

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

## **THE CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016**

### **SECTION 1. Findings and Declarations**

- (a) Tobacco use is the single most preventable cause of death and disease in California, claiming the lives of more than 40,000 people every year. Each year thousands of Californians require medical and dental treatment as a result of tobacco use.
- (b) Healthcare treatment of all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases continues to impose a significant financial burden upon California's overstressed healthcare system. Tobacco use costs Californians more than \$13.29 billion in healthcare expenses every year, of which \$3.5 billion is paid for by taxpayers through existing healthcare programs and services that provide healthcare, treatment, and services for Californians. The cost of lost productivity due to tobacco use adds an additional estimated \$10.35 billion to the annual economic consequences of smoking and tobacco use in California.
- (c) An increase in the tobacco tax is an appropriate way to decrease tobacco use and mitigate the costs of healthcare treatment and improve existing programs providing for quality healthcare and access to healthcare services for families and children. It will save lives and save state and local government money in the future.
- (d) An increase in funding for existing health care programs and services that treat all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases and conditions will expand the number of healthcare providers that treat patients with such diseases and conditions. Funds spent for this purpose can be used to match federal funds, with the federal government putting up as much as nine dollars for every dollar spent from this fund.
- (e) Most electronic cigarettes contain nicotine, which is derived from tobacco and is a highly addictive drug. Electronic cigarettes are currently not subject to any tobacco taxation, making them cheaper and potentially more attractive, especially to young people.
- (f) There are more than 470 electronic cigarette brands for sale today offered in over 7,700 flavors including candy-flavors that appeal to youth, such as Captain Crunch, gummy bear, cotton candy, Atomic Fireball, and fruit loops. The fastest growing age range for electronic cigarettes is middle school and high school students and according to the U.S. Centers for Disease Control and Prevention, electronic cigarette use among this group tripled from 2013 to 2014.
- (g) Research into the causes, early detection, and effective treatment, care, prevention, and potential cures of all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases will ultimately save lives and save state and local government money in the future.
- (h) There is an urgent need for research in California for new and effective treatments for all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases. Such

research transforms scientific discoveries into clinical applications that reduce the incidence and mortality of such diseases and conditions.

- (i) Funding prevention programs designed to discourage individuals, particularly youth, from taking up smoking and the use of other tobacco products through health education and health promotion programs will save lives and save state and local government money in the future.
- (j) A reinvigorated tobacco control program will allow targeted public health efforts to combat the tobacco industry's predatory marketing to ethnic groups, driving down smoking rates and ultimately reducing cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases in these California communities.
- (k) Funding implementation and administrative programs to support law enforcement efforts to reduce illegal sales of tobacco products to minors, cigarette smuggling, and tobacco tax evasion will save lives and save state and local government money in the future.
- (l) California faces a shortage of physicians and dentists to meet the growing healthcare needs of its residents. As a result, access to primary and oral healthcare, treatment for tobacco-related diseases, regular checkups and other urgent healthcare needs will suffer. California taxpayers support the education of thousands of medical and dental students every year, yet because of limits on the number of residency programs, many of those physicians and dentists are forced out of state to continue their training, leaving patients in California without access to care. Funding implementation and administrative programs that will help keep hundreds more doctors in California every year to improve the health of Californians will save lives and save state and local government money in the future.
- (m) Medical studies have shown that the smoking of cigarettes and use of other tobacco products affects oral health by causing dental disease, including gum disease and bone loss, cancers of the mouth and throat, and severe tooth wear. Smoking causes half of the cases of gum disease, which results in increased tooth loss. Oral cancer risk for smokers is at least six times higher than for nonsmokers and 75% of all oral cancer in the United States is related to tobacco use. Oral cancer risk for smokeless tobacco increases 50-fold over nonsmokers. There is an association between maternal smoking during pregnancy and cleft lip development in fetuses. Tobacco cessation reduces the risk of mouth and throat cancer by 50%. Funding programs that educate, prevent and treat dental diseases, including those caused by use of tobacco, will improve the lives of Californians and save state and local government money in the future.
- (n) Increasing the cost of cigarettes and tobacco products is widely recognized as the most effective way to reduce smoking across California, especially by young people. The 2000 U.S. Surgeon General's Report, *Reducing Tobacco Use*, found that raising tobacco-product prices decreases the prevalence of tobacco use, particularly among kids and young adults, and that tobacco tax increases produce "substantial long-term improvements in health." From its review of existing research, the report concluded that raising tobacco taxes is one of the most effective tobacco prevention and control strategies. Reducing smoking saves lives and saves state and local government money in the future.

