**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑21‑625 SO AS TO IMPOSE AN ADDITIONAL TAX ON CIGARETTES EQUAL TO 1.25 CENTS ON EACH CIGARETTE, TO PROVIDE A DEFINITION OF “CIGARETTE”, TO CREATE THE MEDICAID RESERVE ACCOUNT OF THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES AND PROVIDE ITS SOURCES OF REVENUE INCLUDING THE REVENUES OF THE TAX IMPOSED PURSUANT TO THIS ACT AND TO PROVIDE FOR THE USES OF FUND REVENUES, TO REQUIRE A BALANCE IN THIS FUND EQUAL TO ONE AND ONE-HALF PERCENT OF THE TOTAL APPROPRIATIONS AUTHORIZED FOR THE MEDICAID PROGRAM FOR THE CURRENT FISCAL YEAR, AND TO PROVIDE THAT REVENUES OF THIS ADDITIONAL TAX IN EXCESS OF AMOUNTS NECESSARY TO RESTORE AND MAINTAIN THE MEDICAID RESERVE ACCOUNT AT THE REQUIRED LEVEL MUST FIRST BE CREDITED TO THE GENERAL RESERVE FUND AND THEREAFTER TO THE GENERAL FUND OF THE STATE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 21, Tile 12 of the 1976 Code is amended by adding:

“Section 12‑21‑625. (A) In addition to the tax imposed pursuant to Section 12‑21‑620(1), there is imposed an additional license tax equal to 1.25 cents on each cigarette made of tobacco or any substitute for tobacco.

(B) As used in this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1) of this subsection.

(C) Notwithstanding another provision of law providing for the crediting of license tax revenues, the revenue of the tax imposed pursuant to this section must first be used and is hereby appropriated to restore and maintain a balance in the Medicaid Reserve Account of the South Carolina Department of Health and Human Services as provided pursuant to subsection (D) of this section.

(D) There is created in the State Treasury the Medicaid Reserve Fund (Fund), which is separate and distinct from the general fund of the State and all other funds. Recouped refunds and identified program overpayments must be credited to the Fund. In addition, the Fund balance in Subfund 3762 must be transferred to the newly created Fund. Any balance in the Fund at the end of the prior fiscal year must be carried forward into the current fiscal year. The Department of Health and Human Services shall also deposit any prior year program refunds or overpayments, excluding pharmacy rebates, into the Fund. The department may use the Fund to offset operating deficits or audit disallowances from the Medicaid program. After aggregate disbursements from the Fund in a fiscal year equal five hundred thousand dollars, all additional disbursements in that year must be approved by the State Budget and Control Board. At any time, the balance of the Fund must be an amount equal to one and one-half percent of the total appropriations authorization for the Medicaid program the current fiscal year. Revenue in excess of that balance must first be credited to the General Reserve Fund to the extent the General Reserve Fund needs replenishing, and after the General Reserve Fund is fully replenished, to the general fund of the State.”

SECTION 2. This act takes effect upon approval by the Governor and applies for cigarettes received by wholesalers beginning on the first day of the month following the month in which this act is approved by the Governor.

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