

1 AMENDMENT TO SENATE BILL 449

2 AMENDMENT NO. _____. Amend Senate Bill 449, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The State Finance Act is amended by adding
6 Section 5.570 as follows:

7 (30 ILCS 105/5.570 new)

8 Sec. 5.570. The Tobacco Control Fund.

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

11 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

12 Sec. 2. Tax imposed; rate; collection, payment, and
13 distribution; discount.

14 (a) A tax is imposed upon any person engaged in business
15 as a retailer of cigarettes in this State at the rate of 5
16 1/2 mills per cigarette sold, or otherwise disposed of in the
17 course of such business in this State. In addition to any
18 other tax imposed by this Act, a tax is imposed upon any
19 person engaged in business as a retailer of cigarettes in
20 this State at a rate of 1/2 mill per cigarette sold or

1 otherwise disposed of in the course of such business in this
2 State on and after January 1, 1947, and shall be paid into
3 the Metropolitan Fair and Exposition Authority Reconstruction
4 Fund. On and after December 1, 1985, in addition to any other
5 tax imposed by this Act, a tax is imposed upon any person
6 engaged in business as a retailer of cigarettes in this State
7 at a rate of 4 mills per cigarette sold or otherwise disposed
8 of in the course of such business in this State. Of the
9 additional tax imposed by this amendatory Act of 1985,
10 \$9,000,000 of the moneys received by the Department of
11 Revenue pursuant to this Act shall be paid each month into
12 the Common School Fund. On and after the effective date of
13 this amendatory Act of 1989, in addition to any other tax
14 imposed by this Act, a tax is imposed upon any person engaged
15 in business as a retailer of cigarettes at the rate of 5
16 mills per cigarette sold or otherwise disposed of in the
17 course of such business in this State. On and after the
18 effective date of this amendatory Act of 1993, in addition to
19 any other tax imposed by this Act, a tax is imposed upon any
20 person engaged in business as a retailer of cigarettes at the
21 rate of 7 mills per cigarette sold or otherwise disposed of
22 in the course of such business in this State. On and after
23 December 15, 1997, in addition to any other tax imposed by
24 this Act, a tax is imposed upon any person engaged in
25 business as a retailer of cigarettes at the rate of 7 mills
26 per cigarette sold or otherwise disposed of in the course of
27 such business of this State. All of the moneys received by
28 the Department of Revenue pursuant to this Act and the
29 Cigarette Use Tax Act from the additional taxes imposed by
30 this amendatory Act of 1997, shall be paid each month into
31 the Common School Fund. On and after the effective date of
32 this amendatory Act of the 92nd General Assembly, in addition
33 to any other tax imposed by this Act, a tax is imposed upon
34 any person engaged in business as a retailer of cigarettes at

1 the rate of 5 mills per cigarette sold or otherwise disposed
2 of in the course of such business in this State. The payment
3 of such taxes shall be evidenced by a stamp affixed to each
4 original package of cigarettes, or an authorized substitute
5 for such stamp imprinted on each original package of such
6 cigarettes underneath the sealed transparent outside wrapper
7 of such original package, as hereinafter provided. However,
8 such taxes are not imposed upon any activity in such business
9 in interstate commerce or otherwise, which activity may not
10 under the Constitution and statutes of the United States be
11 made the subject of taxation by this State.

12 Beginning on the effective date of this amendatory Act of
13 1998, all of the moneys received by the Department of Revenue
14 pursuant to this Act and the Cigarette Use Tax Act, other
15 than the moneys that are dedicated to the Metropolitan Fair
16 and Exposition Authority Reconstruction Fund, and the Common
17 School Fund, and the Tobacco Control Fund, shall be
18 distributed each month as follows: first, there shall be paid
19 into the General Revenue Fund an amount which, when added to
20 the amount paid into the Common School Fund for that month,
21 equals \$33,300,000; then, from the moneys remaining, if any
22 amounts required to be paid into the General Revenue Fund in
23 previous months remain unpaid, those amounts shall be paid
24 into the General Revenue Fund; then the moneys remaining, if
25 any, shall be paid into the Long-Term Care Provider Fund. To
26 the extent that more than \$25,000,000 has been paid into the
27 General Revenue Fund and Common School Fund per month for the
28 period of July 1, 1993 through the effective date of this
29 amendatory Act of 1994 from combined receipts of the
30 Cigarette Tax Act and the Cigarette Use Tax Act,
31 notwithstanding the distribution provided in this Section,
32 the Department of Revenue is hereby directed to adjust the
33 distribution provided in this Section to increase the next
34 monthly payments to the Long Term Care Provider Fund by the

