

CHAPTER 17**TAXATION OF CIGARETTES AND TOBACCO PRODUCTS —
HEALTH CARE TRUST FUND**

S.F. 128

AN ACT relating to an increase in the taxes on cigarettes and tobacco products, imposing an inventory tax on tobacco products, creating a health care trust fund, providing for a standing appropriation, and providing an effective date and providing an applicability provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 421B.2, subsection 3, paragraph b, Code 2007, is amended to read as follows:

b. The cost of doing business by the retailer is presumed to be ~~six~~ eight percent of the basic cost of cigarettes in the absence of proof of a lesser or higher cost plus the full face value of any stamps which may be required by any cigarette tax act of this state to the extent not already included in the basic cost of cigarettes.

Sec. 2. Section 421B.2, subsection 4, paragraph b, Code 2007, is amended to read as follows:

b. The cost of doing business by the wholesaler is presumed to be ~~three~~ four percent of the basic cost of cigarettes in the absence of proof of a lesser or higher cost, which includes cartage to the retail outlet, plus the full face value of any stamps which may be required by any cigarette tax act of this state to the extent not already included in the basic cost of cigarettes.

Sec. 3. Section 453A.6, subsection 1, Code 2007, is amended to read as follows:

1. There is imposed, and shall be collected and paid to the department, ~~the following taxes a tax~~ on all cigarettes used or otherwise disposed of in this state for any purpose ~~whatsoever~~:

~~Class A. On cigarettes weighing not more than three pounds per thousand, eighteen mills on each such cigarette.~~

~~Class B. On cigarettes weighing more than three pounds per thousand, eighteen mills equal to six and eight-tenths cents on each such cigarette.~~

Sec. 4. Section 453A.6, Code 2007, is amended by adding the following new subsection:
NEW SUBSECTION. 7. Cigarettes shall be sold only in packages of twenty or more cigarettes.

Sec. 5. Section 453A.35, Code 2007, is amended to read as follows:

453A.35 TAX AND FEES PAID TO GENERAL FUND — STANDING APPROPRIATION TO HEALTH CARE TRUST FUND.

1. The proceeds derived from the sale of stamps and the payment of taxes, fees and penalties provided for under this chapter, and the permit fees received from all permits issued by the department, shall be credited to the general fund of the state. However, beginning July 1, 2007, of the revenues generated from the tax on cigarettes pursuant to section 453A.6, subsection 1, and from the tax on tobacco products as specified in section 453A.43, subsections 1, 2, 3, and 4, and credited to the general fund of the state under this subsection, there is appropriated, annually, to the health care trust fund created in section 453A.35A, the first one hundred twenty-seven million six hundred thousand dollars.

2. All permit fees provided for in this chapter and collected by cities in the issuance of permits granted by the cities shall be paid to the treasurer of the city where the permit is effective, or to another city officer as designated by the council, and credited to the general fund of the city. Permit fees so collected by counties shall be paid to the county treasurer.

Sec. 6. NEW SECTION. 453A.35A HEALTH CARE TRUST FUND.

A health care trust fund is created in the office of the treasurer of state. The fund consists of the revenues generated from the tax on cigarettes pursuant to section 453A.6, subsection 1, and from the tax on tobacco products as specified in section 453A.43, subsections 1, 2, 3, and 4, that are credited to the general fund of the state and appropriated to the health care trust fund, annually, pursuant to section 453A.35. Moneys in the fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. However, the fund shall be considered a special account for the purposes of section 8.53 relating to generally accepted accounting principles. Moneys in the fund shall be used only as specified in this section and shall be appropriated only for the uses specified. Moneys in the fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except as provided in this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

Moneys in the fund shall be used only for purposes related to health care, substance abuse treatment and prevention, and tobacco use prevention, cessation, and control.

Sec. 7. Section 453A.40, subsection 1, Code 2007, is amended to read as follows:

1. All persons required to ~~obtain a permit or to~~ be licensed under section 453A.13 ~~as distributors or section 453A.44~~ having in their possession and held for resale on the effective date of an increase in the tax rate cigarettes, ~~or~~ little cigars, or tobacco products upon which the tax under section 453A.6 or 453A.43 has been paid, unused cigarette tax stamps which have been paid for under section 453A.8, ~~or~~ unused metered imprints which have been paid for under section 453A.12, or tobacco products for which the tax has not been paid under section 453A.46 shall be subject to an inventory tax on the items as provided in this section.

