

By: Representatives Whittington, Hines,
Clarke, Fleming, Mayo, Thomas

To: Ways and Means

HOUSE BILL NO. 752

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 THE
8 SPECIAL FUND IN THE STATE TREASURY TO THE CREDIT OF THE GOVERNOR'S
9 OFFICE-DIVISION OF MEDICAID; AND FOR RELATED PURPOSES.

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

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

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

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

29 (b) (i) In addition to the excise tax levied by
30 paragraph (a), there is levied an excise tax of Two and One-half

31 Cents (2 1/2¢) on each cigarette sold with a maximum length of one
32 hundred twenty (120) millimeters; any cigarette in excess of this
33 length shall be taxed as if it were two (2) or more cigarettes.

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

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

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

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

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

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

73 27-69-75. (1) All taxes levied by this chapter shall be
74 payable to the commissioner in cash, or by personal check,
75 cashier's check, bank exchange, post office money order or express
76 money order, and shall be deposited by the commissioner in the
77 State Treasury on the same day collected. No remittance other
78 than cash shall be a final discharge of liability for the
79 tax * * * assessed and levied under this chapter, unless and until
80 it has been paid in cash to the commissioner.

81 (2) The revenue derived from the taxes levied in Section
82 27-69-13(1)(b) shall be deposited into the special fund in the
83 State Treasury to the credit of the Governor's Office-Division of
84 Medicaid to be expended by the division for the purposes
85 authorized under the Mississippi Medicaid Law.

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

91 (4) Wholesalers who are entitled to purchase stamps at a
92 discount, as provided by Section 27-69-31, may have consigned to
93 them, without advance payment, those stamps, if and when the
94 wholesaler * * * gives to the commissioner a good and sufficient
95 bond executed by some surety company authorized to do business in

96 this state, conditioned to secure the payment for the stamps so
97 consigned. The commissioner shall require payment for those
98 stamps not later than thirty (30) days from the date the stamps
99 were consigned.

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

102 27-69-31. Dealers subject to the provisions of this chapter
103 shall be allowed, as compensation for their services in affixing
104 the stamps * * * required by this chapter, a sum equal to eight
105 percent (8%) of the face value of the stamps purchased by them,
106 except as otherwise provided in Section 27-69-13(2); however, the
107 commission shall allow no discount on the purchase of stamps by
108 wholesalers of an aggregate amount of less than One Hundred
109 Dollars (\$100.00), and by retailers of an aggregate amount of less
110 than Fifty Dollars (\$50.00) in any one (1) order.

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

116 **SECTION 4.** This act shall take effect and be in force from
117 and after July 1, 2004.