1 amount paid to the General Revenue Fund and Common School
2 Fund in excess of \$25,000,000 per month and to decrease the
3 next monthly payments to the General Revenue Fund and Common
4 School Fund by that same excess amount. Notwithstanding any
5 other provision in this Act or the Cigarette Use Tax Act, the
6 increase in moneys received by the Department under this Act
7 and the Cigarette Use Tax Act as a result of the additional
8 tax of 5 mills per cigarette imposed by this amendatory Act
9 of the 92nd General Assembly shall be paid into the Tobacco
10 Control Fund, a special fund in the State treasury that is
11 hereby created, to be used, subject to appropriation, by the
12 Department of Public Health to fund programs consistent with
13 the guidelines set forth in the Centers for Disease Control's
14 "Best Practices for Comprehensive Tobacco Control Programs".

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
19 to which they affixed such stamps after such tax had
20 terminated and did not recover the tax or its equivalent from
21 purchasers, shall be allowed by the Department to take credit
22 for such absorbed tax against subsequent tax stamp purchases
23 from the Department by such distributor.

24 The impact of the tax levied by this Act is imposed upon
25 the retailer and shall be prepaid or pre-collected by the
26 distributor for the purpose of convenience and facility only,
27 and the amount of the tax shall be added to the price of the
28 cigarettes sold by such distributor. Collection of the tax
29 shall be evidenced by a stamp or stamps affixed to each
30 original package of cigarettes, as hereinafter provided.

31 Each distributor shall collect the tax from the retailer
32 at or before the time of the sale, shall affix the stamps as
33 hereinafter required, and shall remit the tax collected from
34 retailers to the Department, as hereinafter provided. Any

1 distributor who fails to properly collect and pay the tax
2 imposed by this Act shall be liable for the tax. Any
3 distributor having cigarettes to which stamps have been
4 affixed in his possession for sale on the effective date of
5 this amendatory Act of 1989 shall not be required to pay the
6 additional tax imposed by this amendatory Act of 1989 on such
7 stamped cigarettes. Any distributor having cigarettes to
8 which stamps have been affixed in his or her possession for
9 sale at 12:01 a.m. on the effective date of this amendatory
10 Act of 1993, is required to pay the additional tax imposed by
11 this amendatory Act of 1993 on such stamped cigarettes. This
12 payment, less the discount provided in subsection (b), shall
13 be due when the distributor first makes a purchase of
14 cigarette tax stamps after the effective date of this
15 amendatory Act of 1993, or on the first due date of a return
16 under this Act after the effective date of this amendatory
17 Act of 1993, whichever occurs first. Any distributor having
18 cigarettes to which stamps have been affixed in his
19 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. Any distributor
22 having cigarettes to which stamps have been affixed in his
23 possession for sale on the effective date of this amendatory
24 Act of the 92nd General Assembly shall not be required to pay
25 the additional tax imposed by this amendatory Act of the 92nd
26 General Assembly on such stamped cigarettes.

27 The amount of the Cigarette Tax imposed by this Act shall
28 be separately stated, apart from the price of the goods, by
29 both distributors and retailers, in all advertisements, bills
30 and sales invoices.

