

By: Representative Warren

To: Ways and Means

HOUSE BILL NO. 1089

1 AN ACT TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE EXCISE TAX ON CIGARETTES; TO SPECIFY THE AMOUNT OF
3 THE DISCOUNT OR COMPENSATION ON THE ADDITIONAL FACE VALUE OF
4 STAMPS PURCHASED BY DEALERS TO COMPLY WITH THE TAX INCREASE
5 PROVIDED FOR BY THIS ACT; TO AMEND SECTION 27-69-75, MISSISSIPPI
6 CODE OF 1972, TO PROVIDE THAT THE REVENUE DERIVED FROM THE TAX
7 INCREASE PROVIDED FOR BY THIS ACT SHALL BE DEPOSITED INTO A
8 SPECIAL FUND IN THE STATE TREASURY TO THE CREDIT OF THE DEPARTMENT
9 OF MENTAL HEALTH FOR THE OPERATION AND MAINTENANCE OF MENTAL
10 HEALTH HOLDING CENTERS ESTABLISHED BY THE DEPARTMENT; AND FOR
11 RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 27-69-13, Mississippi Code of 1972, is
14 amended as follows:

15 27-69-13. (1) There is * * * imposed, levied and assessed,
16 to be collected and paid as hereinafter provided in this chapter,
17 an excise tax on each person or dealer in cigarettes, cigars,
18 stogies, snuff, chewing tobacco, and smoking tobacco, or
19 substitutes therefor, upon the sale, use, consumption, handling or
20 distribution in the State of Mississippi, as follows:

21 (a) On cigarettes, the rate of tax shall be
22 Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette
23 sold with a maximum length of one hundred twenty (120)
24 millimeters; any cigarette in excess of this length shall be taxed
25 as if it were two (2) or more cigarettes. * * * However, if the
26 federal tax rate on cigarettes in effect on July 1, 1985, is
27 reduced, then the rate as provided in this paragraph (a) shall be
28 increased by the amount of the federal tax reduction. That tax
29 increase shall take effect on the first day of the month following
30 the effective date of the reduction in the federal tax rate.

31 (b) (i) In addition to the excise tax levied by
32 paragraph (a), there is levied an excise tax of One-fourth of One
33 Cent (1/4 of 1¢) on each cigarette sold with a maximum length of
34 one hundred twenty (120) millimeters; any cigarette in excess of
35 this length shall be taxed as if it were two (2) or more
36 cigarettes.

37 (ii) On or before the fifteenth of August 2004,
38 and each succeeding month thereafter, the revenue derived from the
39 excise tax on cigarettes that is levied by subparagraph (i) of
40 this paragraph shall be deposited into the special fund in the
41 State Treasury as provided in Section 27-69-75.

42 (c) On cigars, cheroots, stogies, snuff, chewing and
43 smoking tobacco and all other tobacco products except cigarettes,
44 the rate of tax shall be fifteen percent (15%) of the
45 manufacturer's list price.

46 (2) No stamp evidencing the tax * * * levied on cigarettes
47 by this section shall be of a denomination of less than One Cent
48 (1¢), and whenever the tax computed at the rates * * * prescribed
49 on cigarettes in this section is a specified amount, plus a
50 fractional part of One Cent (1¢), the package shall be stamped for
51 the next full cent. However, (a) the additional face value of
52 stamps purchased to comply with taxes imposed by subsection (1)(a)
53 and subsection (1)(c) of this section after June 1, 1985, shall be
54 subject to a four percent (4%) discount or compensation to dealers
55 for their services rather than the eight percent (8%) discount or
56 compensation allowed by Section 27-69-31; and (b) the additional
57 face value of stamps purchased to comply with taxes imposed by
58 subsection (1)(b) of this section after July 1, 2004, shall be
59 subject to a three percent (3%) discount or compensation to
60 dealers for their services rather than the eight percent (8%)
61 discount or compensation allowed by Section 27-69-31.

