

1 HB457  
2 128818-1  
3 By Representative Todd  
4 RFD: Ways and Means General Fund  
5 First Read: 06-APR-11

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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 \$.42.5 a pack to \$1.42.5 a pack and  
12 provide for its distribution.

13  
14 A BILL  
15 TO BE ENTITLED  
16 AN ACT

17  
18 To amend Section 40-25-2, Code of Alabama 1975,  
19 relating to the state tax on tobacco products, to increase the  
20 tax on cigarettes and provide for its distribution.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 40-25-2, Code of Alabama 1975, is  
23 amended to read as follows:

24 "§40-25-2.

25 "(a) In addition to all other taxes of every kind  
26 now imposed by law, every person, firm, corporation, club or  
27 association, within the State of Alabama, who sells or stores

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

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

16 "(2) CHEROOTS, STOGIES, CIGARS, ETC. Upon cigars of  
17 all descriptions made of tobacco, or any substitute therefor,  
18 retailing for three and one-third cents each or less, \$3 per  
19 1,000.

20 "(3) CIGARS. Upon cigars of all descriptions made of  
21 tobacco, or any substitute therefor, retailing for more than  
22 three and one-third cents each and not more than \$.05 each, \$6  
23 per 1,000.

24 "(4) CIGARS. Upon cigars of all descriptions made of  
25 tobacco, or any substitute therefor, retailing for more than  
26 \$.05 each and not exceeding \$.08 each, \$9 per 1,000.

1           "(5) CIGARS. Upon cigars of all descriptions made of  
2 tobacco, or any substitute therefor, retailing for more than  
3 \$.08 each and not exceeding \$.10 each, \$15 per 1,000.

4           "(6) CIGARS. Upon cigars of all descriptions made of  
5 tobacco, or any substitute therefor, retailing for more than  
6 \$.10 each and not exceeding \$.20 each, \$30 per 1,000.

7           "(7) CIGARS. Upon cigars of all descriptions made of  
8 tobacco, or any substitute therefor, retailing for more than  
9 \$.20 each, \$40.50 per 1,000.

10           "(8) CIGARETTES. Upon all cigarettes made of  
11 tobacco, or any substitute therefor, ~~21.25~~ 71.25 mills on each  
12 such cigarette.

13           "(9) SMOKING TOBACCO. Upon all smoking tobacco,  
14 including granulated, plug cut, crimp cut, ready rubbed and  
15 other kinds and forms of tobacco prepared in such manner as to  
16 be suitable for smoking in a pipe or cigarette, upon each  
17 package: weighing not more than one and one-eighth ounces, tax  
18 \$.04; over one and one-eighth ounces, not exceeding two  
19 ounces, tax \$.10; over two ounces, not exceeding three ounces,  
20 tax \$.16; over three ounces, not exceeding four ounces, tax  
21 \$.21; \$.06 additional tax for each ounce or fractional part  
22 thereof over four ounces.

23           "(10) CHEWING TOBACCO. Upon all chewing tobacco  
24 prepared in such manner as to be suitable for chewing only and  
25 not suitable for smoking as described and taxed in subdivision  
26 (9) of this subsection: \$.015 per ounce or fractional part  
27 thereof.

1           "(11) SNUFF. Upon each can or package of snuff  
2 weighing not more than five-eighths ounces, one cent tax; over  
3 five-eighths ounces and not exceeding one and five-eighths  
4 ounces, \$.02 tax; over one and five-eighths ounces and not  
5 exceeding two and one-half ounces, \$.04 tax; over two and  
6 one-half ounces and not exceeding five ounces (cans, packages,  
7 gullets), \$.06 tax; over three ounces and not exceeding five  
8 ounces (glasses, tumblers, bottles), seven cents tax; over  
9 five ounces and not exceeding six ounces, \$.08 tax; weighing  
10 over six ounces, an additional \$.12 for each ounce or  
11 fractional part thereof.

12           "(b) Whenever in this article reference is made to  
13 any manufactured tobacco products, manufactured or imported to  
14 sell at a certain price, as the basis for computing the tax,  
15 it is intended to mean the ordinary, customary or usual price  
16 paid by the consumer for such tobacco products taxable under  
17 this article.

18           "(c) Whenever in this article reference is made to  
19 any manufactured tobacco products on which the tax is based on  
20 weight, the weight as shown by the manufacturer or the federal  
21 internal revenue stamp shall apply.

22           "(d) When the retail or selling price is referred to  
23 in this article as the basis for computing the amount of  
24 stamps required on any article, it is intended to mean the  
25 retail or selling price of the articles before adding the  
26 amount of the tax.

1           "(e) When any articles or commodities subject to tax  
2 in this article are given as prizes on punch boards, shooting  
3 galleries, premiums, etc., the tax shall be based on the  
4 ordinary retail selling price of such articles.

