



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2545

Introduced 2/15/2008, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.708 new	
30 ILCS 105/6z-73 new	
35 ILCS 130/2	from Ch. 120, par. 453.2
35 ILCS 135/2	from Ch. 120, par. 453.32
55 ILCS 5/5-1008.7 new	

Amends the Cigarette Tax Act and the Cigarette Use Tax Act. Increases the taxes under the Acts by an additional 45 mills per cigarette. Requires that the proceeds of the additional taxes be paid into the Tax Compliance and Enforcement Fund, the Healthcare Provider Relief Fund, and the Pension Stabilization Fund. Amends the State Finance Act to create the Healthcare Provider Relief Fund for use by Department of Healthcare and Family Services only for the purpose of making reimbursements to providers of goods or services under certain programs. Amends the Counties Code. Authorizes counties to impose an occupation tax on cigarettes at a rate of 50 mills per cigarette. Sets forth procedures for the collection and administration of the tax. Effective immediately.

LRB095 18241 BDD 46178 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Sections 5.708 and 6z-73 as follows:

6 (30 ILCS 105/5.708 new)

7 Sec. 5.708. The Healthcare Provider Relief Fund.

8 (30 ILCS 105/6z-73 new)

9 Sec. 6z-73. The Healthcare Provider Relief Fund. The
10 Healthcare Provider Relief Fund is created as a special fund in
11 the State treasury. Moneys in the Fund may be used, subject to
12 appropriation, by Department of Healthcare and Family Services
13 only for the purpose of making reimbursements to providers of
14 goods or services under the medical assistance program under
15 Article V of the Illinois Public Aid Code, the Children's
16 Health Insurance Program Act, the Covering All Kids Health
17 Insurance Act, and the pharmaceutical assistance program under
18 the Senior Citizens and Disabled Persons Property Tax Relief
19 and Pharmaceutical Assistance Act. The Department shall make
20 all such reimbursements from the Fund in the order that claims
21 for those reimbursements were received by the Department.

22 Any interest earnings that are attributable to moneys in

1 the Fund must be deposited into the Fund.

2 Section 10. The Cigarette Tax Act is amended by changing
3 Section 2 as follows:

4 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

5 Sec. 2. Tax imposed; rate; collection, payment, and
6 distribution; discount.

7 (a) A tax is imposed upon any person engaged in business as
8 a retailer of cigarettes in this State at the rate of 5 1/2
9 mills per cigarette sold, or otherwise disposed of in the
10 course of such business in this State. In addition to any other
11 tax imposed by this Act, a tax is imposed upon any person
12 engaged in business as a retailer of cigarettes in this State
13 at a rate of 1/2 mill per cigarette sold or otherwise disposed
14 of in the course of such business in this State on and after
15 January 1, 1947, and shall be paid into the Metropolitan Fair
16 and Exposition Authority Reconstruction Fund or as otherwise
17 provided in Section 29. On and after December 1, 1985, in
18 addition to any other tax imposed by this Act, a tax is imposed
19 upon any person engaged in business as a retailer of cigarettes
20 in this State at a rate of 4 mills per cigarette sold or
21 otherwise disposed of in the course of such business in this
22 State. Of the additional tax imposed by this amendatory Act of
23 1985, \$9,000,000 of the moneys received by the Department of
24 Revenue pursuant to this Act shall be paid each month into the

1 Common School Fund. On and after the effective date of this
2 amendatory Act of 1989, in addition to any other tax imposed by
3 this Act, a tax is imposed upon any person engaged in business
4 as a retailer of cigarettes at the rate of 5 mills per
5 cigarette sold or otherwise disposed of in the course of such
6 business in this State. On and after the effective date of this
7 amendatory Act of 1993, in addition to any other tax imposed by
8 this Act, a tax is imposed upon any person engaged in business
9 as a retailer of cigarettes at the rate of 7 mills per
10 cigarette sold or otherwise disposed of in the course of such
11 business in this State. On and after December 15, 1997, in
12 addition to any other tax imposed by this Act, a tax is imposed
13 upon any person engaged in business as a retailer of cigarettes
14 at the rate of 7 mills per cigarette sold or otherwise disposed
15 of in the course of such business of this State. All of the
16 moneys received by the Department of Revenue pursuant to this
17 Act and the Cigarette Use Tax Act from the additional taxes
18 imposed by this amendatory Act of 1997, shall be paid each
19 month into the Common School Fund. On and after July 1, 2002,
20 in addition to any other tax imposed by this Act, a tax is
21 imposed upon any person engaged in business as a retailer of
22 cigarettes at the rate of 20.0 mills per cigarette sold or
23 otherwise disposed of in the course of such business in this
24 State. Beginning on September 1, 2008 in addition to any other
25 tax imposed by this Act, a tax is imposed upon any person
26 engaged in business as a retailer of cigarettes at the rate of

