



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2552

Introduced 2/3/2004, by Terry Link

SYNOPSIS AS INTRODUCED:

35 ILCS 130/2a new

Amends the Cigarette Tax Act. Provides that an equity assessment, in the amount of 25 mills per cigarette, is imposed on each package of nonparticipating-manufacturer cigarettes to which a person affixes a stamp or imprint as required under existing law. Provides that a "nonparticipating manufacturer" is a tobacco manufacturer that is not participating in the master settlement agreement entered into with respect to certain tobacco-related litigation. Sets forth payment procedures and penalties for violations. Effective immediately.

LRB093 18067 SJM 43754 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning taxes.

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 adding
5 Section 2a as follows:

6 (35 ILCS 130/2a new)

7 Sec. 2a. Nonparticipating-manufacturer equity assessment.

8 (a) As used in this Section, "nonparticipating
9 manufacturer" has the same meaning as that term is defined in
10 Section 10 of the Tobacco Product Manufacturers' Escrow
11 Enforcement Act of 2003.

12 (b) An equity assessment, in the amount of 25 mills per
13 cigarette, is imposed on each package of
14 nonparticipating-manufacturer cigarettes to which a person
15 affixes a stamp or imprint as required under existing law. This
16 equity assessment is in addition to all other assessments,
17 fees, and taxes levied or imposed under existing law. The
18 Department shall collect the equity assessment each month
19 directly from each nonparticipating manufacturer based on
20 information received by the Department under subsections (d)
21 and (e) of this Section. Except as otherwise provided in this
22 Section, the assessment shall be collected, paid,
23 administered, and enforced in the same manner as the tax on
24 cigarettes imposed by Section 2.

25 (c) The purposes of this assessment are:

26 (1) to prevent nonparticipating manufacturers from
27 undermining the State's policy of reducing underage
28 smoking by offering their cigarettes for sale
29 substantially below the price of cigarettes of other
30 manufacturers;

31 (2) to protect funding, which is reduced as a result of
32 the growth of nonparticipating-manufacturer cigarette

1 sales, for programs funded in whole or in part by payments
2 to the State under the Master Settlement Agreement, as
3 defined in Section 10 of the Tobacco Product Manufacturers'
4 Escrow Act, and to recoup settlement-payment revenue lost
5 to the State as a result of nonparticipating-manufacturer
6 cigarettes sales;

7 (3) notwithstanding Section 2, to fund enforcement and
8 administration of the Tobacco Product Manufacturers'
9 Escrow Act, the Tobacco Product Manufacturers' Escrow
10 Enforcement Act of 2003, and this assessment, including
11 reasonable administrative costs incurred by persons
12 subject to subsection (e) of this Section by reason of the
13 requirements of that subsection; and

14 (4) to fund such other purposes as the General Assembly
15 shall determine.

16 (d) A nonparticipating manufacturer whose cigarettes are
17 being offered for sale in this State on the effective date of
18 this amendatory Act of the 93rd General Assembly shall pay the
19 assessment imposed by this Section within 30 days after the
20 effective date of this amendatory Act of the 93rd General
21 Assembly. If cigarettes of a nonparticipating manufacturer are
22 not being offered for sale in this State on the effective date
23 of this amendatory Act of the 93rd General Assembly, then the
24 nonparticipating manufacturer, before its cigarettes may begin
25 to be offered for sale in this State, shall prepay the fee
26 imposed by this Section for the number of cigarettes of the
27 nonparticipating manufacturer that the Department reasonably
28 projects will be sold in the first calendar month in which
29 cigarettes of the nonparticipating manufacturer are sold in
30 this State. The prepayment amount shall be (i) determined by
31 multiplying 25 mills times the number of cigarettes that the
32 Department reasonably projects that the nonparticipating
33 manufacturer will sell in this State in that first calendar
34 month or (ii) \$50,000, whichever is more. The Department may
35 require a nonparticipating manufacturer to provide any
36 information reasonably necessary to determine the assessment

1 payment amount and, in the case of prepayment, shall establish
2 procedures providing for reimbursement to nonparticipating
3 manufacturers if actual sales are less than sales as projected
4 by the Department and for additional payment by
5 nonparticipating manufacturers if actual sales are greater
6 than sales as projected by the Department.

7 (e) Each person required to report to the Department under
8 Section 9 shall state in that report the number and
9 denominations of stamps or imprints affixed to individual
10 packages of nonparticipating-manufacturer cigarettes, by
11 manufacturer and brand family, sold by the person for each
12 place of business in the previous month. The reporting
13 requirement imposed by this subsection shall be enforced in the
14 same manner as the reporting requirements in Section 9.

15 (f) A person shall not affix, or cause to be affixed, to
16 any package of cigarettes of a nonparticipating manufacturer,
17 the stamp or imprints required under existing law after
18 receiving notice from the Department, which the Department
19 shall provide, that the nonparticipating manufacturer has not
20 paid in full the equity assessment imposed by this Section. A
21 person that has affixed the stamp or imprint required under
22 existing law to any package of cigarettes of a nonparticipating
23 manufacturer in violation of this subsection shall be subject
24 to the penalties provided in Section 24.

25 (g) Cigarettes of a nonparticipating manufacturer that has
26 not paid the equity assessment imposed by this Section shall be
27 treated as cigarettes of a nonparticipating manufacturer that
28 has not provided the certification required by Section 15 of
29 the Tobacco Products Manufacturers' Escrow Enforcement Act of
30 2003 and shall be treated as unstamped packages of cigarettes.

31 Section 99. Effective date. This Act takes effect upon
32 becoming law.