- (o) Because increasing the tobacco tax will reduce smoking and the use of other tobacco products, it is important to protect existing tobacco tax funded programs from a decline in tax revenues.
- (p) California currently taxes cigarettes at only \$0.87 per pack, and ranks 35th in tobacco tax rates, reflecting one of the lowest tobacco taxes in the United States. As of January, 2016, the national average will be \$1.60 per pack. Thirty-two states have cigarette tax rates of \$1 per pack or higher, and California is well below other western states (Washington: \$3.025; Oregon: \$1.31; Nevada: \$1.80; and Arizona: \$2). California last raised its tobacco tax in 1998.

## **SECTION 2. Statement of Purpose**

The purpose of this act is to increase the tax on tobacco and other tobacco products, including electronic cigarettes, in order to:

- (a) Save the lives of Californians and save state and local government money in the future by reducing smoking and tobacco use among all Californians, but particularly youth.
- (b) Provide funds to increase funding for existing healthcare programs and services that treat all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases, expand the number of healthcare providers, and maximize federal funding for these programs and services.
- (c) Provide funds to support research into the causes of and cures for all types of cancer, cardiovascular and lung disease, oral disease and tobacco related diseases, and to transform such scientific discoveries into clinical applications to reduce the incidence and mortality of such diseases and conditions.
- (d) Provide funds to support prevention programs aimed at discouraging individuals from using cigarettes and other tobacco products, including electronic cigarettes.
- (e) Provide funds for implementation and administrative purposes to reduce cigarette smuggling, tobacco tax evasion, and illegal sales of tobacco products to minors, fund medical training for new doctors to treat diseases, including those caused by tobacco use, and fund programs to prevent and treat dental diseases including those caused by tobacco use.
- (f) Protect existing tobacco tax funded programs, which currently save Californians millions of dollars in healthcare costs.
- (g) Provide a full accounting of how funds raised are spent to further the purposes of this act without creating new bureaucracies.

## **SECTION 3. Definition of Tobacco Products**

Section 30121 of the Revenue and Taxation Code is amended to read:

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,~~ *a product containing, made, or derived from tobacco or nicotine that is intended for human consumption whether smoked, heated, chewed absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigars, little cigars, chewing tobacco pipe tobacco, or snuff, but does not include cigarettes. Tobacco products shall also include electronic cigarettes. Tobacco products shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use.*
- (c) *"Electronic cigarettes" means any device that is intended to be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to an e-cigarette, e-cigar, e-pipe, vape pen ore-hookah. Electronic cigarettes include any component, part or accessory of such a device that is used during the operation of the device, whether sold separately or as a package with such device, if it is intended to be used to deliver aerosolized or vaporized nicotine to the person using the device. Electronic cigarettes also include any liquid or substance containing nicotine, whether sold separately or as a package with any device that would allow it to be inhaled. Electronic cigarettes do not include any battery, battery charger, carrying case or other accessory not used in the operation of the device if sold separately. Electronic cigarettes shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use.*
- (d) "Fund" means the Cigarette and Tobacco Products Surtax Fund created by Section 30122.

