



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0454

Introduced 2/4/2009, by Rep. LaShawn K. Ford

SYNOPSIS AS INTRODUCED:

35 ILCS 130/2
35 ILCS 135/2

from Ch. 120, par. 453.2
from Ch. 120, par. 453.32

Amends the Cigarette Tax Act and the Cigarette Use Tax Act. Provides that, beginning July 1, 2009, an additional tax of 50 mills per cigarette (\$1 per package of 20) shall be imposed. Effective immediately.

LRB096 05798 RCE 15875 b

FISCAL NOTE ACT
MAY APPLY

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) A tax is imposed upon any person engaged in business as
10 a retailer of cigarettes in this State at the rate of 5 1/2
11 mills per cigarette sold, or otherwise disposed of in the
12 course of such business in this State. In addition to any other
13 tax imposed by this Act, a tax is imposed upon any person
14 engaged in business as a retailer of cigarettes in this State
15 at a rate of 1/2 mill per cigarette sold or otherwise disposed
16 of in the course of such business in this State on and after
17 January 1, 1947, and shall be paid into the Metropolitan Fair
18 and Exposition Authority Reconstruction Fund or as otherwise
19 provided in Section 29. On and after December 1, 1985, in
20 addition to any other tax imposed by this Act, a tax is imposed
21 upon any person engaged in business as a retailer of cigarettes
22 in this State at a rate of 4 mills per cigarette sold or
23 otherwise disposed of in the course of such business in this

1 State. Of the additional tax imposed by this amendatory Act of
2 1985, \$9,000,000 of the moneys received by the Department of
3 Revenue pursuant to this Act shall be paid each month into the
4 Common School Fund. On and after the effective date of this
5 amendatory Act of 1989, in addition to any other tax imposed by
6 this Act, a tax is imposed upon any person engaged in business
7 as a retailer of cigarettes at the rate of 5 mills per
8 cigarette sold or otherwise disposed of in the course of such
9 business in this State. On and after the effective date of this
10 amendatory Act of 1993, in addition to any other tax imposed by
11 this Act, a tax is imposed upon any person engaged in business
12 as a retailer of cigarettes at the rate of 7 mills per
13 cigarette sold or otherwise disposed of in the course of such
14 business in this State. On and after December 15, 1997, in
15 addition to any other tax imposed by this Act, a tax is imposed
16 upon any person engaged in business as a retailer of cigarettes
17 at the rate of 7 mills per cigarette sold or otherwise disposed
18 of in the course of such business of this State. All of the
19 moneys received by the Department of Revenue pursuant to this
20 Act and the Cigarette Use Tax Act from the additional taxes
21 imposed by this amendatory Act of 1997, shall be paid each
22 month into the Common School Fund. On and after July 1, 2002,
23 in addition to any other tax imposed by this Act, a tax is
24 imposed upon any person engaged in business as a retailer of
25 cigarettes at the rate of 20.0 mills per cigarette sold or
26 otherwise disposed of in the course of such business in this

1 State. Beginning on July 1, 2009, in addition to any other tax
2 imposed by this Act, a tax is imposed upon any person engaged
3 in business as a retailer of cigarettes at the rate of 50 mills
4 per cigarette sold or otherwise disposed of in the course of
5 such business in this State. The payment of such taxes shall be
6 evidenced by a stamp affixed to each original package of
7 cigarettes, or an authorized substitute for such stamp
8 imprinted on each original package of such cigarettes
9 underneath the sealed transparent outside wrapper of such
10 original package, as hereinafter provided. However, such taxes
11 are not imposed upon any activity in such business in
12 interstate commerce or otherwise, which activity may not under
13 the Constitution and statutes of the United States be made the
14 subject of taxation by this State.

15 Beginning on the effective date of this amendatory Act of
16 the 92nd General Assembly and through June 30, 2006, all of the
17 moneys received by the Department of Revenue pursuant to this
18 Act and the Cigarette Use Tax Act, other than the moneys that
19 are dedicated to the Common School Fund, shall be distributed
20 each month as follows: first, there shall be paid into the
21 General Revenue Fund an amount which, when added to the amount
22 paid into the Common School Fund for that month, equals
23 \$33,300,000, except that in the month of August of 2004, this
24 amount shall equal \$83,300,000; then, from the moneys
25 remaining, if any amounts required to be paid into the General
26 Revenue Fund in previous months remain unpaid, those amounts

1 shall be paid into the General Revenue Fund; then, beginning on
2 April 1, 2003, from the moneys remaining, \$5,000,000 per month
3 shall be paid into the School Infrastructure Fund; then, if any
4 amounts required to be paid into the School Infrastructure Fund
5 in previous months remain unpaid, those amounts shall be paid
6 into the School Infrastructure Fund; then the moneys remaining,
7 if any, shall be paid into the Long-Term Care Provider Fund. To
8 the extent that more than \$25,000,000 has been paid into the
9 General Revenue Fund and Common School Fund per month for the
10 period of July 1, 1993 through the effective date of this
11 amendatory Act of 1994 from combined receipts of the Cigarette
12 Tax Act and the Cigarette Use Tax Act, notwithstanding the
13 distribution provided in this Section, the Department of
14 Revenue is hereby directed to adjust the distribution provided
15 in this Section to increase the next monthly payments to the
16 Long Term Care Provider Fund by the amount paid to the General
17 Revenue Fund and Common School Fund in excess of \$25,000,000
18 per month and to decrease the next monthly payments to the
19 General Revenue Fund and Common School Fund by that same excess
20 amount.