1 45 mills per cigarette sold or otherwise disposed of in the
2 course of such business in this State. Of the moneys received
3 by the Department of Revenue under this Act and the Cigarette
4 Use Tax Act from the additional taxes imposed by this
5 amendatory Act of the 95th General Assembly: (i) 0.57% must be
6 paid each month into the Tax Compliance and Enforcement Fund
7 for the purpose of the enforcement of this Act and of the
8 Cigarette Use Tax Act; (ii) 28.57% must be paid each month into
9 the Healthcare Provider Relief Fund; and (iii) 70.86% must be
10 paid each month into the Pension Stabilization Fund. The
11 payment of such taxes shall be evidenced by a stamp affixed to
12 each original package of cigarettes, or an authorized
13 substitute for such stamp imprinted on each original package of
14 such cigarettes underneath the sealed transparent outside
15 wrapper of such original package, as hereinafter provided.
16 However, such taxes are not imposed upon any activity in such
17 business in interstate commerce or otherwise, which activity
18 may not under the Constitution and statutes of the United
19 States be made the subject of taxation by this State.

20 Beginning on the effective date of this amendatory Act of
21 the 92nd General Assembly and through June 30, 2006, all of the
22 moneys received by the Department of Revenue pursuant to this
23 Act and the Cigarette Use Tax Act, other than the moneys that
24 are dedicated to the Common School Fund, shall be distributed
25 each month as follows: first, there shall be paid into the
26 General Revenue Fund an amount which, when added to the amount

1 paid into the Common School Fund for that month, equals
2 \$33,300,000, except that in the month of August of 2004, this
3 amount shall equal \$83,300,000; then, from the moneys
4 remaining, if any amounts required to be paid into the General
5 Revenue Fund in previous months remain unpaid, those amounts
6 shall be paid into the General Revenue Fund; then, beginning on
7 April 1, 2003, from the moneys remaining, \$5,000,000 per month
8 shall be paid into the School Infrastructure Fund; then, if any
9 amounts required to be paid into the School Infrastructure Fund
10 in previous months remain unpaid, those amounts shall be paid
11 into the School Infrastructure Fund; then the moneys remaining,
12 if any, shall be paid into the Long-Term Care Provider Fund. To
13 the extent that more than \$25,000,000 has been paid into the
14 General Revenue Fund and Common School Fund per month for the
15 period of July 1, 1993 through the effective date of this
16 amendatory Act of 1994 from combined receipts of the Cigarette
17 Tax Act and the Cigarette Use Tax Act, notwithstanding the
18 distribution provided in this Section, the Department of
19 Revenue is hereby directed to adjust the distribution provided
20 in this Section to increase the next monthly payments to the
21 Long Term Care Provider Fund by the amount paid to the General
22 Revenue Fund and Common School Fund in excess of \$25,000,000
23 per month and to decrease the next monthly payments to the
24 General Revenue Fund and Common School Fund by that same excess
25 amount.

26 Beginning on July 1, 2006, all of the moneys received by

1 the Department of Revenue pursuant to this Act and the
2 Cigarette Use Tax Act, other than the moneys that are dedicated
3 to the Common School Fund and, beginning on the effective date
4 of this amendatory Act of the 95th General Assembly, other than
5 the moneys from the additional taxes imposed by this amendatory
6 Act of the 95th General Assembly that must be paid each month
7 into the Tax Compliance and Enforcement Fund, the Healthcare
8 Provider Relief Fund, and the Pension Stabilization Fund, shall
9 be distributed each month as follows: first, there shall be
10 paid into the General Revenue Fund an amount that, when added
11 to the amount paid into the Common School Fund for that month,
12 equals \$29,200,000; then, from the moneys remaining, if any
13 amounts required to be paid into the General Revenue Fund in
14 previous months remain unpaid, those amounts shall be paid into
15 the General Revenue Fund; then from the moneys remaining,
16 \$5,000,000 per month shall be paid into the School
17 Infrastructure Fund; then, if any amounts required to be paid
18 into the School Infrastructure Fund in previous months remain
19 unpaid, those amounts shall be paid into the School
20 Infrastructure Fund; then the moneys remaining, if any, shall
21 be paid into the Long-Term Care Provider Fund.

