**South Carolina General Assembly**

118th Session, 2009-2010

**A170, R193, H3584**

**STATUS INFORMATION**

General Bill

Sponsors: 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

Document Path: l:\council\bills\bbm\9158mm09.docx

Companion/Similar bill(s): 3470, 3486

Introduced in the House on February 19, 2009

Introduced in the Senate on April 14, 2009

Last Amended on April 21, 2010

Passed by the General Assembly on May 5, 2010

Governor's Action: May 11, 2010, Vetoed

Legislative veto action(s): Veto overridden

Summary: Cigarette tax

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/19/2009 House Introduced and read first time [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C02-19-09.docx)‑6

 2/19/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C02-19-09.docx)‑6

 2/24/2009 House Member(s) request name added as sponsor: Gunn, Limehouse

 3/5/2009 House Member(s) request name added as sponsor: Willis

 3/31/2009 House Member(s) request name added as sponsor: J.E.Smith

 3/31/2009 House Committee report: Favorable with amendment **Ways and Means** [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C03-31-09.docx)‑15

 4/1/2009 House Requests for debate‑Rep(s). Cooper, Rice, Edge, Millwood, Crawford, Wylie, Kelly, and Sellers [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C04-01-09.docx)‑66

 4/2/2009 House Member(s) request name added as sponsor: Bales

 4/2/2009 House Amended [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C04-02-09.docx)‑61

 4/2/2009 House Read second time [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C04-02-09.docx)‑79

 4/2/2009 House Roll call Yeas‑97 Nays‑22 [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C04-02-09.docx)‑79

 4/2/2009 House Unanimous consent for third reading on next legislative day

 4/2/2009 Scrivener's error corrected

 4/2/2009 House Motion to reconsider tabled [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C04-02-09.docx)‑79

 4/2/2009 House Unanimous consent for third reading on next legislative day [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C04-02-09.docx)‑81

 4/3/2009 House Read third time and sent to Senate

 4/14/2009 Senate Introduced and read first time [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C04-14-09.docx)‑20

 4/14/2009 Senate Referred to Committee on **Finance** [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C04-14-09.docx)‑20

 5/7/2009 Senate Committee report: Favorable with amendment **Finance** [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C05-07-09.docx)‑17

 3/25/2010 Senate Special order, set for March 25, 2010 [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C03-25-10.docx)‑277

 3/31/2010 Senate Committee Amendment Amended and Adopted [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C03-31-10.docx)‑23

 3/31/2010 Senate Amended [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C03-31-10.docx)‑23

 3/31/2010 Senate Read second time [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C03-31-10.docx)‑23

 4/14/2010 Senate Amended [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C04-14-10.docx)‑113

 4/14/2010 Senate Read third time and returned to House with amendments [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C04-14-10.docx)‑113

 4/21/2010 House Debate adjourned [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-21-10.docx)‑24

 4/21/2010 House Senate amendment amended [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-21-10.docx)‑54

 4/21/2010 House Returned to Senate with amendments [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-21-10.docx)‑54

 5/4/2010 Senate Concurred in amendment [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-04-10.docx)‑12

 5/4/2010 Senate Motion to Reconsider Pending [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-04-10.docx)‑12

 5/5/2010 Senate Concurred in House amendment and enrolled [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-05-10.docx)‑32

 5/6/2010 Ratified R 193

 5/11/2010 Vetoed by Governor

 5/12/2010 House Veto overridden by originating body Yeas‑90 Nays‑29 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-12-10.docx)‑25

 5/13/2010 Senate Veto overridden Yeas‑33 Nays‑13 [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-13-10.docx)‑29

 5/26/2010 Effective date See Act for Effective Date

 6/9/2010 Act No. 170

**VERSIONS OF THIS BILL**

[2/19/2009](file:///p%3A%5Cpprever%5C2009-10%5C3584_20090219.docx)

[3/31/2009](file:///p%3A%5Cpprever%5C2009-10%5C3584_20090331.docx)

[4/2/2009](file:///p%3A%5Cpprever%5C2009-10%5C3584_20090402.docx)

[4/2/2009-A](file:///p%3A%5Cpprever%5C2009-10%5C3584_20090402A.docx)

[5/7/2009](file:///p%3A%5Cpprever%5C2009-10%5C3584_20090507.docx)

[3/31/2010](file:///p%3A%5Cpprever%5C2009-10%5C3584_20100331.docx)

[4/14/2010](file:///p%3A%5Cpprever%5C2009-10%5C3584_20100414.docx)

[4/14/2010-A](file:///p%3A%5Cpprever%5C2009-10%5C3584_20100414A.docx)

[4/21/2010](file:///p%3A%5Cpprever%5C2009-10%5C3584_20100421.docx)

[4/29/2010](file:///p%3A%5Cpprever%5C2009-10%5C3584_20100429.docx)

(A170, R193, H3584)

**AN ACT 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, TO PROVIDE FOR THE CREDITING OF THE REVENUE FROM THE SURTAX TO THE MEDICAL UNIVERSITY OF SOUTH CAROLINA HOLLINGS CANCER CENTER FOR TOBACCO‑RELATED CANCER RESEARCH, THE SMOKING PREVENTION AND CESSATION TRUST FUND, AND THE MEDICAID RESERVE FUND, TO PROVIDE FOR REPORTING, PAYMENT, COLLECTION, AND ENFORCEMENT OF THE SURTAX, AND TO DEFINE “CIGARETTE”; TO AMEND SECTION 12‑21‑620, RELATING TO THE ORIGINAL CIGARETTE TAX, SO AS TO INCLUDE THE DEFINITION OF “CIGARETTE”; BY ADDING SECTION 11‑11‑230 SO AS TO CREATE AND ESTABLISH THE SMOKING PREVENTION AND CESSATION TRUST FUND AND THE MEDICAID RESERVE FUND, BOTH SO AS TO RECEIVE DEPOSITS OF THE REVENUES FROM THE CIGARETTE SURTAX AS SPECIFIED; AND BY ADDING SECTION 11‑49‑55 SO AS TO PROVIDE THAT IF FUNDS FROM THE SMOKING PREVENTION AND CESSATION TRUST FUND ARE AVAILABLE, AND NOT OTHERWISE COMMITTED, THE DEPARTMENT OF AGRICULTURE SHALL RECEIVE ONE MILLION DOLLARS ANNUALLY FOR FIVE YEARS FOR MARKETING AND BRANDING STATE‑GROWN CROPS AND TO ASSIST IN RELIEF FROM NATURAL DISASTERS AFFECTING STATE‑GROWN CROPS.**

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

**Cigarette surtax imposed; distribution of revenue; “cigarette” defined**

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).”

**“Cigarette” defined**

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.”

**Smoking Prevention and Cessation Trust Fund created; Medicaid Reserve Fund created**

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 only may 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.”

**Funds to Department of Agriculture for marketing and branding state‑grown crops and disaster relief for state‑grown crops**

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.”

**Time effective**

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

Ratified the 6th day of May, 2010.

Vetoed by the Governor -- 5/11/2010.

Veto overridden by House -- 5/12/2010.

Veto overridden by Senate -- 5/13/2010.

\_\_\_\_\_\_\_\_\_\_