MISSISSIPPI LEGISLATURE REGULAR SESSION 2017

By: Representative Smith To: Ways and Means

HOUSE BILL NO. 1721

AN ACT TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972, TO INCREASE THE EXCISE TAX ON CIGARETTES; TO BRING FORWARD SECTION 27-70-5, MISSISSIPPI CODE OF 1972, WHICH IMPOSES A TOBACCO EQUITY TAX IMPOSED ON CIGARETTES MADE BY NONSETTLING MANUFACTURERS, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-69-13, Mississippi Code of 1972, is amended as follows:

27-69-13. There is hereby imposed, levied and assessed, to be collected and paid as hereinafter provided in this chapter, an excise tax on each person or dealer in cigarettes, cigars, stogies, snuff, chewing tobacco, and smoking tobacco, or substitutes therefor, upon the sale, use, consumption, handling or distribution in the State of Mississippi, as follows:

(a) On cigarettes, the rate of tax shall be *** * *** Eight and Four-tenths Cents (8.4¢) on each cigarette sold with a maximum length of one hundred twenty (120) millimeters; any cigarette in excess of this length shall be taxed as if it were two (2) or more cigarettes. Provided, however, if the federal tax rate on

cigarettes in effect on June 1, 1985, is reduced, then the rate as provided herein shall be increased by the amount of the federal tax reduction. Such tax increase shall take effect on the first day of the month following the effective date of such reduction in the federal tax rate.

(b) On cigars, cheroots, stogies, snuff, chewing and smoking tobacco and all other tobacco products except cigarettes, the rate of tax shall be fifteen percent (15%) of the manufacturer's list price.

No stamp evidencing the tax herein levied on cigarettes shall be of a denomination of less than One Cent (1¢), and whenever the tax computed at the rates herein prescribed on cigarettes shall be a specified amount, plus a fractional part of One Cent (1¢), the package shall be stamped for the next full cent; however, the additional face value of stamps purchased to comply with taxes imposed by this section after June 1, 1985, shall be subject to a four percent (4%) discount or compensation to dealers for their services rather than the eight percent (8%) discount or compensation allowed by Section 27-69-31.

Every wholesaler shall purchase stamps as provided in this chapter, and affix the same to all packages of cigarettes handled by him as herein provided.

The above tax is levied upon the sale, use, gift, possession or consumption of tobacco within the State of Mississippi, and the impact of the tax levied by this chapter is hereby declared to be

on the vendee, user, consumer or possessor of tobacco in this state; and when said tax is paid by any other person, such payment shall be considered as an advance payment and shall thereafter be added to the price of the tobacco and recovered from the ultimate consumer or user.

SECTION 2. Section 27-70-5, Mississippi Code of 1972, is brought forward as follows:

27-70-5. (1) (a) In addition to the tax imposed under Section 27-69-13, and except as provided by subsection (2) of this section, there is imposed a tobacco equity tax in the amount of One and Thirty-five One Hundredths Cent ($0.0135) per cigarette on all cigarettes subject to the tax imposed under Section 27-69-13.

(b) On July 1 of each year, the tax prescribed by subsection (1) of this section shall increase by the greater of:

(i) Three percent (3%); or

(ii) The percentage increase in the most recent annual revised Consumer Price Index for all Urban Consumers, as published by the Federal Bureau of Labor Statistics of the United States Department of Labor.

(c) The revenue collected from the tax imposed by this section shall be deposited into the State General Fund.

(d) The cigarettes manufactured by any manufacturer which is a party to the tobacco settlement agreement shall be exempt from the imposition of the tobacco equity tax provided for herein.

(2) The tax imposed by this chapter does not apply to cigarettes that are sold, purchased or otherwise distributed in this state for sale outside of this state. A person may not transport or cause to be transported from this state such cigarettes for retail sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or by paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold; however, a person shall not be required to affix a tax stamp of another state or pay the excise tax of another state prior to transporting the cigarettes out of this state if the other state prohibits that action or if the cigarettes are being sold to a wholesaler licensed by that state.

(3) The tax imposed by this chapter is in addition to any other privilege, license, fee, assessment or tax required or imposed by state law, including, but not limited to, the taxes levied by Section 27-69-13.

(4) The tax imposed by this chapter is imposed, levied and assessed on each distributor of cigarettes. The tax shall be due and payable on or before the fifteenth day of the month next succeeding the month in which the stamp is required to be affixed to the cigarettes under the Tobacco Tax Law. The distributor shall make a return showing the number of such cigarettes, the brand family, and the manufacturer. The return shall also include the quantity of cigarettes, by brand family, transported or caused

to be transported outside of Mississippi in the preceding month as well as the name and address of the recipient of the cigarettes transported outside of Mississippi.

(5) The distributor is eligible for a credit if cigarettes for which the distributor had previously paid the tax under this chapter were returned to the distributor.

SECTION 3. This act shall take effect and be in force from and after July 1, 2017.