Section 30131.1 of the Revenue and Taxation Code is amended to read:

30131.1. The following definitions apply for purposes of this article:

- (a) "Cigarette" has the same meaning as in Section 30003, as it read on January 1, 1997.
- (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 shall have the same meaning as in subdivision (b) of Section 30121, as amended by the California Healthcare, Research and Prevention Tobacco Tax Act of 2016.~~

**SECTION 4. The CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016**

Article 2.5 (commencing with Section 30130.50) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

§ 30130.50. *Definitions*

*For the purposes of this article:*

- (a) *"Cigarette" has the same meaning as that in Section 30003 as it read on January 1, 2015.*
- (b) *"Tobacco products" has the same meaning as that in subdivision of Section 30121, as amended by this act.*

**§ 30130.51. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016**  
*Cigarette Distribution Tax*

- (a) *In addition to any other taxes imposed upon the distribution of cigarettes under this part, there shall be imposed an additional tax upon every distributor of cigarettes at the rate of one hundred mills (\$0.100) for each cigarette distributed on or after the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.*
- (b) *The board shall adopt regulations providing for the implementation of an equivalent tax on electronic cigarettes as that term is defined in subdivision (c) of Section 30121, and the methods for collection of the tax. Such regulations shall include imposition of an equivalent tax on any device intended to be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device when sold separately or as a package; any component, part, or accessory of such a device that is used during the operation of the device, whether sold separately or as a package with such device; and any liquid or substance containing nicotine, whether sold separately or as a package with any device that would allow it to be inhaled. Such regulations may include, but are not limited to, defining who is a distributor of electronic cigarettes pursuant to Section 30011 and the licensing requirements of any such person.*
- (c) *Notwithstanding any other provision of this part, all revenues resulting from the tax imposed by subdivision (a) of this section and all revenues resulting from the equivalent increase in the tax on tobacco products, including electronic cigarettes, imposed by subdivision (b) of Section 30123, shall be deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund created by Section 30130.53.*

**§ 30130.52. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016**  
*Cigarette Floor Taxes*

- (a) (1) *In addition to any other tax, every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock tax for each cigarette in its possession or under its control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act at the rate of one hundred mills (\$0.100) for each cigarette.*
- (2) *Every dealer and wholesaler shall file a return with the board on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this act on a form prescribed by the board, showing the number of cigarettes in its possession or under its control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act. The amount of tax shall be computed and shown on the return.*

- (b) (1) *Every licensed cigarette distributor, for the privilege of distributing cigarettes and for holding or storing cigarettes for sale, use, or consumption, shall pay a cigarette indicia adjustment tax for each California cigarette tax stamp that is affixed to any package of cigarettes and for each unaffixed California cigarette tax stamp in its possession or under its control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act at the following rates:*
- (A) *Two dollars and fifty cents (\$2.50) for each stamp bearing the designation "25."*
  - (B) *Two dollars (\$2) for each stamp bearing the designation "20."*
  - (C) *One dollar (\$1) for each stamp bearing the designation "10."*
- (2) *Every licensed cigarette distributor shall file a return with the board on or before the first day of the first calendar quarter commencing 180 days after the effective date of this act on a form prescribed by the board, showing the number of stamps described in subparagraphs (A), (B), and (C) of paragraph (1). The amount of tax shall be computed and shown on the return.*
- (c) *The taxes required to be paid by this section are due and payable on or before the first day of the first calendar quarter commencing 180 days after the effective date of this act. Payments shall be made by remittances payable to the board and the payments shall accompany the return and forms required to be filed by this section.*
- (d) *Any amount required to be paid by this section that is not timely paid shall bear interest at the rate and by the method established pursuant to Section 30202 from the first day of the first calendar quarter commencing 180 days after the effective date of this act, until paid, and shall be subject to determination, and redetermination, and any penalties provided with respect to determinations and redeterminations.*

**§ 30130.53. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION  
TOBACCO TAX ACT OF 2016 Fund**

- (a) *The CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund is hereby established in the State Treasury.*
- (b) *All revenues raised pursuant to the taxes imposed by this article, less refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, shall be deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund.*
- (c) *Notwithstanding any other law, the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund is a trust fund established solely to carry out the purposes of this act and all revenues deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund, together with interest earned by the fund, are hereby continuously appropriated for the purposes of this act without regard to fiscal year and shall be expended only in accordance with the provisions of this act and its purposes.*

