

ACT No. 94

2015 Regular Session

HOUSE BILL NO. 119

BY REPRESENTATIVE RITCHIE

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AN ACT

To amend and reenact R.S. 47:841(introductory paragraph) and (F) and 842(20), (21), and (22) and to enact R.S. 47:841(B)(6) and (G), 841.2, and 842(23), relative to the tobacco tax; to authorize an additional tax to be levied on cigarettes; to establish the Tobacco Tax Medicaid Match Fund as a special treasury fund; to provide for the deposit, use, and investment of the monies in the fund; to provide with respect to the application of the tax on cigarettes in the inventory of certain retail and wholesale dealers; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:841(introductory paragraph) and (F) and 842(20), (21), and (22) are hereby amended and reenacted and R.S. 47:841(B)(6) and (G), 841.2, and 842(23) are hereby enacted to read as follows:

§841. Imposition of tax

There is hereby levied a tax upon the sale, use, consumption, handling, or distribution of all cigars, cigarettes, ~~and~~ smoking and smokeless tobacco, and vapor products and electronic cigarettes as defined herein, within the state of Louisiana, according to the classification and rates hereinafter set forth:

* * *

B. Cigarettes.

* * *

1 (6) In addition to the tax levied in Paragraphs (1), (2), (4), and (5) of this
 2 Subsection and in Paragraph (3) of this Subsection as continued in effect by Article
 3 VII, Section 4.1 of the Constitution of Louisiana, there is hereby levied an additional
 4 tax of two and ten-twentieths of one cent per cigarette.

* * *

6 F. Vapor products and electronic cigarettes. Upon vapor products and
 7 electronic cigarettes, a tax of five cents per milliliter of consumable nicotine liquid
 8 solution or other material containing nicotine that is depleted as a vapor product is
 9 used.

10 ~~F.(1)~~ (G)(1) The Tobacco Regulation Enforcement Fund, hereinafter
 11 referred to as the "fund", is hereby established in the state treasury as a special fund
 12 to provide support for enforcement activities of the office of alcohol and tobacco
 13 control. The source of monies for the fund shall be a portion of the avails of the state
 14 tax on cigarettes as provided herein.

15 (2) After compliance with the requirements of Article VII, Section 9(B) of
 16 the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
 17 and after a sufficient amount is allocated from that fund to pay all of the obligations
 18 secured by the full faith and credit of the state which become due and payable within
 19 any fiscal year, the state treasurer shall annually deposit into the fund an amount
 20 equal to the avails of one-quarter of one-twentieth of one cent per cigarette from the
 21 tax on cigarettes imposed pursuant to this Section. Monies in the fund shall be
 22 subject to appropriation by the legislature and then only to the office of alcohol and
 23 tobacco control for purposes of tobacco regulation enforcement. All unexpended and
 24 unencumbered monies in the fund shall be invested by the state treasurer in the same
 25 manner as monies in the state general fund, and all earnings on investment of the
 26 fund shall be deposited into the fund.

27 §841.2. Tobacco Tax Medicaid Match Fund

28 A. There is hereby created as a special fund within the state treasury the
 29 "Tobacco Tax Medicaid Match Fund", hereinafter referred to as the "fund". After
 30 satisfying the requirements of Article VII, Section 9(B) of the Constitution of

1 Louisiana relative to the Bond Security and Redemption Fund and after a sufficient
 2 amount is allocated from that fund to pay all of the obligations secured by the full
 3 faith and credit of the state which becomes due and payable within any fiscal year,
 4 the state treasurer shall annually deposit into the fund an amount equal to the avails
 5 of the tax imposed under the provisions of R.S. 47:841(B)(6).

6 B. All unexpended and unencumbered monies in the fund at the end of the
 7 fiscal year shall remain in the fund. The monies in the fund shall be invested by the
 8 state treasurer in the same manner as monies in the state general fund, and all
 9 earnings on investment of the fund shall be deposited into the fund. Monies
 10 appropriated from the fund shall be used solely as provided in Subsection C of this
 11 Section.

12 C. Monies in the fund shall be appropriated to the Department of Health and
 13 Hospitals for the medical assistance program administered by the state in accordance
 14 with Title XIX of the Social Security Act, also known as Medicaid.

15 D. No amount appropriated as required in this Section shall displace, replace,
 16 or supplant appropriations from the state general fund for the Department of Health
 17 and Hospitals. This shall mean that no appropriation for any fiscal year from the
 18 Tobacco Tax Medicaid Match Fund shall be made for any purpose for which a
 19 general fund appropriation was made in the previous year unless the total
 20 appropriations for the fiscal year from the state general fund for such purpose exceed
 21 general fund appropriations for the previous year.

22 §842. Definitions

23 As used in this Chapter, the following terms have the meaning ascribed to
 24 them in this Section, unless the context clearly indicates otherwise:

25 * * *

26 (20) "Vapor products" shall mean any noncombustible product containing
 27 nicotine or other substances that employ a heating element, power source, electronic
 28 circuit, or other electronic, chemical or mechanical means, regardless of shape or
 29 size, used to produce vapor from nicotine in a solution or other form. "Vapor
 30 products" include any electronic cigarette, electronic cigar, electronic cigarillo,

1 electronic pipe, or similar product or device and any vapor cartridge or other
2 container of nicotine in a solution or other form that is intended to be used with or
3 in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or
4 similar product or device.

5 ~~(20)~~ (21) "Vending machine" means any receptacle used to store taxable
6 articles which vend such articles automatically.

7 ~~(21)~~ (22) "Vending machine operator" means any person who controls the
8 use of one or more vending machines as to the supply of cigarettes or any tobacco
9 products in the machine or the receipts from cigarettes vended through such
10 machines.

11 ~~(22)~~ (23) "Wholesale dealers" are those dealers whose principal business is
12 that of a wholesaler, and who sells cigarettes, cigars, and smoking tobacco to retail
13 dealers for purpose of resale; and who is a bona fide wholesaler and fifty percent of
14 whose total tobacco sales are to retail stores other than their own or their subsidiaries
15 within Louisiana. Wholesale dealer shall include any person in the state who
16 acquires cigarettes solely for the purpose of resale in vending machines, provided
17 such person services fifty or more cigarette vending machines on selling locations
18 in Louisiana other than their own. Wholesale dealers shall include those dealers
19 engaged in receiving bulk smoking tobacco for purposes of blending and including
20 those Louisiana dealers who were affixing cigarette and tobacco stamps as of
21 January 1, 1974.

22 Section 2. The increase in the cigarette tax imposed by this Act shall apply to all
23 cigarette products purchased by retail dealers and wholesale dealers on and after July 1,
24 2015, and shall not apply to stamped products and unused tax stamps in the possession of
25 wholesale dealers prior to July 1, 2015. All wholesale and retail dealers shall file an
26 inventory with the secretary of the Department of Revenue of all cigarettes on hand prior to
27 July 1, 2015. The inventory shall be filed by August 1, 2015. The secretary shall have
28 authority to adopt rules and regulations as to the filing of the inventory report.

1 Section 3. The increase in the cigarette tax levied by the provisions of this Act shall
2 be effective for the period beginning on July 1, 2015.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____