

CHAPTER NO. 856

SENATE BILL NO. 3110

By Cooper, Clabough

Substituted for: House Bill No. 3046

By Curtiss, Newton, Fraley, Overbey, Johnson, Walker, Ferguson

AN ACT To enact the "Tax Reform Act of 2002" and to amend Tennessee Code Annotated, Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 16; Title 30; Title 36; Title 39; Title 40; Title 45; Title 47; Title 48; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67; Title 68; Title 69; Title 70 and Title 71, relative to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. (a) Tennessee Code Annotated, Section 57-3-302(a), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(a) There is levied upon the sale or distribution by sale or gift a tax of one dollar and twenty-one cents (\$1.21) on each gallon of wine, and a like or proportional rate per gallon on wine sold or distributed in any other container of more or less than one (1) gallon; provided, however, that the provisions of this chapter hereof shall not apply to the sale, gift or distribution of any wine manufactured, sold, given away or distributed and used solely for sacramental purposes.

(b) Tennessee Code Annotated, Section 57-5-201(a)(1), is amended by deleting the language "three dollars and ninety cents (\$3.90)" and substituting the language "four dollars and twenty-nine cents (\$4.29)".

(c) Tennessee Code Annotated, Section 57-3-302(b), is amended by deleting the language "four dollars (\$4.00)" and substituting the language "four dollars and forty cents (\$4.40)".

(d) Tennessee Code Annotated, Section 57-6-104(c)(5), is amended by inserting the language "or the state privilege tax levied in §57-5-201" immediately following the words "excise tax" in the first sentence.

(e) Tennessee Code Annotated, Section 67-4-1004(a), is amended by deleting the language "six and one-half (6 ½) mills" and by substituting instead the language "ten (10) mills".

(f) Tennessee Code Annotated, Section 67-4-1004, is further amended by adding the following new subsections:

(c) Notwithstanding any provision of law to the contrary, any increase in revenue generated under Title 67, Chapter 6, Part 2 and Part 7, or any other state or local tax resulting from the increase in the tax levied in subsection (a) from six and one-half (6 ½) mills to ten (10) mills shall be deposited in the

general fund and shall not be distributed to county or municipal governments unless specifically authorized by the General Appropriations Act.

(d) Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on the effective date of this section of this act, shall not be required to pay the additional cigarette tax on such stamps resulting from the increase in tax rate from six and one-half (6 ½) mills to ten (10) mills, on cigarettes bearing such stamps.

(g) Tennessee Code Annotated, Section 67-4-1005, is amended by deleting the section in its entirety and by substituting instead the following language:

§67-4-1005. (a) The rate on all other tobacco products, including, but not limited to, cigars, cheroots, stogies, beedies, bidis, manufactured tobacco and snuff of all descriptions whether made of tobacco or any substitute therefor, shall be six and six-tenths percent (6.6%) of the wholesale cost price.

(b) Notwithstanding any provision of law to the contrary, any increase in revenue generated under Title 67, Chapter 6, Part 2 and Part 7, or any other state or local tax resulting from the increase in the tax levied in subsection (a) from six percent (6%) to six and six-tenths percent (6.6%) shall be deposited in the general fund and shall not be distributed to county or municipal governments unless specifically authorized by the General Appropriations Act.

SECTION 2. (a) Tennessee Code Annotated, Section 67-4-507, is amended by deleting the section in its entirety.

(b) Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following language as a new, appropriately numbered part.

§67-4-2201. This part may be cited and referred to as the "Coin-Operated Amusement Machine Tax Act".

§67-4-2202. (a) The state tax imposed by this part shall be the exclusive tax levied on bona fide coin-operated amusement machines. No local government may impose any additional tax, fee, or assessment of any kind on such machines. Nothing contained herein shall affect any person's liability for state or local sales or use tax which is imposed pursuant to Chapter 6 of this title for the privilege of selling or using such devices. The receipts from bona fide coin-operated amusement machines shall not be the basis of tax under Chapter 6 of this title.

(b) The supervision and collection of the taxes imposed by this part are under the direction of the Department of Revenue. The Commissioner of Revenue is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Title 4, Chapter 5.

(c) The taxes imposed by this part shall be administered and collected on an annual basis for the privilege of owning bona fide coin-operated amusement machines

used commercially for public play for tax years beginning on July 1 and ending on the following June 30.

§67-4-2203. As used in this part, unless the context otherwise requires:

(1) "Applicant" or "licensee" means owner as defined in this section, who is licensed to do business in this state, including an owner's officers, directors, shareholders, individuals, members of any association or other entity not specified, and, when applicable in context, the business entity itself.

(2) "Bona fide coin-operated amusement machine" means any coin or token operated game, machine or device which, as a result of depositing a coin, token or other object, automatically or by or through some mechanical or electronic operation involving skill, chance, or a combination thereof, affords music, amusement, or entertainment of some character without vending any merchandise. "Bona fide coin-operated amusement machine" does not include any bona fide merchandise vending machines as defined in rules promulgated by the Department of Revenue, or any device operated for the purpose of unlawful gambling.

(3) "Business owner or business operator" means an owner or operator of a business where one or more bona fide coin-operated amusement machines are available for commercial use and play by the public.

(4) "Commissioner" means the Commissioner of Revenue.