22 When any tax imposed herein terminates or has terminated,
23 distributors who have bought stamps while such tax was in
24 effect and who therefore paid such tax, but who can show, to
25 the Department's satisfaction, that they sold the cigarettes to
26 which they affixed such stamps after such tax had terminated

1 and did not recover the tax or its equivalent from purchasers,
2 shall be allowed by the Department to take credit for such
3 absorbed tax against subsequent tax stamp purchases from the
4 Department by such distributor.

5 The impact of the tax levied by this Act is imposed upon
6 the retailer and shall be prepaid or pre-collected by the
7 distributor for the purpose of convenience and facility only,
8 and the amount of the tax shall be added to the price of the
9 cigarettes sold by such distributor. Collection of the tax
10 shall be evidenced by a stamp or stamps affixed to each
11 original package of cigarettes, as hereinafter provided.

12 Each distributor shall collect the tax from the retailer at
13 or before the time of the sale, shall affix the stamps as
14 hereinafter required, and shall remit the tax collected from
15 retailers to the Department, as hereinafter provided. Any
16 distributor who fails to properly collect and pay the tax
17 imposed by this Act shall be liable for the tax. Any
18 distributor having cigarettes to which stamps have been affixed
19 in his possession for sale on the effective date of this
20 amendatory Act of 1989 shall not be required to pay the
21 additional tax imposed by this amendatory Act of 1989 on such
22 stamped cigarettes. Any distributor having cigarettes to which
23 stamps have been affixed in his or her possession for sale at
24 12:01 a.m. on the effective date of this amendatory Act of
25 1993, is required to pay the additional tax imposed by this
26 amendatory Act of 1993 on such stamped cigarettes. This

1 payment, less the discount provided in subsection (b), shall be
2 due when the distributor first makes a purchase of cigarette
3 tax stamps after the effective date of this amendatory Act of
4 1993, or on the first due date of a return under this Act after
5 the effective date of this amendatory Act of 1993, whichever
6 occurs first. Any distributor having cigarettes to which stamps
7 have been affixed in his possession for sale on December 15,
8 1997 shall not be required to pay the additional tax imposed by
9 this amendatory Act of 1997 on such stamped cigarettes.

10 Any distributor having cigarettes to which stamps have been
11 affixed in his or her possession for sale on July 1, 2002 shall
12 not be required to pay the additional tax imposed by this
13 amendatory Act of the 92nd General Assembly on those stamped
14 cigarettes. Any distributor having cigarettes to which stamps
15 have been affixed in his or her possession for sale on or after
16 September 1, 2008 is required to pay the additional tax imposed
17 by this amendatory Act of the 95th General Assembly on those
18 stamped cigarettes. This payment, less the discount provided in
19 subsection (b), is due when the distributor first makes a
20 purchase of cigarette tax stamps on or after September 1, 2008
21 or on the first due date of a return under this Act occurring
22 on or after September 1, 2008, whichever occurs first.

23 The amount of the Cigarette Tax imposed by this Act shall
24 be separately stated, apart from the price of the goods, by
25 both distributors and retailers, in all advertisements, bills
26 and sales invoices.

