

1 AMENDMENT TO SENATE BILL 449

2 AMENDMENT NO. _____. Amend Senate Bill 449, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Cigarette Tax Act is amended by changing
6 Section 2 as follows:

7 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

8 Sec. 2. Tax imposed; rate; collection, payment, and
9 distribution; discount.

10 (a) A tax is imposed upon any person engaged in business
11 as a retailer of cigarettes in this State at the rate of 5
12 1/2 mills per cigarette sold, or otherwise disposed of in the
13 course of such business in this State. In addition to any
14 other tax imposed by this Act, a tax is imposed upon any
15 person engaged in business as a retailer of cigarettes in
16 this State at a rate of 1/2 mill per cigarette sold or
17 otherwise disposed of in the course of such business in this
18 State on and after January 1, 1947, and shall be paid into
19 the Metropolitan Fair and Exposition Authority Reconstruction
20 Fund. On and after December 1, 1985, in addition to any other
21 tax imposed by this Act, a tax is imposed upon any person
22 engaged in business as a retailer of cigarettes in this State

1 at a rate of 4 mills per cigarette sold or otherwise disposed
2 of in the course of such business in this State. Of the
3 additional tax imposed by this amendatory Act of 1985,
4 \$9,000,000 of the moneys received by the Department of
5 Revenue pursuant to this Act shall be paid each month into
6 the Common School Fund. On and after the effective date of
7 this amendatory Act of 1989, in addition to any other tax
8 imposed by this Act, a tax is imposed upon any person engaged
9 in business as a retailer of cigarettes at the rate of 5
10 mills per cigarette sold or otherwise disposed of in the
11 course of such business in this State. On and after the
12 effective date of this amendatory Act of 1993, in addition to
13 any other tax imposed by this Act, a tax is imposed upon any
14 person engaged in business as a retailer of cigarettes at the
15 rate of 7 mills per cigarette sold or otherwise disposed of
16 in the course of such business in this State. On and after
17 December 15, 1997, in addition to any other tax imposed by
18 this Act, a tax is imposed upon any person engaged in
19 business as a retailer of cigarettes at the rate of 7 mills
20 per cigarette sold or otherwise disposed of in the course of
21 such business of this State. All of the moneys received by
22 the Department of Revenue pursuant to this Act and the
23 Cigarette Use Tax Act from the additional taxes imposed by
24 this amendatory Act of 1997, shall be paid each month into
25 the Common School Fund. On and after the effective date of
26 this amendatory Act of the 92nd General Assembly, in addition
27 to any other tax imposed by this Act, a tax is imposed upon
28 any person engaged in business as a retailer of cigarettes at
29 the rate of 20.0 mills per cigarette sold or otherwise
30 disposed of in the course of such business in this State. The
31 payment of such taxes shall be evidenced by a stamp affixed
32 to each original package of cigarettes, or an authorized
33 substitute for such stamp imprinted on each original package
34 of such cigarettes underneath the sealed transparent outside

1 wrapper of such original package, as hereinafter provided.
2 However, such taxes are not imposed upon any activity in such
3 business in interstate commerce or otherwise, which activity
4 may not under the Constitution and statutes of the United
5 States be made the subject of taxation by this State.

6 Beginning on the effective date of this amendatory Act of
7 the 92nd General Assembly 1998, all of the moneys received by
8 the Department of Revenue pursuant to this Act and the
9 Cigarette Use Tax Act, other than the moneys that are
10 dedicated to the Metropolitan Fair and Exposition Authority
11 Reconstruction Fund and the Common School Fund, shall be
12 distributed each month as follows: first, there shall be paid
13 into the General Revenue Fund an amount which, when added to
14 the amount paid into the Common School Fund for that month,
15 equals \$38,500,000 ~~\$33,300,000~~; then, from the moneys
16 remaining, if any amounts required to be paid into the
17 General Revenue Fund in previous months remain unpaid, those
18 amounts shall be paid into the General Revenue Fund; then,
19 beginning on April 1, 2003, from the moneys remaining,
20 \$5,000,000 per month shall be paid into the School
21 Infrastructure Fund; then, if any amounts required to be paid
22 into the School Infrastructure Fund in previous months remain
23 unpaid, those amounts shall be paid into the School
24 Infrastructure Fund; then the moneys remaining, if any, shall
25 be paid into the Long-Term Care Provider Fund. To the extent
26 that more than \$25,000,000 has been paid into the General
27 Revenue Fund and Common School Fund per month for the period
28 of July 1, 1993 through the effective date of this amendatory
29 Act of 1994 from combined receipts of the Cigarette Tax Act
30 and the Cigarette Use Tax Act, notwithstanding the
31 distribution provided in this Section, the Department of
32 Revenue is hereby directed to adjust the distribution
33 provided in this Section to increase the next monthly
34 payments to the Long Term Care Provider Fund by the amount

1 paid to the General Revenue Fund and Common School Fund in
2 excess of \$25,000,000 per month and to decrease the next
3 monthly payments to the General Revenue Fund and Common
4 School Fund by that same excess amount.

