

# INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure

**CIGARETTE AND TOBACCO TAX. BENEFIT FUND. CONSTITUTIONAL AMENDMENT. INITIATIVE STATUTE.** Imposes additional tax upon cigarette distributors of one and one-fourth cents (1 and ¼ cents) for each cigarette distributed. Imposes tax upon distributors of other tobacco products which is equivalent to combined rate of tax imposed on cigarettes. Directs State Board of Equalization to determine this tax annually. Places moneys raised in a special account which can only be used for: treatment; research of tobacco related diseases; school and community health education programs about tobacco; fire prevention; and environmental conservation and damage restoration programs. Declares revenues not subject to appropriations limit. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: if adopted in November 1988, will produce approximately \$320 million in special fund revenues in 1988-89 (part-year) and \$650 million in 1989-90 (first full-year). Annual administrative costs are estimated at \$500,000. There will be no substantial net effect on sales tax revenues to the state, cities, and counties.

## TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA:

We, the undersigned, registered, qualified voters of California, residents of the above mentioned County (or City and County), hereby propose amendments to the Constitution and statutes of California, relating to the imposition and distribution of excise taxes on cigarette and tobacco products, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election prior to that general election or otherwise as provided by law. The proposed constitutional and statutory amendments read as follows:

## TOBACCO TAX AND HEALTH PROTECTION ACT OF 1988

**SECTION 1.** This measure shall be known and may be cited as the Tobacco Tax and Health Protection Act of 1988.

**SEC. 2.** The people find and declare as follows:

- (a) Tobacco use is the single more preventable cause of death and disease in America.
- (b) Tobacco-related diseases create immense suffering and personal loss, and a staggering economic cost at which all Californians have to pay.
- (c) Tobacco-related diseases are a major burden on state and local governments by requiring them to provide medical care and health services.
- (d) Tobacco use causes substantial environmental damage, and property damage and loss of life due to fire.
- (e) To reduce the incidence of cancer, heart, and lung disease and to reduce the economic costs of tobacco use in California, it is the intent of the people of California to increase the state tax on cigarettes and tobacco products and do all of the following:
  - (1) Reduce smoking and other tobacco use among children.
  - (2) Support medical research into tobacco-related cancer, heart, and lung diseases.
  - (3) Treat people suffering from tobacco-related diseases.
  - (4) In recognition of the uncompensated costs of tobacco-related illness, support treatment of patients who cannot afford to pay for services.

**SEC. 3.** Section 12 is added to Article XIII 8 of the Constitution, to read:

**SEC. 12.** "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Cigarette and Tobacco Products Surtax Fund created by Tobacco Tax and Health Protection Act of 1988. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Promotion Act of 1988.

**SEC. 4.** Article 2 (commencing with Section 30121) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

**Article 2.** Cigarette and Tobacco Products Surtax 30121. For purposes of this article:

- (a) "Cigarettes" has the same meaning as in Section 30003, as it read on January 1, 1988.
- (b) "Tobacco Products" includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of or containing at least 50 percent tobacco, but does not include cigarettes.
- (c) "Fund" means the Cigarette and Tobacco Products Surtax Fund created by Section 30122.

**30122. (a)** The Cigarette and Tobacco Products Surtax Fund is hereby created in the State Treasury. This fund shall consist of all revenues deposited therein pursuant to this article. Moneys in the fund may only be appropriated for the following purposes:

- (1) Tobacco-related school and community health education programs.
- (2) Tobacco-related disease research.
- (3) Medical and hospital care and treatment of patients who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.
- (4) Programs for fire prevention; environmental conservation; protection, restoration, enhancement, and maintenance of fish, waterfowl, and wildlife habitat areas; and enhancement of state and local park recreation purposes.

(b) The fund consists of six separate accounts, as follows:

(1) The Health Education Account, which shall only be available for appropriation for programs for the prevention and reduction of tobacco use, primarily among children, through school and community health education programs.

(2) The Hospital Services Account, which shall only be available for appropriation for payment to public and private hospitals licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code for the treatment of hospital patients who cannot afford to pay for that treatment and for whom payment for hospital services will not be made through private coverage or by any program funded in whole or in part by the federal government.

(3) The Physician Services Account, which shall only be available for appropriation for payment to physicians for services to patients who cannot afford to pay for those services, and for whom payment for physician services will not be made through private coverage or by any program funded in whole or in part by the federal government.

(4) The Research Account, which shall only be available for appropriation for tobacco-related disease research.

(5) The Public Resources Account, which shall only be available for appropriation in equal amounts for both of the following:

(A) Programs to protect, restore, enhance, or maintain fish, waterfowl, and wildlife habitat on an equally funded basis.

(B) Programs to enhance state and local park and recreation resources.

(6) The Unallocated Account, which shall be available for appropriation for any purpose specified in subdivision (a).

**30123. (a)** In addition to the tax imposed upon the distribution of cigarettes by this chapter, there shall be imposed upon every distributor a tax upon the distribution of cigarettes at the rate of twelve and one-half mills (\$0.0125) for each cigarette distributed.

(b) There shall be imposed upon every distributor a tax upon the distribution of tobacco products, based on the wholesale cost of these products, at a tax rate, as determined annual by the State Board of Equalization, which is equivalent to the combined rate of tax imposed on cigarettes by subdivision (a) and the other provisions of this part.

**30124. (a)** With the exception of payments of refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, and reimbursement of the State Board of Equalization for expenses incurred in the administration and collection of the tax imposed by Section 30123, pursuant to its powers vested by this part, all moneys raised pursuant to the taxes imposed by Section 30123 shall be deposited into the fund as provided in subdivision (b).

(b) Moneys shall be deposited in the fund according to the following formula:

(1) Twenty percent shall be deposited in the Health Education Account.

(2) Thirty-five percent shall be deposited in the Hospital Services Account.

(3) Ten percent shall be deposited in the Physicians Services Account.

(4) Five percent shall be deposited in the Research Account.

(5) Five percent shall be deposited in the Public Resources Account.

(6) Twenty-five percent shall be deposited in the Unallocated Account.

(c) Any amounts appropriated from any account specified in subdivision (b) which is not encumbered within the period prescribed by law shall revert to the account from which it was appropriated.

**30125.** Funds expended pursuant to this article shall be used only for the purposes expressed in this article and shall be used to supplement existing levels of service and not to fund existing levels of service.

**30126.** The annual determination required of the State Board of Equalization pursuant to subdivision (b) of Section 30123 shall be made based on the wholesale cost of tobacco products as of March 1, and shall be effective during the states next fiscal year.

**30128.** This article shall take effect on January 1, 1989.

**30129.** The tax imposed by Section 30123 shall be imposed on every cigarette and tobacco product in the possession or under the control of every dealer and distributor on and after 12:01 a.m. on January 1, 1989, pursuant to rules and regulations promulgated by the State Board of Equalization.

**30130.** This article may be amended only by vote of four-fifths of the membership of both houses of Legislature. All amendments to this article must be consistent with its purposes.

**SEC. 6.** If any section of this measure, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining section shall not be affected but will remain in full force and effect.