1 (b) The distributor shall be required to collect the taxes
2 provided under paragraph (a) hereof, and, to cover the costs of
3 such collection, shall be allowed a discount during any year
4 commencing July 1st and ending the following June 30th in
5 accordance with the schedule set out hereinbelow, which
6 discount shall be allowed at the time of purchase of the stamps
7 when purchase is required by this Act, or at the time when the
8 tax is remitted to the Department without the purchase of
9 stamps from the Department when that method of paying the tax
10 is required or authorized by this Act. Prior to December 1,
11 1985, a discount equal to $1\frac{2}{3}\%$ of the amount of the tax up to
12 and including the first \$700,000 paid hereunder by such
13 distributor to the Department during any such year; $1\frac{1}{3}\%$ of
14 the next \$700,000 of tax or any part thereof, paid hereunder by
15 such distributor to the Department during any such year; 1% of
16 the next \$700,000 of tax, or any part thereof, paid hereunder
17 by such distributor to the Department during any such year, and
18 $\frac{2}{3}$ of 1% of the amount of any additional tax paid hereunder by
19 such distributor to the Department during any such year shall
20 apply. On and after December 1, 1985, a discount equal to 1.75%
21 of the amount of the tax payable under this Act up to and
22 including the first \$3,000,000 paid hereunder by such
23 distributor to the Department during any such year and 1.5% of
24 the amount of any additional tax paid hereunder by such
25 distributor to the Department during any such year shall apply.

26 Two or more distributors that use a common means of

1 affixing revenue tax stamps or that are owned or controlled by
2 the same interests shall be treated as a single distributor for
3 the purpose of computing the discount.

4 (c) The taxes herein imposed are in addition to all other
5 occupation or privilege taxes imposed by the State of Illinois,
6 or by any political subdivision thereof, or by any municipal
7 corporation.

8 (Source: P.A. 93-839, eff. 7-30-04; 94-91, eff. 7-1-05; 94-839,
9 eff. 6-6-06.)

10 Section 15. The Cigarette Use Tax Act is amended by
11 changing Section 2 as follows:

12 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

13 Sec. 2. A tax is imposed upon the privilege of using
14 cigarettes in this State, at the rate of 6 mills per cigarette
15 so used. On and after December 1, 1985, in addition to any
16 other tax imposed by this Act, a tax is imposed upon the
17 privilege of using cigarettes in this State at a rate of 4
18 mills per cigarette so used. On and after the effective date of
19 this amendatory Act of 1989, in addition to any other tax
20 imposed by this Act, a tax is imposed upon the privilege of
21 using cigarettes in this State at the rate of 5 mills per
22 cigarette so used. On and after the effective date of this
23 amendatory Act of 1993, in addition to any other tax imposed by
24 this Act, a tax is imposed upon the privilege of using

1 cigarettes in this State at a rate of 7 mills per cigarette so
2 used. On and after December 15, 1997, in addition to any other
3 tax imposed by this Act, a tax is imposed upon the privilege of
4 using cigarettes in this State at a rate of 7 mills per
5 cigarette so used. On and after July 1, 2002, in addition to
6 any other tax imposed by this Act, a tax is imposed upon the
7 privilege of using cigarettes in this State at a rate of 20.0
8 mills per cigarette so used. Beginning on September 1, 2008, in
9 addition to any other tax imposed by this Act, a tax is imposed
10 upon the privilege of using cigarettes in this State at a rate
11 of 45 mills per cigarette so used. The taxes herein imposed
12 shall be in addition to all other occupation or privilege taxes
13 imposed by the State of Illinois or by any political
14 subdivision thereof or by any municipal corporation.

15 When any tax imposed herein terminates or has terminated,
16 distributors who have bought stamps while such tax was in
17 effect and who therefore paid such tax, but who can show, to
18 the Department's satisfaction, that they sold the cigarettes to
19 which they affixed such stamps after such tax had terminated
20 and did not recover the tax or its equivalent from purchasers,
21 shall be allowed by the Department to take credit for such
22 absorbed tax against subsequent tax stamp purchases from the
23 Department by such distributors.

24 When the word "tax" is used in this Act, it shall include
25 any tax or tax rate imposed by this Act and shall mean the
26 singular of "tax" or the plural "taxes" as the context may

1 require.

2 Any distributor having cigarettes to which stamps have been
3 affixed in his possession for sale on the effective date of
4 this amendatory Act of 1989 shall not be required to pay the
5 additional tax imposed by this amendatory Act of 1989 on such
6 stamped cigarettes. Any distributor having cigarettes to which
7 stamps have been affixed in his or her possession for sale at
8 12:01 a.m. on the effective date of this amendatory Act of
9 1993, is required to pay the additional tax imposed by this
10 amendatory Act of 1993 on such stamped cigarettes. This payment
11 shall be due when the distributor first makes a purchase of
12 cigarette tax stamps after the effective date of this
13 amendatory Act of 1993, or on the first due date of a return
14 under this Act after the effective date of this amendatory Act
15 of 1993, whichever occurs first. Once a distributor tenders
16 payment of the additional tax to the Department, the
17 distributor may purchase stamps from the Department. Any
18 distributor having cigarettes to which stamps have been affixed
19 in his possession for sale on December 15, 1997 shall not be
20 required to pay the additional tax imposed by this amendatory
21 Act of 1997 on such stamped cigarettes.