*(d) Notwithstanding any other law, revenues deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund, including any interest earned by the fund, shall only be used for the specific purposes set forth in this act, and shall be appropriated and expended only for the purposes expressed in this act and shall not be subject to appropriation, reversion, or transfer by the Legislature, the Governor, the Director of Finance, or the Controller for any purpose other than those specified in this act, nor shall such revenues be loaned to the General Fund or any other fund of the state or any local government fund.*

**§ 30130.54. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Effect on Tobacco Consumption and Tax Revenue**

- (a) The board shall determine within one year of the effective date of this act, and annually thereafter, the effect that the additional taxes imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the board to be a direct result of the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the board shall determine the fiscal effect the decrease in consumption has on the Cigarette and Tobacco Products Surtax Fund created by Section 30122 (Proposition 99 as approved by the voters at the November 8, 1988, statewide general election), the Breast Cancer Fund created by Section 30461.6, and the California Children and Families Trust Fund created by Section 30131 (Proposition 10 as approved by the voters at the November 3, 1998, statewide general election), and the revenues derived from Section 30101.*
- (b) The Controller shall transfer from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund to those affected funds described in subdivision (a) the amount necessary to offset the revenue decrease directly resulting from the imposition of additional taxes by this article.*
- (c) The board shall determine within one year of the effective date of this act, and annually thereafter, the effect, if any, that the additional taxes imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state, including from the illegal sale of cigarettes and tobacco products. To the extent that there is a loss of state or local government sales and use tax revenues and such loss is determined by the board to be a direct result of the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, including from the illegal sale of cigarettes and tobacco products, the board shall determine the fiscal effect on state and local government sales and use tax revenues.*
- (d) The Controller shall transfer from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund to the general fund of the state and those affected local governments described in subdivision (c) the amount necessary to offset the state and local sales and use tax revenue decrease directly resulting from the imposition of additional taxes by this article, including from the illegal sale of cigarettes and tobacco products.*

*(e) Transfers under this section shall be made by the Controller at such times as the Controller determines necessary to further the intent of this section.*

**§ 30130.55. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION  
TOBACCO TAX ACT OF 2016 Distribution of Revenue**

*After deducting and transferring the necessary funds pursuant to Section 30130.54 and subdivisions (a), (b), (c) and (d) of Section 30130.57, the Controller shall annually allocate and transfer the remaining funds in the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund as follows:*

*(a) Eighty-two percent (82%) shall be transferred to the Healthcare Treatment Fund, which is hereby created, and shall be used by the California Department of Health Care Services to increase funding for the existing healthcare programs and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code, including those that provide healthcare, treatment, and services for Californians with tobacco-related diseases and conditions, by providing improved payments, for all healthcare, treatment, and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code. To the extent possible given the limits of funding under this article, payments and support for the nonfederal share of payments for healthcare, services, and treatment shall be increased based on criteria developed and periodically updated as part of the annual state budget process, provided that these funds shall not be used to supplant existing state general funds for these same purposes. These criteria shall include, but not be limited to, ensuring timely access, limiting specific geographic shortages of services, or ensuring quality care. Consistent with federal law, the funding shall be used to draw down federal funds. The funding shall be used only for care provided by health care professionals, clinics, health facilities that are licensed pursuant to Health and Safety Code Section 1250, and to health plans contracting with the California Department of Health Care Services to provide health benefits pursuant to this section. The funding can be used for the nonfederal share of payments from governmental entities where applicable. The department shall, if required, seek any necessary federal approval for the implementation of this section.*

*(b) Thirteen percent (13%) shall be used for the purpose of funding comprehensive tobacco prevention and control programs; provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following manner:*

