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Indicates New Matter

AMENDED--NOT PRINTED IN THE HOUSE

Amt. No.10A (Doc. Path council\ms\7821ahb10)

April 21, 2010

**H. 3584**

Introduced by Reps. Harrell, Bingham, Cooper, Harrison, Owens, Sandifer, White, Crawford, Bannister, Huggins, Sottile, Spires, Herbkersman, Loftis, Bowen, Erickson, Daning, Hardwick, J.R. Smith, Pinson, Toole, Brady, Clemmons, Edge, Forrester, Frye, Gullick, Hearn, Hiott, Horne, Kelly, Littlejohn, Long, E.H. Pitts, Rice, Skelton, D.C. Smith, G.M. Smith, Whitmire, Wylie, Gunn, Limehouse, Willis, J.E. Smith and Bales

S. Printed 4/14/10--S.

Read the first time April 14, 2009.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑21‑625 SO AS TO IMPOSE A SURTAX ON EACH CIGARETTE IN AN AMOUNT OF TWO AND ONE‑HALF CENTS, PROVIDE FOR THE CREDITING OF THE REVENUE FROM THE SURTAX TO THE SMOKING PREVENTION AND CESSATION TRUST FUND, THE DEPARTMENT OF AGRICULTURE FOR MARKETING AND BRANDING STATE‑GROWN CROPS AND TO ASSIST IN RELIEF FROM NATURAL DISASTERS AFFECTING STATE-GROWN CROPS, THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE TRUST FUND, AND THE PALMETTO HEALTH CARE SAFETY NET TRUST FUND, PROVIDE FOR REPORTING, PAYMENT, COLLECTION, AND ENFORCEMENT OF THE SURTAX, AND DEFINE “CIGARETTE”; TO AMEND SECTION 12‑21‑620, RELATING TO THE ORIGINAL CIGARETTE TAX, SO AS TO CONFORM DEFINITIONS; BY ADDING SECTION 11‑11‑230 SO AS TO CREATE AND ESTABLISH IN THE STATE TREASURY THE SMOKING PREVENTION AND CESSATION TRUST FUND, THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE TRUST FUND, AND THE PALMETTO HEALTH CARE SAFETY NET TRUST FUND, ALL SO AS TO RECEIVE DEPOSITS OF THE REVENUES FROM THE CIGARETTE SURTAX AS SPECIFIED; BY ADDING CHAPTER 62 TO TITLE 38 SO AS TO CREATE AND ESTABLISH THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE PLAN, PROVIDING FOR A PREMIUM CREDIT NOT TO EXCEED THREE THOUSAND DOLLARS TO AN ELIGIBLE INDIVIDUAL OR EMPLOYER TOWARD THE PURCHASE OF A QUALIFYING HEALTH INSURANCE PLAN, DESCRIBING ELIGIBILITY REQUIREMENTS AND THE CERTIFICATION PROCESS, DEFINING THE QUALIFYING INDIVIDUALLY OR EMPLOYER‑SPONSORED INSURANCE PLANS, AND PROVIDING FOR ADMINISTRATION AND REPORTING BY THE DEPARTMENT OF INSURANCE; AND BY ADDING SECTION 38‑74‑75 SO AS TO CREATE THE PALMETTO HEALTH CARE SAFETY NET PROGRAM, ESTABLISHING A SELF‑SUSTAINING AND FINANCIALLY INDEPENDENT PORTION OF THE PREMIUM ASSISTANCE POOL, AND PROVIDING FOR ELIGIBILITY REQUIREMENTS, ADMINISTRATION, AND REPORTING BY THE DEPARTMENT OF INSURANCE AND OPERATING GUIDELINES.

Amend Title To Conform

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

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

“Section 12‑21‑625. (A) Effective July 1, 2010, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to two and one‑half cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited as follows:

(1) five million dollars annually to the Medical University of South Carolina Hollings Cancer Center to be used for tobacco‑related cancer research;

(2) five million dollars annually to the Smoking Prevention and Cessation Trust Fund created pursuant to Section 11‑11‑230(A);

(3) the remaining annual revenue shall be deposited in the South Carolina Medicaid Reserve Fund created pursuant to Section 11‑11‑230(B).

(C) For all purposes of reporting, payment, collection, and enforcement, the surtax imposed by this section is deemed to be imposed pursuant to Section 12‑21‑620.

(D) For purposes of this section, ‘cigarette’ means:

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

(2) any roll for smoking containing tobacco or any substitute for 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).”

SECTION 2. Section 12‑21‑620 of the 1976 Code is amended to read:

“Section 12‑21‑620. (A) There shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in this section the following amounts:

(1) upon all cigarettes made of tobacco or any substitute for tobacco, three and one‑half mills on each cigarette;

(2) upon all tobacco products, as defined in Section 12‑21‑800, five percent of the manufacturer’s price.

Manufacturer’s price as used in this section is the established price at which a manufacturer sells to a wholesaler.

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

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

(2) any roll for smoking containing tobacco or any substitute for 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.”

SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑230. (A) There is created in the State Treasury the Smoking Prevention and Cessation Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer five million dollars annually to the Department of Health and Environmental Control to administer a statewide smoking prevention and cessation program. The funds must not be appropriated for any other purpose and the Department of Health and Environmental Control may not use the funds for any purposes other than administering a statewide smoking prevention and cessation program.

(B) There is created the South Carolina Medicaid Reserve Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The fund may only be appropriated for the restoration and maintenance of effort of the Medicaid program as structured at the time this act takes effect, and must not be appropriated for any other purpose. The fund must not be used to expand any component of the existing Medicaid program.”

SECTION 4. Chapter 49, Title 11 of the 1976 Code is amended by adding:

“Section 11-49-55. Notwithstanding any other provision of law, and to the extent that funds are available and not otherwise committed or restricted by law or by contract, from the trust fund created pursuant to this chapter, the State Treasurer shall direct one million dollars annually for five fiscal years beginning with the first fiscal year in which funds are available, to the Department of Agriculture to cause the marketing and branding of South Carolina agricultural crops or produce as being grown in South Carolina when offered for sale in retail establishments and to assist in relief from natural disasters affecting state‑grown crops.”

SECTION 5. Except where otherwise provided, this act takes effect upon approval by the Governor.

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