

AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1890

Introduced by Senator Ortiz

February 22, 2002

An act to add Article 1.5 (commencing with Section 104498) to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, and to add Article 4 (commencing with Section 30132) to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, relating to tobacco.

LEGISLATIVE COUNSEL'S DIGEST

SB 1890, as amended, Ortiz. Tobacco Use Reduction and Compensation Act of 2002.

Existing law establishes various programs for the prevention of disease and the promotion of health, including programs for the reduction of risks associated with behaviors, and the use of specific products, including tobacco.

Existing law separately provides for the imposition of specified taxes and surtaxes on the sale and distribution of cigarettes and tobacco products.

This bill, the Tobacco Use Reduction and Compensation Act of 2002, would create the Tobacco Use Reduction and Compensation Fund, into which would be deposited the proceeds of surtaxes imposed, at a specified rate, on the sale and distribution of cigarettes and tobacco products, as defined. This bill would require moneys in the fund to be appropriated from the fund for specified purposes including tobacco use ~~and~~ prevention *and control*, education and research, *disease prevention*, the provision of medical and preventative health services for low-income and uninsured individuals, and the expansion of medical insurance coverage for the uninsured.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited as, the
2 Tobacco Use Reduction and Compensation Act of 2002.

3 SEC. 2. The Legislature finds and declares as follows:

4 (a) Tobacco caused health expenditures in California exceed
5 \$8.7 billion every year. Five and one-half billion dollars of this
6 amount is paid by taxpayers. Every household in California pays
7 an additional \$495 in federal and state taxes for smoking related
8 costs. Imposition of additional tobacco taxes will generate
9 long-term cost savings of \$2.3 billion by reducing the
10 consumption of tobacco.

11 ~~(b) California currently operates the most successful tobacco~~
12 ~~prevention and control program in the world. This program has~~

13 (b) *California's tobacco prevention and control program has*
14 reduced tobacco consumption by one-half over the past eleven
15 years. Despite this success, smoking remains the principal
16 avoidable cause of death in this state. Smoking kills 41,000
17 Californians every year, causing more deaths than alcohol, AIDS,
18 automobiles, illegal drugs, murders and suicides combined.
19 *Californians every year.* Almost 500,000 California children 18
20 years of age or younger are projected to die from smoking related
21 diseases.

22 (c) Raising the tobacco tax *has been demonstrated to be an*
23 *effective way to reduce consumption of tobacco products, and will*
24 increase the state's ability to reduce tobacco consumption and the
25 related illnesses, injuries, and deaths associated with tobacco use.
26 Increasing tobacco prices, motivating smokers to quit, and
27 providing effective assistance to help smokers stop smoking will
28 dramatically reduce the human and financial costs of tobacco use.
29 ~~The United States Surgeon General has estimated that the tax~~



1 ~~increase in this act will reduce the number of California child~~
2 ~~smokers by 125,000 and the number of adult smokers by 104,000.~~

3 ~~(d) and financial costs of tobacco use.~~

4 *(d) California ranks 12th among the 50 states in per capita*
5 *spending on tobacco control and prevention programs due to*
6 *declining Proposition 99 tobacco tax revenues and lack of*
7 *appropriations from the state's Tobacco Settlement Fund.*
8 *California spends below the minimum amount that the federal*
9 *Centers for Disease Control and Prevention (CDC) has*
10 *recommended the state spend for tobacco control and prevention*
11 *and below that recommended by the state Tobacco Education and*
12 *Research Oversight Committee's Master Plan.*

13 *(e) Investing additional revenues into tobacco control and*
14 *prevention is expected to prevent thousands of heart disease deaths*
15 *and significantly reduce the state's lung cancer rate, based on*
16 *previous studies of the State Department of Health Services, the*
17 *CDC, and published reports in the New England Journal of*
18 *Medicine.*

19 *(f) It is the intent of the Legislature that tobacco tax revenues*
20 *be used to compensate taxpayers for the public costs associated*
21 *with tobacco use. It is the further intent of the Legislature that the*
22 *price of tobacco products at least partially reflect the costs*
23 *associated with use of that product. It is the further intent of the*
24 *Legislature that this compensation benefit tobacco users by*
25 *encouraging and assisting them in quitting tobacco use and*
26 *providing medical research and treatment for diseases affected by*
27 *tobacco use. Tobacco use is highest among low-income groups and*
28 *communities that disproportionately suffer the consequences of*
29 *tobacco use. It is the intent of the Legislature that this act provide*
30 *the benefits of assistance, treatment, research, and incentives to the*
31 *same tobacco consumers who pay the tax and will diminish the*
32 *existing public tax subsidy for tobacco use.*

33 *(g) It is appropriate to use tobacco tax revenues to provide*
34 *health care for those unable to afford that care, including those*
35 *affected both directly and indirectly by tobacco use. California's*
36 *health system and public health infrastructure is in dire need of*
37 *additional revenues, in order to protect the health and well-being*
38 *of people who reside in this state.*

39 *(h) It is the intent of the Legislature in enacting this act to*
40 *diminish the human and economic costs of tobacco use in the State*



1 of California, to motivate tobacco users to quit, to provide tobacco
2 users assistance in quitting, and to provide medical services and
3 research to improve the health of communities of at-risk
4 individuals. It is the further intent of the Legislature in enacting
5 this act to diminish the financial subsidy paid by nonsmokers for
6 smoking related diseases, costs, and treatment.