*(1) Eighty-five percent (85%) to the California Department of Public Health Tobacco Control Program to be used for the tobacco control programs described beginning at Section 104375 of the Health and Safety Code. The California Department of Public Health shall award funds to state and local governmental agencies, tribes, universities and colleges, community based organizations, and other qualified agencies for the implementation, evaluation and dissemination of evidence based health promotion and health communication activities in order to monitor, evaluate and reduce tobacco and nicotine use, tobacco-related disease rates, tobacco-related health disparities, and develop a stronger evidence-base of effective prevention programming with not less than fifteen percent (15%) of health promotion health communication activities, and evaluation and tobacco use surveillance funds being awarded to accelerate and monitor the rate of decline in tobacco related disparities with the goal of eliminating tobacco-related disparities.*



- (2) Fifteen percent (15%) to the California Department of Education to be used for school programs to prevent and reduce the use of tobacco and nicotine products by young people as described in Section 104420 of the Health and Safety Code with not less than fifteen percent (15%) of these funds being awarded to accelerate and monitor the rate of decline in tobacco-related disparities for the purpose of eliminating tobacco related disparities.
- (c) Five percent (5%) to the University of California for medical research of cancer, heart and lung tobacco-related diseases pursuant to Article 2 (commencing with Section 104500) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code to supplement the Cigarette and Tobacco Products Surtax Medical Research Program, provided that these funds be used under the following conditions:
- (1) The funds shall be used for grants and contracts for basic, applied, and translational medical research in California into the prevention of, early detection of, treatments for, complementary treatments for, and potential cures for all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases. Notwithstanding any other provision of law, the University of California, through the Tobacco Related Disease Research Program, shall have authority to expend funds received under this act for the purposes set forth in this subdivision.
- (2) Any grants and contracts awarded shall be awarded using existing medical research program infrastructure and on the basis of scientific merit as determined by an open, competitive peer review process that assures objectivity, consistency, and high quality.
- (3) Individuals or entities that receive the grants and contracts pursuant to this subdivision must reside or be located entirely within California.
- (4) The research must be performed entirely within California.
- (5) The funds shall not be used to supplant existing state or local funds for these same purposes.

*§ 30130.56. Independent Audit and Disclosure*

*To provide full public accountability concerning the uses to which funds from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 are put, and to ensure full compliance with the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016:*

- (a) *The nonpartisan California State Auditor shall conduct at least biennially an independent financial audit of the state and local agencies receiving funds pursuant to the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016. An audit conducted pursuant to this section shall include, but not be limited to, a review of the administrative costs expended by the state agencies that administer the fund.*
- (b) *Based on the independent audit, the nonpartisan California State Auditor shall prepare a report detailing its review and include any recommendations for improvements. The report shall be made available to the public.*

- (c) *Each state agency and department receiving funds pursuant to this act shall, on an annual basis, publish on its respective Internet Web site an accounting of how much money was received from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund and how that money was spent. The annual accounting shall also be posted on any social media outlets the state agency or department deems appropriate.*
- (d) *The use of the funds received by the California Department of Healthcare Services pursuant to subdivision (a) of Section 30130.55 shall be subject to the same restrictions, including, but not limited to audits and prevention of fraud, imposed by existing law.*
- (e) *The use of the funds received by the California Department of Public Health, the California Department of Education and the University of California pursuant to subdivisions (b) and (c) of Section 30130.55 shall be subject to oversight by the Tobacco Education and Research Oversight Committee pursuant to Health and Safety Code Sections 104365 and 104370.*

*§ 30130.57. Implementation and Administrative Costs*

- (a) *Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund shall be used to reimburse the board for expenses incurred in the administration, calculation, and collection of the tax imposed by this article and for expenses incurred in the calculation and distribution of funds and in the promulgation of regulations as required by this act; provided, however, that after deducting the necessary funds pursuant to subdivision (b) of Section 30130.54, not more than five percent (5%) annually of the funds remaining in the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund shall be used for such administrative costs.*
- (b) *Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund shall be used to reimburse the independent nonpartisan California State Auditor up to four hundred thousand dollars (\$400,000) annually for actual costs incurred to conduct each of the audits required by Section 30130.56 for the purpose of providing public transparency and ensuring that the revenues generated by this article are used for healthcare, tobacco use prevention and research.*
- (c) *Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund in the amount of forty million dollars (\$40,000,000) annually shall be used to provide funding to the University of California for the purpose and goal of increasing the number of primary care and emergency physicians trained in California. This goal shall be achieved by providing this funding to the University of California to sustain, retain and expand graduate medical education programs to achieve the goal of increasing the number of primary care and emergency physicians in the State of California based on demonstrated workforce needs and priorities.*
  - (1) *For the purposes of this subdivision, "primary care" means Internal Medicine, Family Medicine, Obstetrics/Gynecology, and Pediatrics.*
  - (2) *Funding shall be prioritized for direct graduate medical education costs for programs serving medically underserved areas and populations.*

