

**ACT No. 94**

2015 Regular Session

HOUSE BILL NO. 119

BY REPRESENTATIVE RITCHIE

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AN ACT

To amend and reenact R.S. 47:841(introductory paragraph) and (F) and 842(20), (21), and (22) and to enact R.S. 47:841(B)(6) and (G), 841.2, and 842(23), relative to the tobacco tax; to authorize an additional tax to be levied on cigarettes; to establish the Tobacco Tax Medicaid Match Fund as a special treasury fund; to provide for the deposit, use, and investment of the monies in the fund; to provide with respect to the application of the tax on cigarettes in the inventory of certain retail and wholesale dealers; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:841(introductory paragraph) and (F) and 842(20), (21), and (22) are hereby amended and reenacted and R.S. 47:841(B)(6) and (G), 841.2, and 842(23) are hereby enacted to read as follows:

§841. Imposition of tax

There is hereby levied a tax upon the sale, use, consumption, handling, or distribution of all cigars, cigarettes, ~~and~~ smoking and smokeless tobacco, and vapor products and electronic cigarettes as defined herein, within the state of Louisiana, according to the classification and rates hereinafter set forth:

\* \* \*

B. Cigarettes.

\* \* \*

1                   (6) In addition to the tax levied in Paragraphs (1), (2), (4), and (5) of this  
2                   Subsection and in Paragraph (3) of this Subsection as continued in effect by Article  
3                   VII, Section 4.1 of the Constitution of Louisiana, there is hereby levied an additional  
4                   tax of two and ten-twentieths of one cent per cigarette.

5   \*           \*           \*

6                   F. Vapor products and electronic cigarettes. Upon vapor products and  
7                   electronic cigarettes, a tax of five cents per milliliter of consumable nicotine liquid  
8                   solution or other material containing nicotine that is depleted as a vapor product is  
9                   used.

10                   ~~F.(1)~~ (G)(1) The Tobacco Regulation Enforcement Fund, hereinafter  
11                   referred to as the "fund", is hereby established in the state treasury as a special fund  
12                   to provide support for enforcement activities of the office of alcohol and tobacco  
13                   control. The source of monies for the fund shall be a portion of the avails of the state  
14                   tax on cigarettes as provided herein.

15                   (2) After compliance with the requirements of Article VII, Section 9(B) of  
16                   the Constitution of Louisiana relative to the Bond Security and Redemption Fund,  
17                   and after a sufficient amount is allocated from that fund to pay all of the obligations  
18                   secured by the full faith and credit of the state which become due and payable within  
19                   any fiscal year, the state treasurer shall annually deposit into the fund an amount  
20                   equal to the avails of one-quarter of one-twentieth of one cent per cigarette from the  
21                   tax on cigarettes imposed pursuant to this Section. Monies in the fund shall be  
22                   subject to appropriation by the legislature and then only to the office of alcohol and  
23                   tobacco control for purposes of tobacco regulation enforcement. All unexpended and  
24                   unencumbered monies in the fund shall be invested by the state treasurer in the same  
25                   manner as monies in the state general fund, and all earnings on investment of the  
26                   fund shall be deposited into the fund.

27                   §841.2. Tobacco Tax Medicaid Match Fund

28                   A. There is hereby created as a special fund within the state treasury the  
29                   "Tobacco Tax Medicaid Match Fund", hereinafter referred to as the "fund". After  
30                   satisfying the requirements of Article VII, Section 9(B) of the Constitution of

1           Louisiana relative to the Bond Security and Redemption Fund and after a sufficient  
 2           amount is allocated from that fund to pay all of the obligations secured by the full  
 3           faith and credit of the state which becomes due and payable within any fiscal year,  
 4           the state treasurer shall annually deposit into the fund an amount equal to the avails  
 5           of the tax imposed under the provisions of R.S. 47:841(B)(6).

6           B. All unexpended and unencumbered monies in the fund at the end of the  
 7           fiscal year shall remain in the fund. The monies in the fund shall be invested by the  
 8           state treasurer in the same manner as monies in the state general fund, and all  
 9           earnings on investment of the fund shall be deposited into the fund. Monies  
 10          appropriated from the fund shall be used solely as provided in Subsection C of this  
 11          Section.

12          C. Monies in the fund shall be appropriated to the Department of Health and  
 13          Hospitals for the medical assistance program administered by the state in accordance  
 14          with Title XIX of the Social Security Act, also known as Medicaid.

15          D. No amount appropriated as required in this Section shall displace, replace,  
 16          or supplant appropriations from the state general fund for the Department of Health  
 17          and Hospitals. This shall mean that no appropriation for any fiscal year from the  
 18          Tobacco Tax Medicaid Match Fund shall be made for any purpose for which a  
 19          general fund appropriation was made in the previous year unless the total  
 20          appropriations for the fiscal year from the state general fund for such purpose exceed  
 21          general fund appropriations for the previous year.

22          §842. Definitions

23                 As used in this Chapter, the following terms have the meaning ascribed to  
 24                 them in this Section, unless the context clearly indicates otherwise:

25   \*           \*           \*

26                 (20) "Vapor products" shall mean any noncombustible product containing  
 27                 nicotine or other substances that employ a heating element, power source, electronic  
 28                 circuit, or other electronic, chemical or mechanical means, regardless of shape or  
 29                 size, used to produce vapor from nicotine in a solution or other form. "Vapor  
 30                 products" include any electronic cigarette, electronic cigar, electronic cigarillo,

1           electronic pipe, or similar product or device and any vapor cartridge or other  
2           container of nicotine in a solution or other form that is intended to be used with or  
3           in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or  
4           similar product or device.

5           ~~(20)~~ (21) "Vending machine" means any receptacle used to store taxable  
6           articles which vend such articles automatically.

7           ~~(21)~~ (22) "Vending machine operator" means any person who controls the  
8           use of one or more vending machines as to the supply of cigarettes or any tobacco  
9           products in the machine or the receipts from cigarettes vended through such  
10          machines.

11          ~~(22)~~ (23) "Wholesale dealers" are those dealers whose principal business is  
12          that of a wholesaler, and who sells cigarettes, cigars, and smoking tobacco to retail  
13          dealers for purpose of resale; and who is a bona fide wholesaler and fifty percent of  
14          whose total tobacco sales are to retail stores other than their own or their subsidiaries  
15          within Louisiana. Wholesale dealer shall include any person in the state who  
16          acquires cigarettes solely for the purpose of resale in vending machines, provided  
17          such person services fifty or more cigarette vending machines on selling locations  
18          in Louisiana other than their own. Wholesale dealers shall include those dealers  
19          engaged in receiving bulk smoking tobacco for purposes of blending and including  
20          those Louisiana dealers who were affixing cigarette and tobacco stamps as of  
21          January 1, 1974.

22          Section 2. The increase in the cigarette tax imposed by this Act shall apply to all  
23          cigarette products purchased by retail dealers and wholesale dealers on and after July 1,  
24          2015, and shall not apply to stamped products and unused tax stamps in the possession of  
25          wholesale dealers prior to July 1, 2015. All wholesale and retail dealers shall file an  
26          inventory with the secretary of the Department of Revenue of all cigarettes on hand prior to  
27          July 1, 2015. The inventory shall be filed by August 1, 2015. The secretary shall have  
28          authority to adopt rules and regulations as to the filing of the inventory report.

1           Section 3. The increase in the cigarette tax levied by the provisions of this Act shall  
2           be effective for the period beginning on July 1, 2015.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_