62 (3) Every wholesaler shall purchase stamps as provided in
63 this chapter, and affix the same to all packages of cigarettes
64 handled by him as * * * provided in this section.

65 (4) The * * * tax levied by this chapter is levied upon the
66 sale, use, gift, possession, or consumption of tobacco within the
67 State of Mississippi, and the impact of the tax levied by this
68 chapter is * * * declared to be on the vendee, user, consumer, or
69 possessor of tobacco in this state. When the tax is paid by any
70 other person, the payment shall be considered as an advance
71 payment and shall thereafter be added to the price of the tobacco
72 and recovered from the ultimate consumer or user.

73 **SECTION 2.** Section 27-69-75, Mississippi Code of 1972, is
74 amended as follows:

75 27-69-75. (1) All taxes levied by this chapter shall be
76 payable to the commissioner in cash, or by personal check,
77 cashier's check, bank exchange, post office money order or express
78 money order, and shall be deposited by the commissioner in the
79 State Treasury on the same day collected. No remittance other
80 than cash shall be a final discharge of liability for the
81 tax * * * assessed and levied under this chapter, unless and until
82 it has been paid in cash to the commissioner.

83 (2) The revenue derived from the taxes levied in Section
84 27-69-13(1)(b) shall be deposited into the State Treasury in the
85 special fund to the credit of the Department of Mental Health that
86 is created by Section 4 of House Bill No.____, 2004 Regular
87 Session.

88 (3) All tobacco taxes collected, including tobacco license
89 taxes, except for those revenues required to be deposited into the
90 special fund as provided in subsection (2) of this section, shall
91 be deposited into the State Treasury to the credit of the General
92 Fund.

93 (4) Wholesalers who are entitled to purchase stamps at a
94 discount, as provided by Section 27-69-31, may have consigned to

95 them, without advance payment, those stamps, if and when the
96 wholesaler * * * givesu to the commissioner a good and sufficient
97 bond executed by some surety company authorized to do business in
98 this state, conditioned to secure the payment for the stamps so
99 consigned. The commissioner shall require payment for those
100 stamps not later than thirty (30) days from the date the stamps
101 were consigned.

102 **SECTION 3.** Section 27-69-31, Mississippi Code of 1972, is
103 amended as follows:

104 27-69-31. Dealers subject to the provisions of this chapter
105 shall be allowed, as compensation for their services in affixing
106 the stamps * * * required by this chapter, a sum equal to eight
107 percent (8%) of the face value of the stamps purchased by them,
108 except as otherwise provided in Section 27-69-13(2); however, the
109 commission shall allow no discount on the purchase of stamps by
110 wholesalers of an aggregate amount of less than One Hundred
111 Dollars (\$100.00), and by retailers of an aggregate amount of less
112 than Fifty Dollars (\$50.00) in any one (1) order.

113 It is further provided that the commissioner may, in his
114 discretion, either reduce the compensation allowed, or disallow
115 any compensation for the affixing of stamps, for failure of the
116 dealer to comply with any provisions of the law or rules and
117 regulations promulgated by the commissioner.

118 **SECTION 4.** There is created in the State Treasury a special
119 fund to the credit of the Department of Mental Health, which shall
120 be comprised of the monies required to be deposited into the fund
121 under Section 27-69-75(2), and any other funds that may be made
122 available for the fund by the Legislature. Monies in the fund
123 shall be expended by the Department of Mental Health, upon
124 appropriation by the Legislature, for the operation and
125 maintenance of mental health holding centers established by the
126 department under Section 41-4-7(m). Unexpended amounts remaining
127 in the special fund at the end of a fiscal year shall not lapse

128 into the State General Fund, and any interest earned or investment
129 earnings on amounts in the special fund shall be deposited to the
130 credit of the special fund.

131 **SECTION 5.** This act shall take effect and be in force from
132 and after July 1, 2004.