*(3) For the purposes of this subdivision, all allopathic and osteopathic residency programs accredited by federally recognized accrediting organizations and located in California shall be eligible to apply to receive funding to support resident education in California.*

*(4) The University of California shall annually review physician shortages by specialty across the state and by region. Based on this review, to the extent that there are demonstrated state or regional shortages of non-primary care physicians, funds may be used to expand graduate medical education programs that are intended to address such shortages.*

*(d) Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund in the amount of thirty million dollars (\$30,000,000) annually shall be used to provide funding to the State of California Department of Public Health State Dental Program for the purpose and goal of educating about, preventing and treating dental disease, including dental disease caused by use of cigarettes and other tobacco products. This goal shall be achieved by the program providing this funding to activities that support the State Dental, Plan based on demonstrated oral health needs, prioritizing serving underserved areas and populations. Funded program activities shall include, but not be limited to, the following: education, disease prevention, disease treatment, surveillance, and case management.*

*The department shall have broad authority to fully implement and effectuate the purposes of this subdivision, including the determination of underserved communities, the development of program protocols, the authority to reimburse state-sponsored services related to the program, and the authority to contract with one or more individuals or public or private entities to provide program activities.*

*(e) Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund in the amount of forty eight million dollars (\$48,000,000) annually shall be used for the purpose of funding law enforcement efforts to reduce illegal sales of tobacco products, particularly illegal sales to minors; to reduce cigarette smuggling, tobacco tax evasion, the sale of tobacco products without a license and the sale of counterfeit tobacco products; to enforce tobacco-related laws, court judgments and legal settlements; and to conduct law enforcement training and technical assistance activities for tobacco-related statutes; provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following manner:*

*(1) Thirty million dollars (\$30,000,000) annually to go to the California Department of Justice/Office of the Attorney General to be distributed to local law enforcement agencies to support and hire front-line law enforcement peace officers for programs, including, but not limited to, enforcement of state and local laws related to the illegal sales and marketing of tobacco to minors, and increasing investigative activities and compliance checks to reduce illegal sales of cigarettes and tobacco products to minors and youth.*

*(2) Six million dollars (\$6,000,000) annually to the board to be used to enforce laws that regulate the distribution and retail sale of cigarettes and other tobacco products, such as laws that prohibit cigarette and tobacco product smuggling, counterfeiting, selling untaxed cigarettes and other tobacco products, and selling cigarettes and other tobacco products without a proper license.*

- (3) *Six million dollars (\$6,000,000) annually to the California Department of Public Health to be used to support programs, including, but not limited to, providing grants and contracts to local law enforcement agencies to provide training and funding for the enforcement of state and local laws related to the illegal sales of tobacco to minors, increasing investigative activities, and compliance checks, and other appropriate activities to reduce illegal sales of tobacco products to minors including, but not limited to, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, pursuant to Section 22952 of the Business and Professions Code.*
- (4) *Six million dollars (\$6,000,000) annually to the California Attorney General to be used for activities including, but not limited to, enforcing laws that regulate the distribution and sale of cigarettes and other tobacco products, such as laws that prohibit cigarette smuggling, counterfeiting, selling untaxed tobacco, selling tobacco without a proper license and selling tobacco to minors, and enforcing tobacco-related laws, court judgments, and settlements.*
- (f) *Not more than five percent (5%) of the funds received pursuant to this article shall be used by any state or local agency or department receiving such funds for administrative costs.*
- (g) *The California State Auditor shall promulgate regulations pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to define administrative costs for purposes of this article. Such regulations shall take into account the differing nature of the agencies or departments receiving funds.*
- (h) *The board shall determine beginning two years following the effective date of this act, and annually thereafter, any reduction in revenues, following the first year after the effective date of this act, resulting from a reduction in the consumption of cigarettes and tobacco products due to the additional taxes imposed on cigarettes by this article, and the increase in the tax on tobacco products required by subdivision (b) of Section 30123. If the board determines there has been a reduction in revenues, the amount of funds allocated pursuant to subdivisions (c), (d) and (e) of this section shall be reduced proportionately.*