5 When any tax imposed herein terminates or has terminated,
6 distributors who have bought stamps while such tax was in
7 effect and who therefore paid such tax, but who can show, to
8 the Department's satisfaction, that they sold the cigarettes
9 to which they affixed such stamps after such tax had
10 terminated and did not recover the tax or its equivalent from
11 purchasers, shall be allowed by the Department to take credit
12 for such absorbed tax against subsequent tax stamp purchases
13 from the Department by such distributor.

14 The impact of the tax levied by this Act is imposed upon
15 the retailer and shall be prepaid or pre-collected by the
16 distributor for the purpose of convenience and facility only,
17 and the amount of the tax shall be added to the price of the
18 cigarettes sold by such distributor. Collection of the tax
19 shall be evidenced by a stamp or stamps affixed to each
20 original package of cigarettes, as hereinafter provided.

21 Each distributor shall collect the tax from the retailer
22 at or before the time of the sale, shall affix the stamps as
23 hereinafter required, and shall remit the tax collected from
24 retailers to the Department, as hereinafter provided. Any
25 distributor who fails to properly collect and pay the tax
26 imposed by this Act shall be liable for the tax. Any
27 distributor having cigarettes to which stamps have been
28 affixed in his possession for sale on the effective date of
29 this amendatory Act of 1989 shall not be required to pay the
30 additional tax imposed by this amendatory Act of 1989 on such
31 stamped cigarettes. Any distributor having cigarettes to
32 which stamps have been affixed in his or her possession for
33 sale at 12:01 a.m. on the effective date of this amendatory
34 Act of 1993, is required to pay the additional tax imposed by

1 this amendatory Act of 1993 on such stamped cigarettes. This
2 payment, less the discount provided in subsection (b), shall
3 be due when the distributor first makes a purchase of
4 cigarette tax stamps after the effective date of this
5 amendatory Act of 1993, or on the first due date of a return
6 under this Act after the effective date of this amendatory
7 Act of 1993, whichever occurs first. Any distributor having
8 cigarettes to which stamps have been affixed in his
9 possession for sale on December 15, 1997 shall not be
10 required to pay the additional tax imposed by this amendatory
11 Act of 1997 on such stamped cigarettes.

12 Any distributor having cigarettes to which stamps have
13 been affixed in his or her possession for sale at 12:01 a.m.
14 on the effective date of this amendatory Act of the 92nd
15 General Assembly is required to pay the additional tax
16 imposed by this amendatory Act of the 92nd General Assembly
17 on such stamped cigarettes. This payment, less the discount
18 provided in subsection (b), shall be due when the distributor
19 first makes a purchase of cigarette tax stamps after the
20 effective date of this amendatory Act of the 92nd General
21 Assembly, or on the first due date of a return under this Act
22 after the effective date of this amendatory Act of the 92nd
23 General Assembly, whichever occurs first. Once a distributor
24 tenders payment of the additional tax to the Department, the
25 distributor may purchase stamps from the Department.

26 The amount of the Cigarette Tax imposed by this Act shall
27 be separately stated, apart from the price of the goods, by
28 both distributors and retailers, in all advertisements, bills
29 and sales invoices.

30 (b) The distributor shall be required to collect the
31 taxes provided under paragraph (a) hereof, and, to cover the
32 costs of such collection, shall be allowed a discount during
33 any year commencing July 1st and ending the following June
34 30th in accordance with the schedule set out hereinbelow,

1 which discount shall be allowed at the time of purchase of
2 the stamps when purchase is required by this Act, or at the
3 time when the tax is remitted to the Department without the
4 purchase of stamps from the Department when that method of
5 paying the tax is required or authorized by this Act. Prior
6 to December 1, 1985, a discount equal to $1\frac{2}{3}\%$ of the amount
7 of the tax up to and including the first \$700,000 paid
8 hereunder by such distributor to the Department during any
9 such year; $1\frac{1}{3}\%$ of the next \$700,000 of tax or any part
10 thereof, paid hereunder by such distributor to the Department
11 during any such year; 1% of the next \$700,000 of tax, or any
12 part thereof, paid hereunder by such distributor to the
13 Department during any such year, and $\frac{2}{3}$ of 1% of the amount
14 of any additional tax paid hereunder by such distributor to
15 the Department during any such year shall apply. On and after
16 December 1, 1985, a discount equal to 1.75% of the amount of
17 the tax payable under this Act up to and including the first
18 \$3,000,000 paid hereunder by such distributor to the
19 Department during any such year and 1.5% of the amount of any
20 additional tax paid hereunder by such distributor to the
21 Department during any such year shall apply.