5           "(f) The tax herein levied shall be paid to the  
6 state through the use of stamps as herein provided. However,  
7 every wholesaler, distributor, jobber, or retail dealer shall  
8 add the amount of the tax levied herein to the price of the  
9 tobacco or tobacco products sold, it being the purpose and  
10 intent of this provision that the tax levied is in fact a levy  
11 on the ultimate consumer or user with the wholesaler,  
12 distributor, jobber, or retail dealer acting merely as an  
13 agent of the state for the collection and payment of the tax  
14 to the state. Therefore, notwithstanding any exemptions from  
15 taxes which any such seller may now or hereafter enjoy under  
16 the Constitution or laws of this or any other state, or of the  
17 United States, he shall collect the tax imposed hereunder from  
18 the purchaser or consumer, and the amount of the tax shall  
19 constitute a debt from the purchaser or consumer to the seller  
20 until paid. It shall be unlawful for any person, firm,  
21 corporation, association, or copartnership to fail or refuse  
22 to add to the sales price and collect from the purchaser the  
23 amount of the tax to be added to the sales price and collected  
24 from the purchaser hereunder. Stamps in denominations to the  
25 amount of the tax or in denominations specified pursuant to  
26 subsection (g) of this section shall be affixed to the box or  
27 other container from or in which tobacco products taxed by

1 this section are normally sold at retail. The stamps shall be  
2 affixed in such a manner that their removal will require  
3 continued application of water or steam; and in case of  
4 cigars, cheroots, chewing tobacco and like manufactured  
5 tobacco products, where sales are made from the original  
6 container, the stamps shall be affixed to the box or container  
7 in such a way that the stamps shall be torn in two or  
8 mutilated when such containers or boxes are opened for the  
9 sale of the tobacco products. In the case of cigarettes,  
10 smoking tobacco, snuff and like products sold at retail in  
11 packages, the required amount of stamps to cover the tax shall  
12 be affixed to each individual package or container. All  
13 taxable tobaccos herein enumerated, when offered for sale,  
14 either at wholesale or retail, without having stamps affixed  
15 in the manner set out by this article, shall be subject to  
16 confiscation, in the manner provided for contraband goods as  
17 set out in this article.

18 "(g) The Commissioner of Revenue shall prepare and  
19 issue stamps in denominations for the amount of the tax  
20 imposed by this article provided that if the commissioner  
21 determines that it is not economical for the state to have a  
22 stamp prepared and issued for one or more particular types of  
23 packages of tobacco products, then he may by regulation  
24 prescribe the use of a stamp in a denomination other than for  
25 the amount of the tax imposed with the difference between the  
26 amount of tax actually imposed and the amount of tax  
27 denominated by the stamp paid with the use of a monthly

1 report; or he may require a monthly report without use of a  
2 stamp to report the amount of taxes due.

3 "(h) The increases levied by this section shall be  
4 exclusive and shall be in lieu of any other or additional  
5 local taxes and/or license fees, county or municipal, imposed  
6 on the sale or use of cigarettes and/or other tobacco  
7 products. Notwithstanding the foregoing, an act of the  
8 Legislature or an ordinance or resolution by a taxing  
9 authority passed or enacted on or before May 18, 2004,  
10 imposing a local tax and/or license fee shall remain  
11 operative, but no additional local tax and/or license fee may  
12 thereafter be levied on the sale of cigarettes and/or other  
13 tobacco products.

14 "(i) Local taxes and/or license fees, county or  
15 municipal, imposed on the sale or use of cigarettes shall be  
16 paid to the local government through the use of stamps affixed  
17 to the product as provided herein for the state tax. Provided,  
18 however, this requirement shall not be interpreted to require  
19 the Department of Revenue to prepare all stamps or to collect  
20 all local taxes. Local governments may contract with another  
21 entity to collect their local cigarette tax but all local  
22 taxes must be collected as provided herein."

23 Section 2. Notwithstanding any other provision of  
24 Chapter 25, Title 40, Code of Alabama 1975, all revenue  
25 received from the increased tax levied by this amendatory act  
26 shall be deposited into the State General Fund and is hereby  
27 allocated as follows:

1 (1) 44.5 percent to the Medicaid program.

2 (2) 44.5 percent to the Children First Trust Fund.

3 (3) 5 percent to the University of Alabama at  
4 Birmingham Comprehensive Cancer Center.

5 (4) 5 percent to the Mitchell Cancer Center of the  
6 University of South Alabama.

7 (5) 1 percent to the Alabama Department of Public  
8 Health for tobacco cessation.

9 Section 3. This act shall become effective on the  
10 first day of the third month following its passage and  
11 approval by the Governor, or its otherwise becoming law.