HB3
171076-1
By Representatives Rowe, Greer, Faust, Martin, Collins and Hill (M)
RFD: Ways and Means General Fund
First Read: 08-SEP-15
SYNOPSIS: Currently, the State of Alabama levies a tax on various tobacco products.

This bill would increase the tax on cigarettes from $.425 a pack to $.675 a pack and provide for its distribution and would decrease the tobacco tax stamp discount from 7.5 percent to 4.75 percent.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 40-25-2 and 40-25-5, Code of Alabama 1975, relating to the state tax on tobacco products, to increase the tax on cigarettes and provide for its distribution; and to decrease the tobacco tax stamp discount. BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-25-2 and 40-25-5, Code of Alabama 1975, are amended to read as follows:

"§40-25-2.
"(a) In addition to all other taxes of every kind now imposed by law, every person, firm, corporation, club, or association, within the State of Alabama, who sells or stores or receives for the purpose of distribution to any person, firm, corporation, club, or association within the State of Alabama, cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, snuff, or any substitute therefor, either or all, shall pay to the State of Alabama for state purposes only a license or privilege tax which shall be measured by and graduated in accordance with the volume of sales of such person, firm, corporation, club, or association in Alabama. There is hereby levied license or privilege taxes on articles containing tobacco enumerated in this article in the following amounts:

"(1) LITTLE CIGARS. Upon cigars of all descriptions, including filtered cigars, made of tobacco, or any substitute therefor, and weighing not more than three pounds per 1,000, $.04 for each ten cigars, or fractional part thereof.

"(2) FILTERED CIGARS. Upon filtered cigars that have a cellulose acetate or similar integrated filter, made of tobacco, or any substitute therefor, and weighing more than three pounds per 1,000, $0.015 for each filtered cigar.

"(3) CHEROOTS, STOGIES, CIGARS, ETC. Upon all other cigars of any descriptions made of tobacco, or any substitute therefor, $40.50 per thousand cigars, or $0.0405 each."
"(4) CIGARETTES. Upon all cigarettes made of tobacco, or any substitute therefor, 21.25 33.75 mills on each such cigarette.

"(5) SMOKING TOBACCO. Upon all smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette, upon each package: Weighing not more than one and one-eighth ounces, tax $.04; over one and one-eighth ounces, not exceeding two ounces, tax $.10; over two ounces, not exceeding three ounces, tax $.16; over three ounces, not exceeding four ounces, tax $.21; $.06 additional tax for each ounce or fractional part thereof over four ounces.

"(6) CHEWING TOBACCO. Upon all chewing tobacco prepared in such manner as to be suitable for chewing only and not suitable for smoking as described and taxed in subdivision (9) of this subsection: $.015 per ounce or fractional part thereof.

"(7) SNUFF. Upon each can or package of snuff weighing not more than five-eighths ounces, one cent tax; over five-eighths ounces and not exceeding one and five-eighths ounces, $.02 tax; over one and five-eighths ounces and not exceeding two and one-half ounces, $.04 tax; over two and one-half ounces and not exceeding five ounces (cans, packages, gullets), $.06 tax; over three ounces and not exceeding five ounces (glasses, tumblers, bottles), seven cents tax; over five ounces and not exceeding six ounces, $.08 tax; weighing
over six ounces, an additional $.12 for each ounce or
fractional part thereof.

"(b) Whenever in this article reference is made to
any manufactured tobacco products on which the tax is based on
weight, the weight as shown by the manufacturer or the federal
internal revenue stamp shall apply.

"(c) When any articles or commodities subject to tax
in this article are given as prizes on punch boards, shooting
galleries, premiums, etc., the tax shall be based on the tax
rates in subsection (a) of such articles.