22 Two or more distributors that use a common means of
23 affixing revenue tax stamps or that are owned or controlled
24 by the same interests shall be treated as a single
25 distributor for the purpose of computing the discount.

26 (c) The taxes herein imposed are in addition to all
27 other occupation or privilege taxes imposed by the State of
28 Illinois, or by any political subdivision thereof, or by any
29 municipal corporation.

30 (Source: P.A. 90-548, eff. 12-4-97; 90-587, eff. 7-1-98.)

31 Section 10. The Cigarette Use Tax Act is amended by
32 changing Section 2 as follows:

1 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

2 Sec. 2. A tax is imposed upon the privilege of using
3 cigarettes in this State, at the rate of 6 mills per
4 cigarette so used. On and after December 1, 1985, in addition
5 to any other tax imposed by this Act, a tax is imposed upon
6 the privilege of using cigarettes in this State at a rate of
7 4 mills per cigarette so used. On and after the effective
8 date of this amendatory Act of 1989, in addition to any other
9 tax imposed by this Act, a tax is imposed upon the privilege
10 of using cigarettes in this State at the rate of 5 mills per
11 cigarette so used. On and after the effective date of this
12 amendatory Act of 1993, in addition to any other tax imposed
13 by this Act, a tax is imposed upon the privilege of using
14 cigarettes in this State at a rate of 7 mills per cigarette
15 so used. On and after December 15, 1997, in addition to any
16 other tax imposed by this Act, a tax is imposed upon the
17 privilege of using cigarettes in this State at a rate of 7
18 mills per cigarette so used. On and after the effective date
19 of this amendatory Act of the 92nd General Assembly, in
20 addition to any other tax imposed by this Act, a tax is
21 imposed upon the privilege of using cigarettes in this State
22 at a rate of 20.0 mills per cigarette so used. The taxes
23 herein imposed shall be in addition to all other occupation
24 or privilege taxes imposed by the State of Illinois or by any
25 political subdivision thereof or by any municipal
26 corporation.

27 When any tax imposed herein terminates or has terminated,
28 distributors who have bought stamps while such tax was in
29 effect and who therefore paid such tax, but who can show, to
30 the Department's satisfaction, that they sold the cigarettes
31 to which they affixed such stamps after such tax had
32 terminated and did not recover the tax or its equivalent from
33 purchasers, shall be allowed by the Department to take credit
34 for such absorbed tax against subsequent tax stamp purchases

1 from the Department by such distributors.

2 When the word "tax" is used in this Act, it shall include
3 any tax or tax rate imposed by this Act and shall mean the
4 singular of "tax" or the plural "taxes" as the context may
5 require.

6 Any distributor having cigarettes to which stamps have
7 been affixed in his possession for sale on the effective date
8 of this amendatory Act of 1989 shall not be required to pay
9 the additional tax imposed by this amendatory Act of 1989 on
10 such stamped cigarettes. Any distributor having cigarettes to
11 which stamps have been affixed in his or her possession for
12 sale at 12:01 a.m. on the effective date of this amendatory
13 Act of 1993, is required to pay the additional tax imposed by
14 this amendatory Act of 1993 on such stamped cigarettes. This
15 payment shall be due when the distributor first makes a
16 purchase of cigarette tax stamps after the effective date of
17 this amendatory Act of 1993, or on the first due date of a
18 return under this Act after the effective date of this
19 amendatory Act of 1993, whichever occurs first. Once a
20 distributor tenders payment of the additional tax to the
21 Department, the distributor may purchase stamps from the
22 Department. Any distributor having cigarettes to which
23 stamps have been affixed in his possession for sale on
24 December 15, 1997 shall not be required to pay the additional
25 tax imposed by this amendatory Act of 1997 on such stamped
26 cigarettes.

27 Any distributor having cigarettes to which stamps have
28 been affixed in his or her possession for sale at 12:01 a.m.
29 on the effective date of this amendatory Act of the 92nd
30 General Assembly is required to pay the additional tax
31 imposed by this amendatory Act of the 92nd General Assembly
32 on such stamped cigarettes. This payment shall be due when
33 the distributor first makes a purchase of cigarette tax
34 stamps after the effective date of this amendatory Act of the

1 92nd General Assembly, or on the first due date of a return
2 under this Act after the effective date of this amendatory
3 Act of the 92nd General Assembly, whichever occurs first.
4 Once a distributor tenders payment of the additional tax to
5 the Department, the distributor may purchase stamps from the
6 Department.

7 (Source: P.A. 90-548, eff. 12-4-97.)

8 Section 99. Effective date. This Act takes effect on
9 July 1, 2002."