

By: Senator(s) Gordon

To: Finance

SENATE BILL NO. 2861

1 AN ACT TO IMPOSE AN ASSESSMENT IN THE AMOUNT OF FORTY CENTS  
2 ON EACH PACKAGE OF CIGARETTES TO WHICH A STAMP IS AFFIXED PURSUANT  
3 TO THE TOBACCO TAX LAW; TO PROVIDE FOR ANNUAL 3% INCREASES IN THE  
4 ASSESSMENT; TO PROVIDE THAT IF THE MANUFACTURER OF THE CIGARETTES  
5 IS NOT A PARTICIPANT IN THE TOBACCO SETTLEMENT, THE STATE TAX  
6 COMMISSION SHALL COLLECT THE ASSESSMENT FROM THE PERSON WHO  
7 AFFIXES THE STAMP REQUIRED BY THE TOBACCO TAX LAW; TO PROVIDE THAT  
8 IF THE MANUFACTURER OF THE CIGARETTES IS A PARTICIPANT IN THE  
9 TOBACCO SETTLEMENT, THE STATE TAX COMMISSION SHALL COLLECT THE  
10 ASSESSMENT DIRECTLY FROM THE CIGARETTE MANUFACTURER; A CIGARETTE  
11 MANUFACTURER THAT IS PARTICIPATING IN THE TOBACCO SETTLEMENT SHALL  
12 BE ENTITLED TO A CREDIT AGAINST THE AMOUNT OF THE ASSESSMENT OWED  
13 UNDER THIS SECTION IN AN AMOUNT EQUAL TO THE PAYMENTS IT HAS MADE  
14 UNDER THE SETTLEMENT AGREEMENT DURING THE TWELVE MONTHS  
15 IMMEDIATELY PRIOR TO THE DUE DATE OF THE ASSESSMENT; TO PROVIDE  
16 THAT NO PERSON SHALL AFFIX THE STAMP REQUIRED BY THE TOBACCO TAX  
17 LAW ON ANY PACKAGE OF CIGARETTES AFTER RECEIVING NOTICE FROM THE  
18 STATE TAX COMMISSION THAT THE MANUFACTURER HAS NOT PAID IN FULL  
19 THE ASSESSMENT IMPOSED BY THIS SECTION; TO PROVIDE THAT  
20 ASSESSMENTS COLLECTED UNDER THE PROVISIONS OF THIS SECTION SHALL  
21 BE DEPOSITED INTO THE HEALTH CARE TRUST FUND; AND FOR RELATED  
22 PURPOSES.

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

24 **SECTION 1.** (1) As used in this section:

25 (a) "Cigarette manufacturer" means a manufacturer of  
26 cigarettes sold in this state.

27 (b) "Settling manufacturer" means a cigarette  
28 manufacturer that is a participating manufacture in the tobacco  
29 settlement.

30 (c) "Nonsettling manufacturer" means any cigarette  
31 manufacturer that is not a settling manufacturer.

32 (d) "Tobacco settlement" shall have the meaning  
33 ascribed to such term in Section 43-13-403.

34 (2) The purposes of the assessment imposed by this section  
35 are:

36 (a) To ensure that the payments and purposes of the  
37 tobacco settlement are preserved in the event that any settling

38 manufacturer ceases making the payments provided for under the  
39 tobacco settlement; and

40 (b) To prevent nonsettling manufacturers from  
41 undermining the state's policy of discouraging cigarette smoking  
42 by minors by selling cigarettes at prices substantially below the  
43 prices charged by settling manufacturers and these low prices  
44 should bear at least a portion of the costs incurred by the state  
45 as a result of smoking related diseases.

46 (3) (a) An assessment in the amount of twenty (20) mills  
47 per cigarette or Forty Cents (40¢) per package of twenty (20)  
48 cigarettes is imposed on each package of cigarettes to which a  
49 stamp is affixed pursuant to the Tobacco Tax Law. This assessment  
50 is in addition to all other fees and taxes imposed or levied under  
51 existing law and shall increase by three percent (3%) January 1 of  
52 each calendar year.

53 (b) If the manufacturer of the cigarettes is a  
54 nonsettling manufacturer, the State Tax Commission shall collect  
55 the assessment from the person who affixes the stamp required by  
56 the Tobacco Tax Law.

57 (c) If the manufacturer of the cigarettes is a settling  
58 manufacturer, the State Tax Commission shall collect the  
59 assessment on packages of cigarettes on which stamps were affixed  
60 during the prior month on the fifteenth day of each month directly  
61 from the cigarette manufacturer based on information provided by  
62 the report required by subsection (4) of this section.

63 (d) Payment of the assessment, subject to any credit  
64 authorize by this section, shall be made concurrently with the  
65 filing of the statement required by Section 27-69-35 for all  
66 cigarettes on which stamps were affixed in the prior month.

67 (e) At the time it pays the assessment for the  
68 cigarettes, or claims the credit provided for in subsection (5) of  
69 this section, the settling manufacturer shall file a report  
70 setting forth the total number of cigarettes reported to it and

71 certify that the reported amount conforms to the number it has  
72 from its own records and other information available to it.

73 (4) Each person required to affix a stamp to packages of  
74 cigarettes pursuant to the Tobacco Tax Law, shall file a report  
75 with the State Tax Commission by not later than the fifteenth day  
76 of the month and state in the report the number of packages of  
77 cigarettes on which stamps were affixed in the prior month by  
78 cigarette manufacturer, brand and brand style. The person shall  
79 also report to each settling manufacturer by the fifth business  
80 day of the month the number of the settling manufacturer's  
81 packages of cigarettes on which stamps were affixed in the prior  
82 month by brand and brand style.

83 (5) A settling manufacturer shall be entitled to a credit  
84 against the amount of the assessment owed under this section in an  
85 amount equal to the payments it has made under the settlement  
86 agreement during the twelve (12) months immediately prior to the  
87 due date of the assessment. The amount of the settlement payments  
88 available for credit shall be decreased by the amount of any prior  
89 credits taken. In no event shall any settlement payment not used  
90 as a credit within twelve (12) months of the payment date be  
91 carried forward and used in any subsequent month.

92 (6) No person shall affix the stamp required by the Tobacco  
93 Tax Law on any package of cigarettes after receiving notice from  
94 the State Tax Commission that the manufacturer has not paid in  
95 full the assessment imposed by this section.

96 (7) Assessments collected under the provisions of this  
97 section shall be deposited into the Health Care Trust Fund created  
98 pursuant to Section 43-13-405.

99 (8) All administrative provisions of the Tobacco Tax Law,  
100 including those which fix damages, penalties and interest for  
101 nonpayment of taxes and for noncompliance with the provisions of  
102 such chapter, and all other duties and requirements imposed upon  
103 taxpayers shall apply to all persons liable for assessments under

104 the provisions of this section and the Chairman of the State Tax  
105 Commission shall perform all duties with respect to persons  
106 responsible for paying the assessment under this section as are  
107 provided in the Tobacco Tax Law, except where there is a conflict,  
108 then the provisions of this section shall control.

109       **SECTION 2.** This act shall take effect and be in force from  
110 and after July 1, 2004.