against subsequent tax stamp  
11 purchases from the Department by such distributor.

12 (f) The impact of the tax levied by this Act is imposed  
13 upon the retailer and shall be prepaid or pre-collected by the  
14 distributor for the purpose of convenience and facility only,  
15 and the amount of the tax shall be added to the price of the  
16 cigarettes sold by such distributor. Collection of the tax  
17 shall be evidenced by a stamp or stamps affixed to each  
18 original package of cigarettes, as hereinafter provided. Any  
19 distributor who purchases stamps may credit any excess  
20 payments verified by the Department against amounts  
21 subsequently due for the purchase of additional stamps, until  
22 such time as no excess payment remains.

23 (g) Each distributor shall collect the tax from the  
24 retailer at or before the time of the sale, shall affix the  
25 stamps as hereinafter required, and shall remit the tax  
26 collected from retailers to the Department, as hereinafter

1 provided. Any distributor who fails to properly collect and  
2 pay the tax imposed by this Act shall be liable for the tax.

3 (h) Any distributor having cigarettes in his or her  
4 possession on July 1, 2019 to which tax stamps have been  
5 affixed, and any distributor having stamps in his or her  
6 possession on July 1, 2019 that have not been affixed to  
7 packages of cigarettes before July 1, 2019, is required to pay  
8 the additional tax that begins on July 1, 2019 imposed by this  
9 amendatory Act of the 101st General Assembly to the extent  
10 that the volume of affixed and unaffixed stamps in the  
11 distributor's possession on July 1, 2019 exceeds the average  
12 monthly volume of cigarette stamps purchased by the  
13 distributor in calendar year 2018. This payment, less the  
14 discount provided in subsection (l), is due when the  
15 distributor first makes a purchase of cigarette stamps on or  
16 after July 1, 2019 or on the first due date of a return under  
17 this Act occurring on or after July 1, 2019, whichever occurs  
18 first. Those distributors may elect to pay the additional tax  
19 on packages of cigarettes to which stamps have been affixed  
20 and on any stamps in the distributor's possession that have  
21 not been affixed to packages of cigarettes in their possession  
22 on July 1, 2019 over a period not to exceed 12 months from the  
23 due date of the additional tax by notifying the Department in  
24 writing. The first payment for distributors making such  
25 election is due when the distributor first makes a purchase of  
26 cigarette tax stamps on or after July 1, 2019 or on the first

1 due date of a return under this Act occurring on or after July  
2 1, 2019, whichever occurs first. Distributors making such an  
3 election are not entitled to take the discount provided in  
4 subsection (l) on such payments.

5 (i) Any retailer having cigarettes in its possession on  
6 July 1, 2019 to which tax stamps have been affixed is not  
7 required to pay the additional tax that begins on July 1, 2019  
8 imposed by this amendatory Act of the 101st General Assembly  
9 on those stamped cigarettes.

10 (j) Distributors making sales of cigarettes to secondary  
11 distributors shall add the amount of the tax to the price of  
12 the cigarettes sold by the distributors. Secondary  
13 distributors making sales of cigarettes to retailers shall  
14 include the amount of the tax in the price of the cigarettes  
15 sold to retailers. The amount of tax shall not be less than the  
16 amount of taxes imposed by the State and all local  
17 jurisdictions. The amount of local taxes shall be calculated  
18 based on the location of the retailer's place of business  
19 shown on the retailer's certificate of registration or  
20 sub-registration issued to the retailer pursuant to Section 2a  
21 of the Retailers' Occupation Tax Act. The original packages of  
22 cigarettes sold to the retailer shall bear all the required  
23 stamps, or other indicia, for the taxes included in the price  
24 of cigarettes.

25 (k) The amount of the Cigarette Tax imposed by this Act  
26 shall be separately stated, apart from the price of the goods,



1 by distributors, manufacturer representatives, secondary  
2 distributors, and retailers, in all bills and sales invoices.

3 (1) The distributor shall be required to collect the tax  
4 provided under paragraph (a) hereof, and, to cover the costs  
5 of such collection, shall be allowed a discount during any  
6 year commencing July 1st and ending the following June 30th in  
7 accordance with the schedule set out hereinbelow, which  
8 discount shall be allowed at the time of purchase of the stamps  
9 when purchase is required by this Act, or at the time when the  
10 tax is remitted to the Department without the purchase of  
11 stamps from the Department when that method of paying the tax  
12 is required or authorized by this Act.

13 On and after December 1, 1985, a discount equal to 1.75% of  
14 the amount of the tax payable under this Act up to and  
15 including the first \$3,000,000 paid hereunder by such  
16 distributor to the Department during any such year and 1.5% of  
17 the amount of any additional tax paid hereunder by such  
18 distributor to the Department during any such year shall  
19 apply.

20 Two or more distributors that use a common means of  
21 affixing revenue tax stamps or that are owned or controlled by  
22 the same interests shall be treated as a single distributor  
23 for the purpose of computing the discount.

24 (m) The taxes herein imposed are in addition to all other  
25 occupation or privilege taxes imposed by the State of  
26 Illinois, or by any political subdivision thereof, or by any

1 municipal corporation.

2 (Source: P.A. 100-1171, eff. 1-4-19; 101-31, eff. 6-28-19;

3 101-604, eff. 12-13-19.)

4 Section 99. Effective date. This Act takes effect upon

5 becoming law.