7 SEC. 3. Article 1.5 (commencing with Section 104498) is
8 added to Chapter 1 of Part 3 of Division 103 of the Health and
9 Safety Code, to read:

10

~~Article 1.5. Tobacco Use Reduction and Compensation~~

11

Article 1.5. Tobacco Use Reduction and Compensation

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13

104498. (a) The Tobacco Use Reduction and Compensation
Fund is hereby created in the State Treasury. The Tobacco Use
Reduction and Compensation Fund shall consist of moneys
collected pursuant to the taxes imposed by Section 30132.2 of the
Revenue and Taxation Code, and, notwithstanding Section
16305.7 of the Government Code, any interest, dividends, and
pecuniary gains, earned on moneys deposited in the fund. Moneys
in the fund shall be allocated to the accounts created within the
fund in accordance with subdivision (b). All costs to implement
this article shall be paid from moneys deposited in the Tobacco Use
Reduction and Compensation Fund.

14

(b) *The Tobacco Use Reduction and Compensation Fund shall
include the following accounts:*

15

(1) *The Tobacco Cessation Services Account.*

16

(2) *The Outpatient Services Account.*

17

(3) *The Health Care Coverage Account.*

18

(c) Moneys deposited into the Tobacco Use and Compensation
Fund shall, upon appropriation by the Legislature, be allocated as
follows:

19

~~(1) _____ percent shall be allocated for expenditure according
to the following formula:~~

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~~(A) _____ percent shall be allocated to the Tobacco Education
Account, which shall be available to support and expand the
tobacco use prevention programs specified in Article 1
(commencing with Section 104350).~~

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1 ~~(B) _____ percent shall be allocated to the Tobacco Cessation~~
2 ~~Services Account, which shall be available to support~~
3 ~~comprehensive tobacco cessation services. This revenue shall be~~
4 ~~used to acquire and provide services to assist tobacco users to quit~~
5 ~~tobacco use. It is the intent of the Legislature that these services be~~
6 ~~made available to members of every health plan in California, to~~
7 ~~all publicly sponsored patients and to individuals with no medical~~
8 ~~coverage. It is the intent of the Legislature that state-of-the-art~~
9 ~~pharmaceutical, counseling, referral, and support services shall be~~
10 ~~readily available to every tobacco consumer who voluntarily seeks~~
11 ~~these services.~~

12 ~~(2) _____ percent shall be allocated to the Scientific Research~~
13 ~~Account, which shall be available for scientific research to~~
14 ~~improve the care and treatment of medical conditions caused,~~
15 ~~affected by, or associated with tobacco use.~~

16 ~~(3) _____ percent of the fund shall be allocated to provide~~
17 ~~necessary medical and preventative health services to low-income~~
18 ~~and uninsured individuals. In implementing this paragraph, the~~
19 ~~state shall maximize the use of federal funding when available, and~~
20 ~~consistent with the purpose of this part. Funds under this paragraph~~
21 ~~shall be available according to the following formula:~~

22 ~~(A) _____ percent shall be allocated to the Outpatient Services~~
23 ~~Account, which shall be available to community clinics and~~
24 ~~outpatient emergency rooms serving a disproportionate share of~~
25 ~~individuals who are either uninsured or are covered by publicly~~
26 ~~funded health care programs.~~

27 ~~(B) _____ percent shall be allocated to the Health Care Coverage~~
28 ~~Account, which shall be available to expand medical insurance~~
29 ~~coverage for uninsured families, adults, and children.~~

30 ~~(e)–~~

31 ~~(1) Eighteen percent shall be deposited into the Health~~
32 ~~Education Account in the Cigarette and Tobacco Products Surtax~~
33 ~~Fund created by Section 30122 of the Revenue and Taxation Code,~~
34 ~~and allocated to support and expand the state's tobacco prevention~~
35 ~~and control programs specified in Article 1 (commencing with~~
36 ~~Section 104350).~~

37 ~~(2) Twelve percent shall be deposited into the Tobacco~~
38 ~~Cessation Services Account and shall be allocated to support~~
39 ~~comprehensive tobacco cessation services. This revenue shall be~~
40 ~~used to acquire and provide services to assist tobacco users in~~



1 *quitting. State-of-the-art pharmaceutical, counseling, referral,*
2 *and support services shall be readily available to every tobacco*
3 *consumer who voluntarily seeks those services.*

4 (3) *One percent shall be allocated to the State Department of*
5 *Health Services to support and expand the capacity of the*
6 *California Smokers' Helpline.*

7 (4) *Three and one-half percent shall be allocated to the State*
8 *Department of Health Services for the purpose of supporting the*
9 *state's Cancer Research program pursuant to Article 2*
10 *(commencing with Section 104175) of Chapter 2 of Part 1.*