*§ 30130.58. Statutory References*

*Unless otherwise stated, all references in this act refer to statutes as they existed on January 1, 2016.*

**SECTION 5. Conforming Amendments to the Revenue and Taxation Code**

Section 30014 of the Revenue and Taxation Code is amended to read:

30014. (a) "Transporter" means any person transporting into or within this state any of the following:

- (1) Cigarettes not contained in packages to which are affixed California cigarette tax stamps or meter impressions.
- (2) Tobacco products upon which the tobacco products surtax imposed by Article 2 (commencing with Section 30121), Article 2.5 (commencing with Section 30130.50) and Article 3 (commencing with Section 30131) of Chapter 2 has not been paid.

(b) "Transporter" shall not include any of the following:

- (1) A licensed distributor.
- (2) A common carrier.
- (3) A person transporting cigarettes and tobacco products under federal internal revenue bond or customs control that are non-taxpaid under Chapter 52 of the Internal Revenue Act of 1954 as amended.

Section 30104 of the Revenue and Taxation Code is amended to read:

30104. The taxes imposed by this part shall not apply to the sale of cigarettes or tobacco products by a distributor to a common carrier engaged in interstate or foreign passenger service or to a person authorized to sell cigarettes or tobacco products on the facilities of the carrier. Whenever cigarettes or tobacco products are sold by distributors to common carriers engaged in interstate or foreign passenger service for use or sale on facilities of the carriers, or to persons authorized to sell cigarettes or tobacco products on those facilities, the tax imposed by ~~Sections 30101, 30123, and 30131.2~~ *under this part shall not be levied with respect to the sales of the cigarettes or tobacco products by the distributors, but a tax is hereby levied upon the carriers or upon the persons authorized to sell cigarettes or tobacco products on the facilities of the carriers, as the case may be, for the privilege of making sales in California at the same rate as set forth in ~~Sections 30101, 30123, and 30131.2.~~ under this part.* Those common carriers and authorized persons shall pay the tax imposed by this section and file reports with the board, as provided in Section 30186.

Section 30108 of the Revenue and Taxation Code is amended to read:

30108. (a) Every distributor engaged in business in this state and selling or accepting orders for cigarettes or tobacco products with respect to the sale of which the tax imposed ~~by Sections 30101, 30123, and 30131.2~~ *under this part* is inapplicable shall, at the time of making the sale or accepting the order or, if the purchaser is not then obligated to pay the tax with respect to his or her distribution of the cigarettes or tobacco products, at the time the purchaser becomes so obligated, collect the tax from the purchaser, if the purchaser is other than a licensed distributor, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the board.

(b) Every person engaged in business in this state and making gifts of 20 untaxed cigarettes or tobacco products as samples with respect to which the tax imposed ~~by Sections 30101, 30123, and 30131.2~~ *under this part* is inapplicable shall, at the time of making the gift or, if the donee is not then obligated to pay the tax with respect to his or her distribution of the cigarettes or tobacco products, at the time the donee becomes so obligated, collect the tax from the donee, if the donee is other than a licensed distributor, and shall give the donee a receipt therefor in the manner and form prescribed by the board. This section shall not apply to those distributions of cigarettes or tobacco products ~~which~~ *that* are exempt from tax under Section 30105.5.

