

CHAPTER 70

AN ACT raising the cigarette tax rate and dedicating additional revenue to the Health Care Subsidy Fund, amending and supplementing P.L.1948, c.65 (C.54:40A-1 et seq.) and amending P.L.1997, c.264 and P.L.2004, c.68.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 301 of P.L.1948, c.65 (C.54:40A-8) is amended to read as follows:

C.54:40A-8 Tax imposed; rate.

301. Tax imposed; rate. A tax is hereby imposed on the sale, use or possession for sale or use within this State of all cigarettes at the rate of \$0.135 for each cigarette.

2. a. Each licensed retail dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on or before the first day of the second month after the effective date of P.L.2009, c.70, file a return under oath or certified under the penalties of perjury with the director on forms furnished by the director, showing the amount of cigarettes in the licensed retail dealer's possession in the State at 12:01 a.m. on the effective date of P.L.2009, c.70, and shall at the time of filing that return pay the tax to the director. Failure to obtain such forms shall not be an excuse for the failure to make a return containing the information required by the director.

b. Notwithstanding the provisions of section 401 of P.L.1948, c.65 (C.54:40A-11) to the contrary, each licensed distributor and licensed wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on or before the first day of the second month after the effective date of P.L.2009, c.70, file a return under oath or certified under the penalties of perjury with the director on forms furnished by the director, showing the amount of cigarettes in the dealer's or wholesaler's possession in the State at the close of business prior to the effective date of P.L.2009, c.70. An amount of tax shall be due equal to the additional tax on the number of cigarettes bearing stamps, and unaffixed stamps on hand. Each licensed distributor and licensed wholesale dealer shall at the time of filing that return pay the tax to the director. Failure to obtain such forms shall not be an excuse for the failure to make a return containing the information required by the director.

3. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to read as follows:

C.26:2H-18.58g Disposition of revenue collected from cigarette tax.

4. Notwithstanding the provisions of any other law to the contrary,

a. commencing July 1, 1998 and ending June 30, 2006: after the deposit required pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected annually from the "Tobacco Products Wholesale Sales and Use Tax Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually for health programs, and the next \$50,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually to the New Jersey Economic Development Authority for payment of debt service incurred by the authority for school facilities projects and in fiscal years commencing July 1, 2002 and July 1, 2003, the next \$30,000,000 of revenue collected annually from the cigarette

tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be directed to the Department of Health and Senior Services to fund anti-smoking initiatives, except that the amount shall be \$40,000,000 in the fiscal year commencing July 1, 2004 and \$45,000,000 in the fiscal year commencing July 1, 2005; and

b. commencing with fiscal years beginning on and after July 1, 2006, after the deposit required pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected annually from the "Tobacco Products Wholesale Sales and Use Tax Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58). In addition, commencing with fiscal years beginning on and after July 1, 2006 but before July 1, 2009, there shall be deposited \$215,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) in accordance with the provisions of section 5 of P.L.2004, c.68 (C.34:1B-21.20), and, commencing with fiscal years beginning on and after July 1, 2009, there shall be deposited \$241,500,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) in accordance with the provisions of section 5 of P.L.2004, c.68 (C.34:1B-21.20).

4. Section 5 of P.L.2004, c.68 (C.34:1B-21.20) is amended to read as follows:

C.34:1B-21.20 "Dedicated Cigarette Tax Revenue Fund."

5. a. There is hereby created and established in the Department of the Treasury a separate nonlapsing fund to be known as the "Dedicated Cigarette Tax Revenue Fund." During the State fiscal year beginning July 1, 2006 and during each succeeding State fiscal year in which the authority has outstanding bonds or refunding bonds which have been issued pursuant to this act or is obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act, the State Treasurer shall credit to such Fund, on a monthly basis, an amount equivalent to the dedicated cigarette tax revenues received by the State during each calendar month of such fiscal year. Provided however, that:

(1) no credits of dedicated cigarette tax revenues shall be made to the Dedicated Cigarette Tax Revenue Fund in any State fiscal year until the deposits of \$150,000,000 of revenue from the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy Fund have been fully made in such fiscal year,

(2) in each month of a State fiscal year beginning after the month in which the final deposits of \$150,000,000 of revenue from the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy Fund have been fully made for such fiscal year, the State Treasurer shall credit to the Dedicated Cigarette Tax Revenue Fund an amount equivalent to all revenue collected by the State from the cigarette tax during such calendar month until the amount credited to the Dedicated Cigarette Tax Revenue Fund from the beginning of such fiscal year equals the amount that would have been credited to such Fund since the beginning of such fiscal year in accordance with the preceding sentence if the deposits of \$150,000,000 of revenue from the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy Fund were not required to have been made, and

(3) thereafter, in each month of a State fiscal year, the State Treasurer shall credit (a) to the Dedicated Cigarette Tax Revenue Fund an amount equivalent to the dedicated cigarette

tax revenues and (b) to the Health Care Subsidy Fund an amount equivalent to all remaining revenue collected by the State from the cigarette tax during such calendar month; provided, however, that the amount so credited to the Health Care Subsidy Fund shall not exceed \$215,000,000 in the aggregate for all such months in the State fiscal year, and shall not exceed \$241,500,000 in the aggregate for all such months in State fiscal years commencing on or after July 1, 2009.

b. In each State fiscal year during which the authority has outstanding bonds or refunding bonds which have been issued pursuant to this act or is obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act, the State Treasurer shall pay to the authority solely from the Dedicated Cigarette Tax Revenue Fund in accordance with the provisions of any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act, an amount equal to the debt service payable on the authority's then outstanding bonds or refunding bonds issued pursuant to this act during such fiscal year and any amounts required to be paid by the authority during such fiscal year under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act and such other additional amounts as shall be authorized by this act and required to be paid to the authority pursuant to any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act; provided, however, that the payment of all such amounts to the authority shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of this act. Notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act and the incurrence of any obligation of the State under any such contract, including any payments to be made thereunder from the Dedicated Cigarette Tax Revenue Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

c. If the authority no longer has outstanding bonds or refunding bonds which have been issued pursuant to this act and is no longer obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act or to pay any other costs, fees, expenses, liabilities and other obligations incurred by the authority and the State pursuant to this act, then all monies on deposit in the Dedicated Cigarette Tax Revenue Fund shall be transferred to the General Fund.

5. This act shall take effect July 1, 2009.

Approved June 29, 2009.