

1 HB3
2 171076-1
3 By Representatives Rowe, Greer, Faust, Martin, Collins and
4 Hill (M)
5 RFD: Ways and Means General Fund
6 First Read: 08-SEP-15

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8 SYNOPSIS: Currently, the State of Alabama levies a tax
9 on various tobacco products.

10 This bill would increase the tax on
11 cigarettes from \$.425 a pack to \$.675 a pack and
12 provide for its distribution and would decrease the
13 tobacco tax stamp discount from 7.5 percent to 4.75
14 percent.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 To amend Section 40-25-2 and 40-25-5, Code of
21 Alabama 1975, relating to the state tax on tobacco products,
22 to increase the tax on cigarettes and provide for its
23 distribution; and to decrease the tobacco tax stamp discount.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 40-25-2 and 40-25-5, Code of
26 Alabama 1975, are amended to read as follows:

27 "§40-25-2.

1 "(a) In addition to all other taxes of every kind
2 now imposed by law, every person, firm, corporation, club, or
3 association, within the State of Alabama, who sells or stores
4 or receives for the purpose of distribution to any person,
5 firm, corporation, club, or association within the State of
6 Alabama, cigars, cheroots, stogies, cigarettes, smoking
7 tobacco, chewing tobacco, snuff, or any substitute therefor,
8 either or all, shall pay to the State of Alabama for state
9 purposes only a license or privilege tax which shall be
10 measured by and graduated in accordance with the volume of
11 sales of such person, firm, corporation, club, or association
12 in Alabama. There is hereby levied license or privilege taxes
13 on articles containing tobacco enumerated in this article in
14 the following amounts:

15 "(1) LITTLE CIGARS. Upon cigars of all descriptions,
16 including filtered cigars, made of tobacco, or any substitute
17 therefor, and weighing not more than three pounds per 1,000,
18 \$.04 for each ten cigars, or fractional part thereof.

19 "(2) FILTERED CIGARS. Upon filtered cigars that have
20 a cellulose acetate or similar integrated filter, made of
21 tobacco, or any substitute therefor, and weighing more than
22 three pounds per 1,000, \$0.015 for each filtered cigar.

23 "(3) CHEROOTS, STOGIES, CIGARS, ETC. Upon all other
24 cigars of any descriptions made of tobacco, or any substitute
25 therefor, \$40.50 per thousand cigars, or \$0.0405 each.

1 "(4) CIGARETTES. Upon all cigarettes made of
2 tobacco, or any substitute therefor, ~~21.25~~ 33.75 mills on each
3 such cigarette.

4 "(5) SMOKING TOBACCO. Upon all smoking tobacco,
5 including granulated, plug cut, crimp cut, ready rubbed, and
6 other kinds and forms of tobacco prepared in such manner as to
7 be suitable for smoking in a pipe or cigarette, upon each
8 package: Weighing not more than one and one-eighth ounces, tax
9 \$.04; over one and one-eighth ounces, not exceeding two
10 ounces, tax \$.10; over two ounces, not exceeding three ounces,
11 tax \$.16; over three ounces, not exceeding four ounces, tax
12 \$.21; \$.06 additional tax for each ounce or fractional part
13 thereof over four ounces.

14 "(6) CHEWING TOBACCO. Upon all chewing tobacco
15 prepared in such manner as to be suitable for chewing only and
16 not suitable for smoking as described and taxed in subdivision
17 (9) of this subsection: \$.015 per ounce or fractional part
18 thereof.

19 "(7) SNUFF. Upon each can or package of snuff
20 weighing not more than five-eighths ounces, one cent tax; over
21 five-eighths ounces and not exceeding one and five-eighths
22 ounces, \$.02 tax; over one and five-eighths ounces and not
23 exceeding two and one-half ounces, \$.04 tax; over two and
24 one-half ounces and not exceeding five ounces (cans, packages,
25 gullets), \$.06 tax; over three ounces and not exceeding five
26 ounces (glasses, tumblers, bottles), seven cents tax; over
27 five ounces and not exceeding six ounces, \$.08 tax; weighing

1 over six ounces, an additional \$.12 for each ounce or
2 fractional part thereof.

3 "(b) Whenever in this article reference is made to
4 any manufactured tobacco products on which the tax is based on
5 weight, the weight as shown by the manufacturer or the federal
6 internal revenue stamp shall apply.

7 "(c) When any articles or commodities subject to tax
8 in this article are given as prizes on punch boards, shooting
9 galleries, premiums, etc., the tax shall be based on the tax
10 rates in subsection (a) of such articles.