(c) "Engaged in business in the state" means and includes any of the following:

- (1) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.
  - (2) Having any representative, agent, salesperson, canvasser or solicitor operating in this state under the authority of the distributor or its subsidiary for the purpose of selling, delivering, or the taking of orders for cigarettes or tobacco products.
- (d) The taxes required to be collected by this section constitute debts owed by the distributor, or other person required to collect the taxes, to the state.

Section 30166 of the Revenue and Taxation Code is amended to read:

30166. Stamps and meter register settings shall be sold to *licensed distributors* at their denominated values less a discount of 0.85 percent, which shall be capped at the first one dollar (\$1.00) in denominated value to licensed distributors. Payment for stamps or meter register settings shall be made at the time of purchase, provided that a licensed distributor, subject to the conditions and provisions of this article, may be permitted to defer payments therefor.

Section 30181 of the Revenue and Taxation Code is amended to read:

30181. (a) ~~When~~ *If* any tax imposed upon cigarettes under ~~Article 1 (commencing with Section 30101), Article 2 (commencing with Section 30121), and Article 3 (commencing with Section 30131) of Chapter 2~~ *this part* is not paid through the use of stamps or meter impressions, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a distribution of cigarettes occurs, or in the case of a sale of cigarettes on the facilities of a common carrier for which the tax is imposed pursuant to Section 30104, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a sale of cigarettes on the facilities of the carrier occurs.

- (b) Each distributor of tobacco products shall file a return in the form, as prescribed by the board, ~~which~~ *that* may include, but not be limited to, electronic media respecting the distributions of tobacco products and their wholesale cost during the preceding month, and any other information as the board may require to carry out this part. The return shall be filed with the board on or before the 25th day of the calendar month following the close of the monthly period for which it relates, together with a remittance payable to the board, of the amount of tax, if any, due under Article 2 (commencing with Section 30121) or Article 3 (commencing with Section 30131) of Chapter 2 for that period.
- (c) To facilitate the administration of this part, the board may require the filing of the returns for longer than monthly periods.
- (d) Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.
- ~~(e) This section shall become operative on January 1, 2007.~~

## **SECTION 6. Conformity with State Constitution**

*Section 23 is added to Article XVI of the California Constitution, to read:*

*SEC. 23 The tax imposed by the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 and the revenue derived therefrom, including investment interest, shall not be considered General Fund revenues for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "General Fund revenues," "state revenues," or "General Fund proceeds of taxes" for purposes of Section 8(a) and (b) of Article XVI of the California Constitution and its implementing statutes.*

*Section 14 is added to Article XIII B of the California Constitution, to read:*

*SEC. 14. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund created by the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Act of 2016. 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 CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund.*

#### **SECTION 7. Severability**

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

#### **SECTION 8. Conflicting Measures**

- (a) It is the intent of the people that in the event that this measure and another measure relating to the taxation of tobacco shall appear on the same statewide election ballot, the provisions of the other measure or measures shall not be deemed to be in conflict with this measure, and if approved by the voters, this measure shall take effect notwithstanding approval by the voters of another measure relating to the taxation of tobacco by a greater number of affirmative votes.
- (b) If this measure is approved by the voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting measure is later held invalid, this measure shall be self-executing and given the full force of law.

#### **SECTION 9. Amendments**

- (a) Except as hereafter provided, this act may only be amended by the electors as provided in subdivision (c) of Section 10 of Article II of the California Constitution.
- (b) The Legislature may amend subdivisions (a) and (c) of Section 30130.55 and Section 30130.57 of the Revenue and Taxation Code to further the purposes of the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 by a statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring.
- (c) The Legislature may amend subdivision (b) of Section 30130.55 of the Revenue and Taxation Code to further the purposes of the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX

ACT OF 2016 by a statute passed in each house by roll-call vote entered in the journal, four-fifths of the membership concurring.

**SECTION 10. Effective Date**

This act shall become effective as provided in Section 10(a) of Article II of the California Constitution; provided, however, the amendment to section 30121 of the Revenue and Taxation Code shall become effective April 1, 2017.