21 Beginning on July 1, 2006, all of the moneys received by
22 the Department of Revenue pursuant to this Act and the
23 Cigarette Use Tax Act, other than the moneys that are dedicated
24 to the Common School Fund, shall be distributed each month as
25 follows: first, there shall be paid into the General Revenue
26 Fund an amount that, when added to the amount paid into the

1 Common School Fund for that month, equals \$29,200,000; then,
2 from the moneys remaining, if any amounts required to be paid
3 into the General Revenue Fund in previous months remain unpaid,
4 those amounts shall be paid into the General Revenue Fund; then
5 from the moneys remaining, \$5,000,000 per month shall be paid
6 into the School Infrastructure Fund; then, if any amounts
7 required to be paid into the School Infrastructure Fund in
8 previous months remain unpaid, those amounts shall be paid into
9 the School Infrastructure Fund; then the moneys remaining, if
10 any, shall be paid into the Long-Term Care Provider Fund.

11 When any tax imposed herein terminates or has terminated,
12 distributors who have bought stamps while such tax was in
13 effect and who therefore paid such tax, but who can show, to
14 the Department's satisfaction, that they sold the cigarettes to
15 which they affixed such stamps after such tax had terminated
16 and did not recover the tax or its equivalent from purchasers,
17 shall be allowed by the Department to take credit for such
18 absorbed tax against subsequent tax stamp purchases from the
19 Department by such distributor.

20 The impact of the tax levied by this Act is imposed upon
21 the retailer and shall be prepaid or pre-collected by the
22 distributor for the purpose of convenience and facility only,
23 and the amount of the tax shall be added to the price of the
24 cigarettes sold by such distributor. Collection of the tax
25 shall be evidenced by a stamp or stamps affixed to each
26 original package of cigarettes, as hereinafter provided.

1 Each distributor shall collect the tax from the retailer at
2 or before the time of the sale, shall affix the stamps as
3 hereinafter required, and shall remit the tax collected from
4 retailers to the Department, as hereinafter provided. Any
5 distributor who fails to properly collect and pay the tax
6 imposed by this Act shall be liable for the tax. Any
7 distributor having cigarettes to which stamps have been affixed
8 in his possession for sale on the effective date of this
9 amendatory Act of 1989 shall not be required to pay the
10 additional tax imposed by this amendatory Act of 1989 on such
11 stamped cigarettes. Any distributor having cigarettes to which
12 stamps have been affixed in his or her possession for sale at
13 12:01 a.m. on the effective date of this amendatory Act of
14 1993, is required to pay the additional tax imposed by this
15 amendatory Act of 1993 on such stamped cigarettes. This
16 payment, less the discount provided in subsection (b), shall be
17 due when the distributor first makes a purchase of cigarette
18 tax stamps after the effective date of this amendatory Act of
19 1993, or on the first due date of a return under this Act after
20 the effective date of this amendatory Act of 1993, whichever
21 occurs first. Any distributor having cigarettes to which stamps
22 have been affixed in his possession for sale on December 15,
23 1997 shall not be required to pay the additional tax imposed by
24 this amendatory Act of 1997 on such stamped cigarettes.

25 Any distributor having cigarettes to which stamps have been
26 affixed in his or her possession for sale on July 1, 2002 shall

1 not be required to pay the additional tax imposed by this
2 amendatory Act of the 92nd General Assembly on those stamped
3 cigarettes.

4 Any distributor having cigarettes to which stamps have been
5 affixed in his or her possession for sale on or after July 1,
6 2009 is required to pay the additional tax imposed by this
7 amendatory Act of the 96th General Assembly on those stamped
8 cigarettes. This payment, less the discount provided in
9 subsection (b), is due when the distributor first makes a
10 purchase of cigarette tax stamps on or after July 1, 2009 or on
11 the first due date of a return under this Act occurring on or
12 after July 1, 2009, whichever occurs first.

13 The amount of the Cigarette Tax imposed by this Act shall
14 be separately stated, apart from the price of the goods, by
15 both distributors and retailers, in all advertisements, bills
16 and sales invoices.