Sec. 8. Section 453A.42, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 11A. "Snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Sec. 9. Section 453A.42, subsection 14, Code 2007, is amended to read as follows:

14. "Tobacco products" means cigars; little cigars as defined herein; cheroots; stogies; pe-riques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; ~~snuff flour~~; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in section 453A.1, subsection 3.

Sec. 10. Section 453A.43, Code 2007, is amended to read as follows:

453A.43 TAX ON TOBACCO PRODUCTS.

1. a. A tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor of tobacco products, at the rate of twenty-two percent of the whole-sale sales price of the tobacco products, except little cigars and snuff as defined in section 453A.42.

b. In addition to the tax imposed under paragraph "a", a tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor of tobacco products, at the rate of twenty-eight percent of the wholesale sales price of the tobacco prod-ucts, except little cigars and snuff as defined in section 453A.42, with the limitation that if the tobacco product is a cigar, the additional tax shall not exceed fifty cents per cigar.

c. Little cigars shall be subject to the same rate of tax imposed upon cigarettes in section 453A.6, payable at the time and in the manner provided in section 453A.6; and stamps shall be affixed as provided in division I of this chapter. Snuff shall be subject to the tax as provided in subsections 3 and 4.

d. The tax ~~taxes~~ on tobacco products, excluding little cigars and snuff, shall be imposed at the time the distributor does any of the following:

a. ~~(1)~~ Brings, or causes to be brought, into this state from ~~without~~ outside the state tobacco products for sale.

b. ~~(2)~~ Makes, manufactures, or fabricates tobacco products in this state for sale in this state.

c. ~~(3)~~ Ships or transports tobacco products to retailers in this state, to be sold by those retailers.

2. a. A tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon the consumers, at the rate of twenty-two percent of the cost of the tobacco products.

b. In addition to the tax imposed in paragraph "a", a tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon the consumers, at a rate of twenty-eight percent of the cost of the tobacco products, with the limitation that if the tobacco product is a cigar, the additional tax shall not exceed fifty cents per cigar.

c. The tax ~~taxes~~ imposed by this subsection shall not apply if the tax ~~taxes~~ imposed by subsection 1 on the tobacco products ~~has~~ have been paid.

d. ~~This tax~~ The taxes imposed under this subsection shall not apply to the use or storage of tobacco products in quantities of:

a. ~~(1)~~ Less than 25 twenty-five cigars.

b. ~~Less than 10 oz. snuff or snuff powder.~~

e. ~~(2)~~ Less than ~~1 lb.~~ one pound smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.¹

3. A tax is imposed upon all snuff in this state and upon any person engaged in business as a distributor of snuff at the rate of one dollar and nineteen cents per ounce, with a proportionate tax at the same rate on all fractional parts of an ounce of snuff. The tax shall be computed based on the net weight listed by the manufacturer. The tax on snuff shall be imposed at the time the distributor does any of the following:

a. Brings or causes to be brought into this state from outside the state, snuff for sale.

b. Makes, manufactures, or fabricates snuff in this state for sale in this state.

c. Ships or transports snuff to retailers in this state, to be sold by those retailers.

4. A tax is imposed upon the use or storage by consumers of snuff in this state, and upon the consumers, at the rate of one dollar and nineteen cents per ounce with a proportionate tax at the same rate on all fractional parts of an ounce of snuff. The tax shall be computed based on the net weight as listed by the manufacturer.

The tax imposed by this subsection shall not apply if the tax imposed by subsection 3 on snuff has been paid.

The tax shall not apply to the use or storage of snuff in quantities of less than ten ounces.

3. ~~5.~~ Any tobacco product with respect to which a tax has once been imposed under this division shall not again be subject to tax under said ~~this~~ division, except as provided in section 453A.40.

4. ~~6.~~ The tax imposed by this section shall not apply with respect to any tobacco product which under the Constitution and laws of the United States may not be made the subject of taxation by this state.

5. ~~7.~~ The tax imposed by this section shall be in addition to all other occupation or privilege taxes or license fees now or hereafter imposed by any city or county.

6. ~~8.~~ All excise taxes collected under this chapter by a distributor or any individual are deemed to be held in trust for the state of Iowa.

Sec. 11. APPLICABILITY. Notwithstanding section 453A.40 as amended in this Act, persons required to obtain a permit or license as specified in that section shall not be subject to an inventory tax on the items as provided in that section as a result of the tax increases provided in this Act.

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 15, 2007

¹ See chapter 186, §46, 55 herein