"(d) The tax herein levied shall be paid to the
state through the use of stamps as herein provided. However,
every wholesaler, distributor, jobber, semijobber, or retail
dealer shall add the amount of the tax levied herein to the
price of the tobacco or tobacco products sold, it being the
purpose and intent of this provision that the tax levied is in
fact a levy on the ultimate consumer or user with the
wholesaler, distributor, jobber, semijobber, or retail dealer
acting merely as an agent of the state for the collection and
payment of the tax to the state. Therefore, notwithstanding
any exemptions from taxes which any such seller may now or
hereafter enjoy under the Constitution or laws of this or any
other state, or of the United States, he or she shall collect
the tax imposed hereunder from the purchaser or consumer, and
the amount of the tax shall constitute a debt from the
purchaser or consumer to the seller until paid. It shall be
unlawful for any person, firm, corporation, association, or
c opartnership to fail or refuse to add to the sales price and
collect from the purchaser the amount of the tax to be added
to the sales price and collected from the purchaser hereunder.
Stamps in denominations to the amount of the tax or in
denominations specified pursuant to subsection (e) of this
section shall be affixed to the box or other container from or
in which tobacco products taxed by this section are normally
sold at retail. The stamps shall be affixed in such a manner
that their removal will require continued application of
water, steam, or heat; and in case of cigars, cheroots,
chewing tobacco and like manufactured tobacco products, where
sales are made from the original container, the stamps shall
be affixed to the box or container in such a way that the
stamps shall be torn in two or mutilated when such containers
or boxes are opened for the sale of the tobacco products. In
the case of cigarettes, smoking tobacco, snuff, and like
products sold at retail in packages, the required amount of
stamps to cover the tax shall be affixed to each individual
package or container. All taxable tobaccos herein enumerated,
when offered for sale, either at wholesale or retail, without
having stamps affixed in the manner set out by this article,
or without payment of the tax by return by the wholesaler,
jobber, semijobber, or registered retailer, shall be subject
to confiscation, in the manner provided for contraband goods
as set out in this article.

"(e) The Commissioner of Revenue shall prepare and
issue stamps in denominations for the amount of the tax
imposed by this article provided that if the commissioner
determines that it is not economical for the state to have a
stamp prepared and issued for one or more particular types of
packages of tobacco products, then the commissioner may by
regulation prescribe the use of a stamp in a denomination
other than for the amount of the tax imposed with the
difference between the amount of tax actually imposed and the
amount of tax denominated by the stamp paid with the use of a
monthly report; or may require a monthly report without use of
a stamp to report the amount of taxes due.

"(f) The increases levied by this section shall be
exclusive and shall be in lieu of any other or additional
local taxes and/or license fees, county or municipal, imposed
on the sale or use of cigarettes and/or other tobacco
products. Notwithstanding the foregoing, an act of the
Legislature or an ordinance or resolution by a taxing
authority passed or enacted on or before May 18, 2004,
imposing a local tax and/or license fee shall remain
operative, but no additional local tax and/or license fee may
thereafter be levied on the sale of cigarettes and/or other
tobacco products.

"(g) Local taxes and/or license fees, county or
municipal, imposed on the sale or use of cigarettes shall be
paid to the local government through the use of stamps affixed
to the product as provided herein for the state tax. Provided,
however, this requirement shall not be interpreted to require
the Department of Revenue to prepare all stamps or to collect
all local taxes. Local governments may contract with another
entity to collect their local cigarette tax but all local
taxes must be collected as provided herein.

"§40-25-5.

"The Department of Revenue is hereby authorized and
directed to have prepared and distributed stamps suitable for
denoting the tax on all articles enumerated herein. Any
person, firm, corporation, or association of persons, other
than the Department of Revenue, who sells tobacco tax stamps
not affixed to tobacco sold and delivered by them, whether the
said stamps be genuine or counterfeit, shall be guilty of a
felony and punishable as set out in Section 40-25-6. When
wholesalers or jobbers have qualified as such with the
Department of Revenue, as provided in Section 40-25-16, and
desire to purchase stamps as prescribed herein for use on
taxable tobaccos sold and delivered by them, the Department of
Revenue shall allow on such sales of tobacco tax stamps a
discount of seven and one half percent 4.75 percent on the
entire amount of the sale. Where wholesalers or jobbers are
entitled to purchase stamps at a discount as herein provided,
instead of the Department of Revenue selling such stamps to
such jobbers or wholesalers for cash, it may consign such
stamps, if and when such wholesaler or jobber shall give to
the Department of Revenue a good and sufficient bond executed
by some surety company authorized to do business in this
state, conditioned to secure the payment for the stamps so
consigned when and as they are used on manufactured tobacco

products by such wholesaler or jobber. Every wholesaler or jobber purchasing stamps on consignment as described herein, shall be required to make a full and complete accounting and remittance on or before the twentieth of each month for all stamps used on taxable tobaccos during the preceding month. Every wholesaler or jobber refusing or failing to comply with this section shall forfeit the commission or discount on stamps used which he failed or refused to account or remit for in the time allowed, and in addition shall be charged interest on such delinquent amount for each day delinquent at the rate of eight percent per annum."

Section 2. Notwithstanding any other provision of Chapter 25, Title 40, Code of Alabama 1975, all revenue received from the increased tax levied by this amendatory act shall be deposited into the State General Fund.

Section 3. This act shall become effective on October 1, 2015, following its passage and approval by the Governor, or its otherwise becoming law.