17 (b) The distributor shall be required to collect the taxes
18 provided under paragraph (a) hereof, and, to cover the costs of
19 such collection, shall be allowed a discount during any year
20 commencing July 1st and ending the following June 30th in
21 accordance with the schedule set out hereinbelow, which
22 discount shall be allowed at the time of purchase of the stamps
23 when purchase is required by this Act, or at the time when the
24 tax is remitted to the Department without the purchase of
25 stamps from the Department when that method of paying the tax
26 is required or authorized by this Act. Prior to December 1,

1 1985, a discount equal to 1 2/3% of the amount of the tax up to
2 and including the first \$700,000 paid hereunder by such
3 distributor to the Department during any such year; 1 1/3% of
4 the next \$700,000 of tax or any part thereof, paid hereunder by
5 such distributor to the Department during any such year; 1% of
6 the next \$700,000 of tax, or any part thereof, paid hereunder
7 by such distributor to the Department during any such year, and
8 2/3 of 1% of the amount of any additional tax paid hereunder by
9 such distributor to the Department during any such year shall
10 apply. On and after December 1, 1985, a discount equal to 1.75%
11 of the amount of the tax payable under this Act up to and
12 including the first \$3,000,000 paid hereunder by such
13 distributor to the Department during any such year and 1.5% of
14 the amount of any additional tax paid hereunder by such
15 distributor to the Department during any such year shall apply.

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

20 (c) The taxes herein imposed are in addition to all other
21 occupation or privilege taxes imposed by the State of Illinois,
22 or by any political subdivision thereof, or by any municipal
23 corporation.

24 (Source: P.A. 93-839, eff. 7-30-04; 94-91, eff. 7-1-05; 94-839,
25 eff. 6-6-06.)

1 Section 10. The Cigarette Use Tax Act is amended by
2 changing Section 2 as follows:

3 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

4 Sec. 2. A tax is imposed upon the privilege of using
5 cigarettes in this State, at the rate of 6 mills per cigarette
6 so used. On and after December 1, 1985, in addition to any
7 other tax imposed by this Act, a tax is imposed upon the
8 privilege of using cigarettes in this State at a rate of 4
9 mills per cigarette so used. On and after the effective date of
10 this amendatory Act of 1989, in addition to any other tax
11 imposed by this Act, a tax is imposed upon the privilege of
12 using cigarettes in this State at the rate of 5 mills per
13 cigarette so used. On and after the effective date of this
14 amendatory Act of 1993, in addition to any other tax imposed by
15 this Act, a tax is imposed upon the privilege of using
16 cigarettes in this State at a rate of 7 mills per cigarette so
17 used. On and after December 15, 1997, in addition to any other
18 tax imposed by this Act, a tax is imposed upon the privilege of
19 using cigarettes in this State at a rate of 7 mills per
20 cigarette so used. On and after July 1, 2002, in addition to
21 any other tax imposed by this Act, a tax is imposed upon the
22 privilege of using cigarettes in this State at a rate of 20.0
23 mills per cigarette so used. Beginning on July 1, 2009, in
24 addition to any other tax imposed by this Act, a tax is imposed
25 upon the privilege of using cigarettes in this State at a rate

1 of 50 mills per cigarette so used. The taxes herein imposed
2 shall be in addition to all other occupation or privilege taxes
3 imposed by the State of Illinois or by any political
4 subdivision thereof or by any municipal corporation.

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

14 When the word "tax" is used in this Act, it shall include
15 any tax or tax rate imposed by this Act and shall mean the
16 singular of "tax" or the plural "taxes" as the context may
17 require.

18 Any distributor having cigarettes to which stamps have been
19 affixed in his possession for sale on the effective date of
20 this amendatory Act of 1989 shall not be required to pay the
21 additional tax imposed by this amendatory Act of 1989 on such
22 stamped cigarettes. Any distributor having cigarettes to which
23 stamps have been affixed in his or her possession for sale at
24 12:01 a.m. on the effective date of this amendatory Act of
25 1993, is required to pay the additional tax imposed by this
26 amendatory Act of 1993 on such stamped cigarettes. This payment

1 shall be due when the distributor first makes a purchase of
2 cigarette tax stamps after the effective date of this
3 amendatory Act of 1993, or on the first due date of a return
4 under this Act after the effective date of this amendatory Act
5 of 1993, whichever occurs first. Once a distributor tenders
6 payment of the additional tax to the Department, the
7 distributor may purchase stamps from the Department. Any
8 distributor having cigarettes to which stamps have been affixed
9 in his possession for sale on December 15, 1997 shall not be
10 required to pay the additional tax imposed by this amendatory
11 Act of 1997 on such stamped cigarettes.

12 Any distributor having cigarettes to which stamps have been
13 affixed in his or her possession for sale on July 1, 2002 shall
14 not be required to pay the additional tax imposed by this
15 amendatory Act of the 92nd General Assembly on those stamped
16 cigarettes.

17 Any distributor having cigarettes to which stamps have been
18 affixed in his or her possession for sale on or after July 1,
19 2009 is required to pay the additional tax imposed by this
20 amendatory Act of the 96th General Assembly on those stamped
21 cigarettes. This payment, less the discount provided in Section
22 3 of this Act, is due when the distributor first makes a
23 purchase of cigarette tax stamps on or after July 1, or on the
24 first due date of a return under this Act occurring on or after
25 July 1, 2009, whichever occurs first.

26 (Source: P.A. 92-536, eff. 6-6-02.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.