

*BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:*

Article X of the Constitution of the State of Colorado is hereby amended by the addition of the following new Section 21, to read:

**Section 21. Tobacco taxes for health protection.**

(1) The people of Colorado hereby declare that: over four thousand, five hundred Coloradans die each year from tobacco addiction, making it the lead cause of preventable death in our state; over seventy-eight thousand children in Colorado are regular smokers, and that addiction will cause a premature death on the part of one-third of them; health care costs in Colorado that are attributable to tobacco use exceed one billion dollars per year; tobacco taxes are an effective means of preventing and reducing tobacco use; Coloradans are increasingly unable to afford the rising costs of health care, health insurance, and prescription drugs; and it is the intention of the people of Colorado to increase tobacco taxes in order to promote the public health and to generate revenues to help children and families afford health insurance by expanding the children's basic health plan, develop a prescription drug assistance program, reduce the cost of health insurance for small employers in Colorado, and provide programs to prevent and reduce tobacco use.

(2) For purposes of this section:

(a) the term "cigarettes" shall have the same meaning as provided in section 39-28-202(4) of the Colorado Revised Statutes, as such provision existed on January 1, 2003;

(b) the term "manufacturer's list price" shall have the same meaning as provided in section 39-28.5-101(3) of the Colorado Revised Statutes, as such provision existed on January 1, 2003;

(c) the term "small employer" shall have the same meaning as provided in section 10-16-102(40) of the Colorado Revised Statutes, as such provision existed on January 1, 2003;

(d) the term "tobacco products" shall have the same meaning as provided section 39-28.5-101(5) of the Colorado Revised Statutes, as such provision existed on January 1, 2003.

(3) (a) Effective January 1, 2004, there are hereby imposed the following additional taxes:

(I) A statewide cigarette tax, on the sale of cigarettes by wholesalers, at the rate of four cents per cigarette; and

(II) A statewide tobacco products tax, on the sale, use, consumption, handling, or distribution of tobacco products by distributors, at the rate of fifteen percent of the manufacturer's list price thereof.

(b) The taxes imposed by subsection (3) herein shall be in addition to any other taxes, existing as of January 1, 2003, or thereafter adopted, on the sale or use of cigarettes by wholesalers and on the sale, use, consumption, handling, or distribution of tobacco products by distributors. The taxes imposed by this subsection shall be collected by the state department of revenue in the same manner as such other taxes imposed on cigarettes and tobacco products.

(4) Notwithstanding any other provision of law, the aggregate revenues generated by subsection (3)(a) herein shall be used:

(a) to provide replacement revenue for the state's general fund, equivalent to any inflation-adjusted reduction in the revenues from cigarette and tobacco product taxes that were in effect on January 1, 2003, during the first two years after this section becomes effective; and

(b) to be appropriated annually by the general assembly, from the funds remaining after the required allocation of revenue provided in paragraph (4)(a), only in the following proportions and for the following purposes:

(I) thirty percent of such revenues shall be appropriated for purposes of creating a prescription drug assistance program to increase access to prescription drugs for Coloradans who would not otherwise have access to them;

(II) thirty and six-tenths percent of such revenues shall be appropriated for purposes of expanding the children's basic health plan, as provided by law on January 1, 2003, to include more children and the families of children covered by such program;

(III) seven and four-tenths percent of such revenues shall be appropriated for purposes of creating a health care reinsurance pool for small employers in order to lower the health care insurance costs for such businesses and their employees;

(IV) seventeen percent of such revenues shall be appropriated for purposes of school and community-based and statewide tobacco education programs designed to reduce initiation of tobacco use by children and youth, promote cessation of tobacco use among youth and adults, and reduce exposure to second-hand smoke, and for purposes of evaluation of such programs, with such programs designed in accordance with best practices for tobacco control programs as established by the Federal Centers for Disease Control and Prevention;

(V) fourteen percent of such revenues shall be appropriated to municipalities and counties for health care related programs;

(VI) one percent of such revenues shall be appropriated for purposes of administration and enforcement of this program, but if the costs of such administration and enforcement are less than one percent of such revenues, the excess funds shall revert proportionately in a manner that is consistent with the allocation set forth in paragraphs (1)-(6) of this subsection.

(5) Notwithstanding any other provision of law, revenues raised under this section which are appropriated for the purposes set forth in paragraphs (4)(b)(I)-(V) but are not expended in any fiscal year shall be carried over and expended in the following fiscal year according to the purpose for which they were originally appropriated, as provided in subsection (4).

(6) The revenues appropriated pursuant to subsection (4) shall be in addition to and not a substitute for funds otherwise appropriated by the general assembly for such programs as of January 1, 2003.

(7) Neither the taxes imposed by this section, nor any taxes existing as of January 1, 2003, on the sale of cigarettes by wholesalers or on the sale, use, consumption, handling, or distribution of tobacco products by distributors, nor any formula, existing as of January 1, 2003, for the distribution to municipalities and counties of revenues attributable to the statewide cigarette tax existing as of January 1, 2003, shall be repealed or reduced by the general assembly.

(8) Notwithstanding any other provision of law, all revenues raised or received by operation of this section shall be excluded from fiscal year spending, as that term is defined by section 20 of article X of the state constitution, and the corresponding spending limits upon state government and all local governments receiving such funds.

(9) This section shall be self-executing, and any conflicting constitutional or statutory provisions are hereby declared inapplicable to the extent of such conflict.

(10) This section shall become effective on July 1, 2004.