

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2761

03/12/2012 Authored by Benson, M.,
The bill was read for the first time and referred to the Committee on Education Finance

A bill for an act

relating to state finance; increasing the rate of taxes on cigarettes and other tobacco products; providing for use of the proceeds; amending Minnesota Statutes 2010, sections 275.025, subdivision 1; 297F.05, subdivisions 1, 3, 4; Minnesota Statutes 2011 Supplement, section 127A.45, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2011 Supplement, section 127A.45, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) "Other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 127A.33, apportionments by the county auditor pursuant to section 127A.34, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to chapter 298.

(b) "Cumulative amount guaranteed" means the product of
(1) the cumulative disbursement percentage shown in subdivision 3; times
(2) the sum of
(i) the current year aid payment percentage of the estimated aid and credit entitlements paid according to subdivision 13; plus
(ii) 100 percent of the entitlements paid according to subdivisions 11 and 12; plus
(iii) the other district receipts.

(c) "Payment date" means the date on which state payments to districts are made by the electronic funds transfer method. If a payment date falls on a Saturday, a Sunday, or a weekday which is a legal holiday, the payment shall be made on the immediately preceding business day. The commissioner may make payments on dates other than those listed in subdivision 3, but only for portions of payments from any preceding

payment dates which could not be processed by the electronic funds transfer method due to documented extenuating circumstances.

(d) The current year aid payment percentage equals 73 in fiscal year 2010 and 70 in fiscal year 2011, and 60 in fiscal years 2012 and later. The commissioner shall increase the current year aid payment percentage under this section for any year that the current year aid payment percentage under this subdivision and under section 16A.152, subdivision 2, is less than 70. The amount of the increase is the percentage generated by the value in paragraph (e).

(e) The value to produce the percentage increase in paragraph (d) is equivalent to the cigarette and tobacco tax collections generated by:

(1) increasing the cigarette tax rate under section 297F.05, subdivision 1, from 24 to 88.5 mills on cigarettes weighing not more than three pounds per thousand;

(2) increasing the cigarette tax rate under section 297F.05, subdivision 1, from 48 to 177 mills on cigarettes weighing more than three pounds per thousand; and

(3) increasing the tax rate on tobacco products under section 297F.05, subdivision 3, from 35 to 47.5 percent of the wholesale price of the tobacco products.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 2. Minnesota Statutes 2010, section 275.025, subdivision 1, is amended to read:

Subdivision 1. **Levy amount.** The state general levy is levied against commercial-industrial property and seasonal residential recreational property, as defined in this section. The state general levy base amount is \$592,000,000 for taxes payable in 2002. For taxes payable in subsequent years, the levy base amount is increased each year by multiplying the levy base amount for the prior year by the sum of one plus the rate of increase, if any, in the implicit price deflator for government consumption expenditures and gross investment for state and local governments prepared by the Bureau of Economic Analysts of the United States Department of Commerce for the 12-month period ending March 31 of the year prior to the year the taxes are payable. The commissioner shall reduce the state general levy base amount under this section for any year that the current year aid percentage for the current fiscal year, under sections 16A.152, subdivision 2, and 127A.45, subdivision 2, is equal to or greater than 70. The amount of the levy reduction is equal to the increase in cigarette and tobacco tax collections generated by:

(1) increasing the cigarette tax rate under section 297F.05, subdivision 1, from 24 to 88.5 mills on cigarettes weighing not more than three pounds per thousand;

(2) increasing the tax rate under section 297F.05, subdivision 1, from 48 to 177 mills on cigarettes weighing more than three pounds per thousand; and

(3) increasing the tax rate on tobacco products under section 297F.05, subdivision 3, from 35 to 47.5 percent of the wholesale price of the tobacco products.

The tax under this section is not treated as a local tax rate under section 469.177 and is not the levy of a governmental unit under chapters 276A and 473F.

The commissioner shall increase or decrease the preliminary or final rate for a year as necessary to account for errors and tax base changes that affected a preliminary or final rate for either of the two preceding years. Adjustments are allowed to the extent that the necessary information is available to the commissioner at the time the rates for a year must be certified, and for the following reasons:

(1) an erroneous report of taxable value by a local official;

(2) an erroneous calculation by the commissioner; and

(3) an increase or decrease in taxable value for commercial-industrial or seasonal residential recreational property reported on the abstracts of tax lists submitted under section 275.29 that was not reported on the abstracts of assessment submitted under section 270C.89 for the same year.