31 (b) The distributor shall be required to collect the
32 taxes provided under paragraph (a) hereof, and, to cover the
33 costs of such collection, shall be allowed a discount during
34 any year commencing July 1st and ending the following June

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

23 Two or more distributors that use a common means of
24 affixing revenue tax stamps or that are owned or controlled
25 by the same interests shall be treated as a single
26 distributor for the purpose of computing the discount.

27 (c) The taxes herein imposed are in addition to all
28 other occupation or privilege taxes imposed by the State of
29 Illinois, or by any political subdivision thereof, or by any
30 municipal corporation.

31 (Source: P.A. 90-548, eff. 12-4-97; 90-587, eff. 7-1-98.)

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

1 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

2 Sec. 2. A tax is imposed upon the privilege of using
3 cigarettes in this State, at the rate of 6 mills per
4 cigarette so used. On and after December 1, 1985, in addition
5 to any other tax imposed by this Act, a tax is imposed upon
6 the privilege of using cigarettes in this State at a rate of
7 4 mills per cigarette so used. On and after the effective
8 date of this amendatory Act of 1989, in addition to any other
9 tax imposed by this Act, a tax is imposed upon the privilege
10 of using cigarettes in this State at the rate of 5 mills per
11 cigarette so used. On and after the effective date of this
12 amendatory Act of 1993, in addition to any other tax imposed
13 by this Act, a tax is imposed upon the privilege of using
14 cigarettes in this State at a rate of 7 mills per cigarette
15 so used. On and after December 15, 1997, 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 7
18 mills per cigarette so used. On and after the effective date
19 of this amendatory Act of the 92nd General Assembly, in
20 addition to any other tax imposed by this Act, a tax is
21 imposed upon the privilege of using cigarettes in this State
22 at a rate of 5 mills per cigarette so used. The taxes herein
23 imposed shall be in addition to all other occupation or
24 privilege taxes imposed by the State of Illinois or by any
25 political subdivision thereof or by any municipal
26 corporation.

27 When any tax imposed herein terminates or has terminated,
28 distributors who have bought stamps while such tax was in
29 effect and who therefore paid such tax, but who can show, to
30 the Department's satisfaction, that they sold the cigarettes
31 to which they affixed such stamps after such tax had
32 terminated and did not recover the tax or its equivalent from
33 purchasers, shall be allowed by the Department to take credit
34 for such absorbed tax against subsequent tax stamp purchases

1 from the Department by such distributors.

2 When the word "tax" is used in this Act, it shall include
3 any tax or tax rate imposed by this Act and shall mean the
4 singular of "tax" or the plural "taxes" as the context may
5 require.

6 Any distributor having cigarettes to which stamps have
7 been affixed in his possession for sale on the effective date
8 of this amendatory Act of 1989 shall not be required to pay
9 the additional tax imposed by this amendatory Act of 1989 on
10 such stamped cigarettes. Any distributor having cigarettes to
11 which stamps have been affixed in his or her possession for
12 sale at 12:01 a.m. on the effective date of this amendatory
13 Act of 1993, is required to pay the additional tax imposed by
14 this amendatory Act of 1993 on such stamped cigarettes. This
15 payment shall be due when the distributor first makes a
16 purchase of cigarette tax stamps after the effective date of
17 this amendatory Act of 1993, or on the first due date of a
18 return under this Act after the effective date of this
19 amendatory Act of 1993, whichever occurs first. Once a
20 distributor tenders payment of the additional tax to the
21 Department, the distributor may purchase stamps from the
22 Department. Any distributor having cigarettes to which
23 stamps have been affixed in his possession for sale on
24 December 15, 1997 shall not be required to pay the additional
25 tax imposed by this amendatory Act of 1997 on such stamped
26 cigarettes. Any distributor having cigarettes to which stamps
27 have been affixed in his possession for sale on the effective
28 date of this amendatory Act of the 92nd General Assembly
29 shall not be required to pay the additional tax imposed by
30 this amendatory Act of the 92nd General Assembly on such
31 stamped cigarettes.

32 (Source: P.A. 90-548, eff. 12-4-97.)

33 Section 99. Effective date. This Act takes effect upon

1 becoming law.".