

LEGISLATIVE BILL 87

Passed over the Governor's veto April 27, 1971

Introduced by Roland A. Luedtke, 28th District

AN ACT to amend sections 77-2608 and 77-2616, Reissue Revised Statutes of Nebraska, 1943, and sections 77-2602 and 77-2610, Revised Statutes Supplement, 1969, relating to cigarette tax; to increase the cigarette tax as prescribed; to provide for disposition of the additional tax; to provide for refunds; to provide for the assumption of certain duties by the Tax Commissioner; to provide for a new field house; to provide for a new activities building at the Beatrice State Home; to make appropriations and reappropriations; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 77-2602, Revised Statutes Supplement, 1969, be amended to read as follows:

77-2602. Every person, engaged in distributing or selling cigarettes at wholesale in this state, shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On all cigarettes eight thirteen cents per package containing not more than twenty cigarettes, and on packages containing more than twenty cigarettes a tax of eight thirteen cents for the first twenty cigarettes and eight thirteen cents for each twenty cigarettes or fractional part thereof in excess of twenty cigarettes. The proceeds of eight cents of such tax shall be placed in the General Fund, the proceeds of two and one half cents of such tax shall be placed in the State Office Building Fund, and the proceeds of two and one half cents of such tax shall be placed in a special fund to be known as the University of Nebraska at Lincoln Field House Fund which is hereby created and which shall be used for the erection of a new field house for the Department of Athletics, including land acquisition, construction, equipping, furnishing, and providing necessary parking space: Provided, that before the two and one half cents of such

tax is placed in the State Office Building Fund and the two and one half cents of such tax is placed in the University of Nebraska at Lincoln Field House Fund, there shall be set aside by the State Treasurer out of the proceeds of the tax increase provided by this section the sum of six hundred ninety-five thousand dollars to the Department of Public Institutions for construction of an activities building at the Beatrice State Home, which sum is hereby appropriated for the biennium ending June 30, 1971, and any unexpended balance thereof on June 30, 1971, is hereby reapropriated for the fiscal year July 1, 1971, to June 30, 1972.

Sec. 2. That section 77-2608, Keissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2608. The Tax Commissioner shall prepare and have suitable stamps for use on each kind of piece or package of cigarettes, except where cigarette tax meter impressions are affixed. Requisition for the preparation of such stamps shall be made through the office of the State Purchasing Agent as other state supplies are requisitioned, and the Tax Commissioner and his bondsman shall be liable for the value of all such stamps delivered to him. The Auditor of Public Accounts shall audit annually or as often as the auditor deems advisable the records of the Tax Commissioner with respect to the money received from the sale of stamps and as revenue from tax meter impressions for the purpose of determining the accuracy and correctness of the same. The Tax Commissioner shall sell the stamps only to licensed wholesale dealers, as defined in section 77-2601, and he shall keep an accurate record of all stamps coming into and leaving his hands. Such stamps shall be sold and accounted for at the face value thereof, except that the Tax Commissioner may, by regulation certified to the State Treasurer, authorize the sale thereof to wholesale dealers in this state or outside of this state at a discount not--exceeding of five per cent of such face value of the tax as a commission for affixing and canceling such stamps; provided, that any wholesale dealer using a tax meter machine shall be entitled to the same discount as allowed a wholesale dealer for affixing and canceling the stamps. The money received by the Tax Commissioner from the sale of said stamps and as revenue from such tax meter impressions shall be deposited by him daily with the State Treasurer, who shall credit such money as provided in section 77-2602. Upon proof by the Tax Commissioner that he can affix such stamps or meter

impression, warehouse, and distribute such cigarettes and collect such revenue at a cost less than the five per cent discount allowed to wholesale dealers, he may then proceed to affix the stamps himself, after giving the wholesale dealer sixty days' notice and purchasing all equipment used by them for the purpose of affixing such stamps or meter impressions at a fair market value.

Sec. 3. That section 77-2610, Revised Statutes Supplement, 1969, be amended to read as follows:

77-2610. Upon the written request of the original purchaser thereof and upon the return of any unused stamps, the Tax Commissioner shall redeem such stamps. The Tax Commissioner shall prepare a voucher showing the amount of such returned unused stamps and shall cause to be drawn a warrant upon the State Treasurer for such amount in favor of the person returning such unused stamps. The refunds shall be paid from the ~~General Fund~~ various funds named in section 77-2602 in the same proportions as the proceeds of the tax are allocated. By the terms of sections 77-2601 to 77-2615, the Tax Commissioner and the State Treasurer are specifically authorized to adjust all errors in payments for unused stamps.

Sec. 4. That section 77-2616, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2616. There is hereby levied and imposed a tax upon the use of all cigarettes, as defined by section 77-2601, used in this state, except such cigarettes upon which the tax imposed by section 77-2602 has been paid. The amount of such use tax shall be as follows: On all cigarettes eight thirteen cents per package containing not more than twenty cigarettes, and on packages containing more than twenty cigarettes a tax of eight thirteen cents for the first twenty cigarettes, and eight thirteen cents for each twenty cigarettes or fractional part thereof in excess of twenty cigarettes. The tax collected shall be disbursed as provided in section 77-2602.

Sec. 5. The new field house for the Department of Athletics of the University of Nebraska at Lincoln shall be constructed on the State Fairgrounds. The land necessary for erection of the field house shall be selected by agreement between the Board of Regents of the University of Nebraska and the State Board of Agriculture. The State Board of Agriculture shall be reimbursed out of the University of Nebraska at Lincoln

Field House Fund for all costs reasonably incurred by the latter as a result of the field house construction and use of related parking facilities.

Sec. 6. All money in the University of Nebraska at Lincoln Field House Fund is hereby appropriated for the biennium ending June 30, 1971, for the erection of a new field house at the University of Nebraska at Lincoln, as provided in section 77-2602.

Sec. 7. The unexpended balance in the University of Nebraska at Lincoln Field House Fund on June 30, 1971, is hereby reappropriated, and all money in such fund during the fiscal year of July 1, 1971, to June 30, 1972, is hereby appropriated for the erection of a new field house at the University of Nebraska at Lincoln, as provided in section 77-2602.

Sec. 8. That original sections 77-2608 and 77-2616, Reissue Revised Statutes of Nebraska, 1943, and sections 77-2602 and 77-2610, Revised Statutes Supplement, 1969, are repealed.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.