

1 HB572  
2 168543-1  
3 By Representative Todd  
4 RFD: Ways and Means General Fund  
5 First Read: 30-APR-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.

13  
14 A BILL  
15 TO BE ENTITLED  
16 AN ACT

17  
18 To amend Section 40-25-2, Code of Alabama 1975, as  
19 amended by Act 2014 (2014 Regular Session) relating to the  
20 state tax on tobacco products, to increase the tax on  
21 cigarettes and provide for its distribution.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25 "§40-25-2.

26 "(a) In addition to all other taxes of every kind  
27 now imposed by law, every person, firm, corporation, club, or

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

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

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

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

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

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

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

16           "(7) SNUFF. Upon each can or package of snuff  
17 weighing not more than five-eighths ounces, one cent tax; over  
18 five-eighths ounces and not exceeding one and five-eighths  
19 ounces, \$.02 tax; over one and five-eighths ounces and not  
20 exceeding two and one-half ounces, \$.04 tax; over two and  
21 one-half ounces and not exceeding five ounces (cans, packages,  
22 gullets), \$.06 tax; over three ounces and not exceeding five  
23 ounces (glasses, tumblers, bottles), seven cents tax; over  
24 five ounces and not exceeding six ounces, \$.08 tax; weighing  
25 over six ounces, an additional \$.12 for each ounce or  
26 fractional part thereof.

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

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

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

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

24 "(e) The Commissioner of Revenue shall prepare and  
25 issue stamps in denominations for the amount of the tax  
26 imposed by this article provided that if the commissioner  
27 determines that it is not economical for the state to have a

1 stamp prepared and issued for one or more particular types of  
2 packages of tobacco products, then the commissioner may by  
3 regulation prescribe the use of a stamp in a denomination  
4 other than for the amount of the tax imposed with the  
5 difference between the amount of tax actually imposed and the  
6 amount of tax denominated by the stamp paid with the use of a  
7 monthly report; or may require a monthly report without use of  
8 a stamp to report the amount of taxes due.

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

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

1       entity to collect their local cigarette tax but all local  
2       taxes must be collected as provided herein."

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

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