The commissioner may, but need not, make adjustments if the total difference in the tax levied for the year would be less than \$100,000.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 3. Minnesota Statutes 2010, section 297F.05, subdivision 1, is amended to read:

Subdivision 1. **Rates; cigarettes.** A tax is imposed upon the sale of cigarettes in this state, upon having cigarettes in possession in this state with intent to sell, upon any person engaged in business as a distributor, and upon the use or storage by consumers, at the following rates:

(1) on cigarettes weighing not more than three pounds per thousand, ~~24~~ 88.5 mills on each such cigarette; and

(2) on cigarettes weighing more than three pounds per thousand, ~~48~~ 177 mills on each such cigarette.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 4. Minnesota Statutes 2010, section 297F.05, subdivision 3, is amended to read:

Subd. 3. **Rates; tobacco products.** A tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor, at the rate of ~~35~~ 47.5 percent of the wholesale sales price of the tobacco products. The tax is imposed at the time the distributor:

(1) brings, or causes to be brought, into this state from outside the state tobacco products for sale;

(2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or

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

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 5. Minnesota Statutes 2010, section 297F.05, subdivision 4, is amended to read:

Subd. 4. **Use tax; tobacco products.** A tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon such consumers, at the rate of ~~35~~ 47.5 percent of the cost to the consumer of the tobacco products.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 6. **FLOOR STOCKS TAXES.**

Subdivision 1. **Cigarettes.** (a) A floor stocks tax is imposed on every person engaged in business in this state as a distributor, retailer, subjobber, vendor, manufacturer, or manufacturer's representative of cigarettes, on the stamped cigarettes and unaffixed stamps in the person's possession or under the person's control at 12:01 a.m. on July 1, 2012. The tax is imposed at the following rates:

(1) on cigarettes weighing not more than three pounds per thousand, 64.5 mills on each cigarette; and

(2) on cigarettes weighing more than three pounds per thousand, 129 mills on each cigarette.

(b) Each distributor, on or before July 8, 2012, shall file a return with the commissioner of revenue, in the form the commissioner prescribes, showing the stamped cigarettes and unaffixed stamps on hand at 12:01 a.m. on July 1, 2012, and the amount of tax due on the cigarettes and unaffixed stamps. The tax imposed by this section is due and payable by August 1, 2012, and after that date bears interest at the rate of one percent per month.

(c) Each retailer, subjobber, vendor, manufacturer, or manufacturer's representative, on or before July 8, 2012, shall file a return with the commissioner in the form the commissioner prescribes, showing the cigarettes on hand at 12:01 a.m. on July 1, 2012, and the amount of tax due on the cigarettes. The tax imposed by this section is due and

payable by August 1, 2012, and after that date bears interest at the rate of one percent per month.

Subd. 2. Tobacco products. (a) A floor stocks tax is imposed on every person engaged in business in this state as a distributor, retailer, subjobber, vendor, manufacturer, or manufacturer's representative of tobacco products, on the tobacco products in the person's possession or under the person's control at 12:01 a.m. on July 1, 2012. The tax is imposed at the rate of 12.5 percent of the wholesale sales price of the tobacco products.

(b) On or before July 8, 2012, each distributor, retailer, subjobber, vendor, manufacturer, or manufacturer's representative shall file a return with the commissioner of revenue, in the form the commissioner prescribes, showing the tobacco products on hand at 12:01 a.m. on July 1, 2012, and the amount of tax due on the tobacco products. The tax imposed by this section is due and payable by August 1, 2012, and after that date bears interest at the rate of one percent per month.

Subd. 3. Audit and enforcement. The taxes imposed by this section are subject to the audit, assessment, and collection provisions applicable to the taxes imposed under Minnesota Statutes, chapter 297F. The commissioner may require a distributor to receive and maintain copies of floor stock tax returns filed by all persons requesting a credit for returned cigarettes.

Subd. 4. Deposit of proceeds. The revenue from the taxes imposed under this section must be deposited by the commissioner in the state treasury and credited as provided in Minnesota Statutes, section 297F.10.

EFFECTIVE DATE. This section is effective the day following final enactment.