22 Any distributor having cigarettes to which stamps have been
23 affixed in his or her possession for sale on July 1, 2002 shall
24 not be required to pay the additional tax imposed by this
25 amendatory Act of the 92nd General Assembly on those stamped
26 cigarettes. Any distributor having cigarettes to which stamps

1 have been affixed in his or her possession for sale on or after
2 September 1, 2008 is required to pay the additional tax imposed
3 by this amendatory Act of the 95th General Assembly on those
4 stamped cigarettes. This payment is due when the distributor
5 first makes a purchase of cigarette tax stamps on or after
6 September 1, 2008 or on the first due date of a return under
7 this Act occurring on or after September 1, 2008, whichever
8 occurs first.

9 (Source: P.A. 92-536, eff. 6-6-02.)

10 Section 20. The Counties Code is amended by adding Section
11 5-1008.7 as follows:

12 (55 ILCS 5/5-1008.7 new)

13 Sec. 5-1008.7. County cigarette tax.

14 (a) The definitions as used in the Cigarette Tax Act (35
15 ILCS 130/) are hereby expressly adopted as if fully set forth
16 in this Section and apply to all provisions of this Section.

17 (b) A county board may, by ordinance or resolution, impose
18 a county cigarette tax upon any person engaged in business as a
19 retailer of cigarettes in the county. If imposed, the tax must
20 be at the rate of 50 mills per cigarette sold or otherwise
21 disposed of in the course of such business in this State. The
22 tax shall be administered by the county imposing that tax. The
23 payment of the taxes must be evidenced by a stamp affixed to
24 each original package of cigarettes, or an authorized

1 substitute for such a stamp, imprinted on each original package
2 of the cigarettes underneath the sealed transparent outside
3 wrapper or on the exterior of the outside wrapper of the
4 original package.

5 The tax under this Section, however, is not imposed upon
6 any activity in any business in interstate commerce or
7 otherwise that may not, under the Constitution and statutes of
8 the United States, be made the subject of taxation by this
9 State.

10 The impact of the tax levied by this Act is imposed upon
11 the retailer and must be prepaid or precollected by the
12 distributor for the purpose of convenience and facility only,
13 and the amount of the tax must be added to the price of the
14 cigarettes sold by the distributor. The collection of the tax
15 must be evidenced by a stamp or stamps affixed to each original
16 package of cigarettes.

17 Each distributor must collect the tax from the retailer at
18 or before the time of the sale, must affix the stamps, and must
19 remit, to the county, the tax collected from the retailer. Any
20 distributor who fails to properly collect and pay the tax
21 imposed by this Section is liable for the tax.

22 The amount of the tax imposed under this Section must be
23 separately stated, apart from the price of the goods, by both
24 distributors and retailers, in all advertisements, bills, and
25 sales invoices.

26 (c) The taxes imposed under this Section are in addition to

1 all other occupation or privilege taxes imposed by the State of
2 Illinois, or by any political subdivision thereof, or by any
3 municipal corporation.

4 (d) Any proceeds collected from the tax imposed under this
5 Section may be used by the county only for the purpose of
6 public health and safety.

7 (e) An ordinance or resolution imposing or discontinuing
8 the tax under this Section must be adopted by the county board
9 and a certified copy of the ordinance or resolution be filed
10 with the county clerk on or before the first day of the month
11 following the adoption of the ordinance or resolution,
12 whereupon the county shall proceed to administer and enforce
13 this Section no sooner than 60 days after the adoption and
14 filing.

15 (f) All of the provisions of the Cigarette Tax Act (35 ILCS
16 130/) that are not inconsistent with this Section apply, as far
17 as practical, to the subject matter of this Section to the same
18 extent as if the provisions were included in this Section.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.