11 (5) *One and one-half percent shall be allocated to the Ken*
12 *Maddy California Cancer Registry pursuant to Section 103875. It*
13 *is the intent of the Legislature that these funds shall supplant funds*
14 *that would otherwise be appropriated from the Research Account*
15 *of the Cigarette and Tobacco Products Surtax Fund created by*
16 *Section 30122 of the Revenue and Taxation Code to the Ken Maddy*
17 *California Cancer Registry.*

18 (6) *Two percent shall be allocated to the Research Account of*
19 *the Cigarette and Tobacco Products Surtax Fund created by*
20 *Section 30122 of the Revenue and Taxation Code, for the purpose*
21 *of funding the Tobacco-Related Disease Research Program*
22 *established by the University of California.*

23 (7) *Five percent shall be allocated to the State Department of*
24 *Health Services for the expansion of the California Heart Disease*
25 *and Stroke Prevention Program in the Chronic Disease Branch of*
26 *the department, and for the establishment of a cardiovascular*
27 *disease registry.*

28 (8) *Two percent shall be allocated to the State Department of*
29 *Health Services for the prevention and control of asthma in*
30 *California pursuant to Chapter 6.5 (commencing with Section*
31 *104316).*

32 (9) *Fifty-five percent of the fund shall be allocated to provide*
33 *necessary medical and preventative health services to low-income*
34 *and uninsured individuals. In implementing this section, the state*
35 *shall maximize the use of federal funding, when available, and*
36 *consistent with the purpose of this part. Funds under this article*
37 *shall be available as follows:*

38 (A) *Ten percent shall be allocated to the Outpatient Services*
39 *Account, and shall be allocated to community clinics and*



1 *outpatient emergency rooms serving a disproportionate number of*
2 *uninsured and public patients.*

3 (B) *Forty-five percent shall be allocated to the Health Care*
4 *Coverage Account, to expand medical insurance coverage for*
5 *uninsured families, adults, and children.*

6 (d) The moneys allocated to any of the accounts described in
7 this subdivision, that are not encumbered or expended within any
8 fiscal year shall remain in the same account, and be available for
9 expenditure from that account, for the next fiscal year. Moneys
10 allocated to and deposited in each specific account in the fund shall
11 be expended only for the purposes authorized.

12 SEC. 4. Article 4 (commencing with Section 30132) is added
13 to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation
14 Code, to read:

15
16 Article 4. Tobacco Use Reduction and Compensation Fund
17 Account
18

19 30132. The following definitions apply for purposes of this
20 article:

21 (a) “Cigarette” has the same meaning as in Section 30003, as
22 it read on January 1, 1997.

23 (b) “Tobacco products” includes, but is not limited to, all
24 forms of cigars, smoking tobacco, chewing tobacco, snuff, and any
25 other articles or products made of, or containing at least 50 percent
26 tobacco, but does not include cigarettes.

27 30132.1. (a) In addition to the taxes imposed upon the
28 distribution of cigarettes by Section 30101 and Section 30121 and
29 any other taxes in this chapter, there shall be imposed an additional
30 surtax upon every distributor of cigarettes at the rate of ~~thirty-five~~
31 ~~mills (\$0.035)~~ *thirty-two and one-half mills (\$0.0325)* for each
32 cigarette distributed.

33 (b) In addition to the taxes imposed upon the distribution of
34 tobacco products by Section 30101 and Section 30121, and any
35 other taxes in this chapter, there shall be imposed an additional tax
36 upon every distributor of tobacco products, based on the wholesale
37 cost of these products, at a tax rate, determined annually by the
38 Board of Equalization, which is the equivalent to the tax imposed
39 on cigarettes by subdivision (a).



1 (c) The taxes imposed by this section shall be imposed on every
2 cigarette and on all tobacco products in the possession or under the
3 control of every dealer and distributor on and after 12:01 a.m. on
4 January 1, 2003, pursuant to rules promulgated by the State Board
5 of Equalization.

6 (d) *The taxes imposed pursuant to this article shall be adjusted*
7 *annually and indexed to the medical care component of the United*
8 *States Department of Labor Consumer Price Index for California.*

9 30132.2. All moneys collected pursuant to this article shall be
10 deposited by the Controller in the Tobacco Use Reduction and
11 Compensation Fund, except for any amount appropriated by the
12 Legislature to defray the costs of the State Board of Equalization
13 in implementing this article. No moneys in the Tobacco Use
14 Reduction and Compensation Fund shall be used to supplant state
15 or local General Fund money for any purpose.

16 SEC. 5. If any provision of this act, or part thereof, is for any
17 reason held to be invalid or unconstitutional, the remaining
18 provision shall not be affected, but shall remain in full force and
19 effect, and to this end the provisions of this act are severable.

20 SEC. 6. It is the intent of the Legislature that the provisions
21 of this act shall be liberally construed to effectuate its purposes of
22 diminishing the personal, medical, and financial costs of tobacco
23 use.