11 "(d) The tax herein levied shall be paid to the
12 state through the use of stamps as herein provided. However,
13 every wholesaler, distributor, jobber, semijobber, or retail
14 dealer shall add the amount of the tax levied herein to the
15 price of the tobacco or tobacco products sold, it being the
16 purpose and intent of this provision that the tax levied is in
17 fact a levy on the ultimate consumer or user with the
18 wholesaler, distributor, jobber, semijobber, or retail dealer
19 acting merely as an agent of the state for the collection and
20 payment of the tax to the state. Therefore, notwithstanding
21 any exemptions from taxes which any such seller may now or
22 hereafter enjoy under the Constitution or laws of this or any
23 other state, or of the United States, he or she shall collect
24 the tax imposed hereunder from the purchaser or consumer, and
25 the amount of the tax shall constitute a debt from the
26 purchaser or consumer to the seller until paid. It shall be
27 unlawful for any person, firm, corporation, association, or

1 copartnership to fail or refuse to add to the sales price and
2 collect from the purchaser the amount of the tax to be added
3 to the sales price and collected from the purchaser hereunder.
4 Stamps in denominations to the amount of the tax or in
5 denominations specified pursuant to subsection (e) of this
6 section shall be affixed to the box or other container from or
7 in which tobacco products taxed by this section are normally
8 sold at retail. The stamps shall be affixed in such a manner
9 that their removal will require continued application of
10 water, steam, or heat; and in case of cigars, cheroots,
11 chewing tobacco and like manufactured tobacco products, where
12 sales are made from the original container, the stamps shall
13 be affixed to the box or container in such a way that the
14 stamps shall be torn in two or mutilated when such containers
15 or boxes are opened for the sale of the tobacco products. In
16 the case of cigarettes, smoking tobacco, snuff, and like
17 products sold at retail in packages, the required amount of
18 stamps to cover the tax shall be affixed to each individual
19 package or container. All taxable tobaccos herein enumerated,
20 when offered for sale, either at wholesale or retail, without
21 having stamps affixed in the manner set out by this article,
22 or without payment of the tax by return by the wholesaler,
23 jobber, semijobber, or registered retailer, shall be subject
24 to confiscation, in the manner provided for contraband goods
25 as set out in this article.

26 "(e) The Commissioner of Revenue shall prepare and
27 issue stamps in denominations for the amount of the tax

1 imposed by this article provided that if the commissioner
2 determines that it is not economical for the state to have a
3 stamp prepared and issued for one or more particular types of
4 packages of tobacco products, then the commissioner may by
5 regulation prescribe the use of a stamp in a denomination
6 other than for the amount of the tax imposed with the
7 difference between the amount of tax actually imposed and the
8 amount of tax denominated by the stamp paid with the use of a
9 monthly report; or may require a monthly report without use of
10 a stamp to report the amount of taxes due.

11 "(f) The increases levied by this section shall be
12 exclusive and shall be in lieu of any other or additional
13 local taxes and/or license fees, county or municipal, imposed
14 on the sale or use of cigarettes and/or other tobacco
15 products. Notwithstanding the foregoing, an act of the
16 Legislature or an ordinance or resolution by a taxing
17 authority passed or enacted on or before May 18, 2004,
18 imposing a local tax and/or license fee shall remain
19 operative, but no additional local tax and/or license fee may
20 thereafter be levied on the sale of cigarettes and/or other
21 tobacco products.

22 "(g) Local taxes and/or license fees, county or
23 municipal, imposed on the sale or use of cigarettes shall be
24 paid to the local government through the use of stamps affixed
25 to the product as provided herein for the state tax. Provided,
26 however, this requirement shall not be interpreted to require
27 the Department of Revenue to prepare all stamps or to collect

1 all local taxes. Local governments may contract with another
2 entity to collect their local cigarette tax but all local
3 taxes must be collected as provided herein.

4 "§40-25-5.

5 "The Department of Revenue is hereby authorized and
6 directed to have prepared and distributed stamps suitable for
7 denoting the tax on all articles enumerated herein. Any
8 person, firm, corporation, or association of persons, other
9 than the Department of Revenue, who sells tobacco tax stamps
10 not affixed to tobacco sold and delivered by them, whether the
11 said stamps be genuine or counterfeit, shall be guilty of a
12 felony and punishable as set out in Section 40-25-6. When
13 wholesalers or jobbers have qualified as such with the
14 Department of Revenue, as provided in Section 40-25-16, and
15 desire to purchase stamps as prescribed herein for use on
16 taxable tobaccos sold and delivered by them, the Department of
17 Revenue shall allow on such sales of tobacco tax stamps a
18 discount of ~~seven and one-half percent~~ 4.75 percent on the
19 entire amount of the sale. Where wholesalers or jobbers are
20 entitled to purchase stamps at a discount as herein provided,
21 instead of the Department of Revenue selling such stamps to
22 such jobbers or wholesalers for cash, it may consign such
23 stamps, if and when such wholesaler or jobber shall give to
24 the Department of Revenue a good and sufficient bond executed
25 by some surety company authorized to do business in this
26 state, conditioned to secure the payment for the stamps so
27 consigned when and as they are used on manufactured tobacco

1 products by such wholesaler or jobber. Every wholesaler or
2 jobber purchasing stamps on consignment as described herein,
3 shall be required to make a full and complete accounting and
4 remittance on or before the twentieth of each month for all
5 stamps used on taxable tobaccos during the preceding month.
6 Every wholesaler or jobber refusing or failing to comply with
7 this section shall forfeit the commission or discount on
8 stamps used which he failed or refused to account or remit for
9 in the time allowed, and in addition shall be charged interest
10 on such delinquent amount for each day delinquent at the rate
11 of eight percent per annum."

12 Section 2. Notwithstanding any other provision of
13 Chapter 25, Title 40, Code of Alabama 1975, all revenue
14 received from the increased tax levied by this amendatory act
15 shall be deposited into the State General Fund.

16 Section 3. This act shall become effective on
17 October 1, 2015, following its passage and approval by the
18 Governor, or its otherwise becoming law.