

FIRST REGULAR SESSION

HOUSE BILL NO. 859

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ELLINGER (Sponsor), SWEARINGEN, QUINN, PACE, BLACK,
SMITH (71), PIERSON AND WALTON GRAY (Co-sponsors).

0435L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 149.015, RSMo, and to enact in lieu thereof one new section relating to
cigarette taxes.

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

Section A. Section 149.015, RSMo, is repealed and one new section enacted in lieu
2 thereof, to be known as section 149.015, to read as follows:

149.015. 1. **Except as provided in subsection 9 of this section**, a tax shall be levied
2 upon the sale of cigarettes at an amount equal to eight and one-half mills per cigarette, until such
3 time as the general assembly appropriates an amount equal to twenty-five percent of the net
4 federal reimbursement allowance to the health initiatives fund, then the tax shall be six and
5 one-half mills per cigarette beginning July first of the fiscal year immediately after such
6 appropriation. As used in this section, "net federal reimbursement allowance" shall mean that
7 amount of the federal reimbursement allowance in excess of the amount of state matching funds
8 necessary for the state to make payments required by subsection 1 of section 208.471 or, if the
9 payments exceed the amount so required, the actual payments made for the purposes specified
10 in subsection 1 of section 208.471.

11 2. The tax shall be evidenced by stamps which shall be furnished by and purchased from
12 the director or by an impression of the tax by the use of a metering machine when authorized by
13 the director as provided in this chapter, and the stamps or impression shall be securely affixed
14 to one end of each package in which cigarettes are contained. All cigarettes must be stamped
15 before being sold in this state.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended
to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

47 6. The tax on any cigarettes contained in packages of four, ten, twenty or similar
48 quantities to be used solely for distribution as samples shall be computed on a per cigarette basis
49 at the rate set forth in this section, and payment of the tax shall be remitted to the director at such
50 time and in such manner as he may prescribe.

51 7. The revenue generated by the additional two mills tax imposed effective August 13,
52 1982, less any three percent reduction allowed pursuant to the provisions of section 149.021,
53 shall be placed in a separate fund entitled "The Fair Share Fund". Such moneys in the fair share
54 fund shall be transferred monthly to the state school moneys fund and distributed to the school
55 districts in this state as provided in section 163.031.

56 8. The revenue generated by the additional two mills tax imposed effective October 1,
57 1993, less any three percent reduction allowed pursuant to the provisions of section 149.021,
58 shall be deposited in the health initiatives fund created in section 191.831. When the general
59 assembly appropriates an amount equal to twenty-five percent of the net federal reimbursement
60 allowance to the health initiatives fund, this subsection shall expire. The additional two mills
61 tax levied pursuant to this section shall not apply to an amount of stamped cigarettes in the
62 possession of licensed wholesalers on October 1, 1993, up to thirty-five percent of the total
63 cigarette sales made by such licensed wholesaler during the six months immediately preceding
64 October 1, 1993.

65 **9. (1) In addition to the tax levied on the sale of cigarettes in subsection 1 of this**
66 **section, a tax shall be levied upon the sale of cigarettes in the following amounts:**

67 **(a) For the calendar year beginning January 1, 2012, six and one-fourth mills per**
68 **cigarette;**

69 **(b) For the calendar year beginning on January 1, 2013, twelve and one-half mills**
70 **per cigarette;**

71 **(c) For the calendar year beginning January 1, 2014, eighteen and three-fourths**
72 **mills per cigarette;**

73 **(d) For the calendar year beginning January 1, 2015, twenty-five mills per**
74 **cigarette;**

75 **(e) For the calendar year beginning January 1, 2016, thirty-one and one-fourth**
76 **mills per cigarette;**

77 **(f) For the calendar year beginning January 1, 2017, thirty-seven and one-half mills**
78 **per cigarette;**

79 **(g) For the calendar year beginning January 1, 2018, forty-three and three-fourths**
80 **mills per cigarette; and**

81 **(h) For all calendar years beginning on or after January 1, 2019, fifty mills per**
82 **cigarette.**

83 **(2) The revenue generated by the additional tax imposed under this subsection, less**
84 **any three percent reduction allowed under section 149.021, shall be deposited in the state**
85 **general revenue fund.**