(5) "Machine tax" means the annual per machine tax which every owner of a bona fide coin-operated amusement machine in commercial use must pay.

(6) "Master license" means the certificate which every owner of a bona fide coin-operated amusement machine must obtain and display in the business owner's or business operator's place of business where the machine is located for commercial use by the public for play, in order to operate the machine in this state legally.

(7) "Owner" means any person, individual, firm, company, association, or other business entity owning any bona fide coin-operated amusement machine. "Owner" does not include an individual who owns a bona fide coin-operated amusement machine solely for personal use and who does not make the machine available for play by others at a charge, either directly or indirectly.

(8) "Sticker" means the decal issued for each bona fide coin-operated amusement machine to show proof of payment of the machine tax.

§67-4-2204. (a) There is hereby levied an annual license tax on the privilege of owning bona fide coin-operated amusement machines for commercial use by the public. Prior to exercising such privilege, every owner who offers others the opportunity to play for a charge, whether directly or indirectly, any bona fide coin-operated amusement machine shall pay to the commissioner the annual license tax as follows:

(1) Level one license. An owner owning fifty (50) or fewer machines shall pay a master license tax of five hundred dollars (\$500.00). If after an owner obtains a level one license for a tax year, the owner acquires additional machines, so that the owner owns more than fifty (50) but no more than two hundred (200) machines, such owner shall pay an additional master license tax of five hundred dollars (\$500).

(2) Level two license. An owner owning more than fifty (50) machines but no more than two hundred (200) machines shall pay a master license tax of one thousand dollars (\$1000). If after an owner obtains a level two license for a tax year, the owner acquires additional machines, so that the owner owns more than two hundred (200) machines, such owner shall pay an additional master license tax of one thousand dollars (\$1000).

(3) Level three license. An owner owning more than two hundred (200) machines shall pay a master license tax of two thousand dollars (\$2000).

(b) Upon payment of the annual master license tax, the commissioner shall issue the appropriate master license certificate to the owner. Each master license certificate shall contain the name and address of the owner.

(c) An owner may obtain a six-month master license on or after January 1 of a tax year by paying a tax of two hundred fifty dollars (\$250) for a level one license; five hundred dollars (\$500) for a level two license; and one thousand dollars (\$1000) for a level three license. Such license shall expire on June 30 of the tax year.

(d) A copy of an owner's master license certificate shall be prominently displayed at each location where the owner has a bona fide coin-operated amusement machine available for commercial use and for play by the public.

(e) No refund or credit of the master license tax levied in this section may be made to any owner who ceases to own bona fide coin-operated amusement machines prior to the end of any tax year.

(f) The commissioner may issue a duplicate original master license certificate, if an original master license certificate has been lost, stolen, or destroyed. If an original master license certificate is lost, stolen, or destroyed, a sworn, written statement must be submitted explaining the circumstances by which the master license was lost, stolen, or destroyed, and a replacement fee of one hundred dollars (\$100) paid, before a duplicate original master license certificate may be issued.

(g) A master license is effective for a single business entity.

(h) A master license is nontransferable.

(i) Application for renewal of a master license must be made to the commissioner by June 1 of each year. An owner, who properly completes a renewal application, timely files the renewal application with the commissioner, and remits all taxes and fees with the renewal application, may continue to offer bona fide coin-operated amusement machines for play by the public after June 30 if the renewal license and new stickers have not been issued, provided that the owner displays with the expired master license

in each location, where offer bona coin-operated amusement machines are offered for play by the public, a copy of a receipt showing that the application for the renewal license was timely filed.

(j) An original application for a master license, an application for a six-month license, or a renewal application must be accompanied by the appropriate taxes and fees.

(k) The commissioner shall give written notice to an applicant or licensee of any denial of an application or renewal application or revocation of a master license.

(l) The commissioner shall not renew a master license and shall suspend or revoke a master license, if the commissioner finds that the applicant or licensee owes to the state any taxes, fees, delinquent taxes or fees, or penalties resulting from delinquent taxes, or that an owner has failed to display the master license at any location where a bona fide coin-operated amusement machine is available for commercial use and for play by the public, or that an owner has made a machine available for commercial use and for play by the public without a valid sticker attached.

(m) Acceptance and display of a master license certificate issued under this part constitutes consent by the owner and by the business owner or business operator of the business where a bona fide coin-operated amusement machine is available for commercial use and for play by the public that the commissioner and his agents may freely enter the business premises during normal business hours for the purpose of ensuring compliance with this part.

(n) An owner shall attach identification to each bona fide coin-operated amusement machine showing the owner's name, address, and phone number.

§67-4-2205. (a) For the privilege of owning a bona fide coin-operated amusement machine offered for commercial use and for play by the public, there is additionally levied a machine tax of ten dollars (\$10.00) for each bona fide coin-operated amusement machine. The owner shall pay the machine tax to the commissioner prior to making a machine available for commercial use and for play by the public. If, after payment of the master license tax and machine taxes, an owner obtains additional bona fide coin-operated amusement machines, the owner shall pay to the commissioner a ten dollar (\$10.00) machine tax for each machine, prior to making a machine available for commercial use and for play by the public. No refund or credit of a machine tax levied in this section shall be made.

(b) The commissioner shall issue a sticker to evidence the payment of the machine tax. The owner shall securely affix a sticker to each machine available for commercial use and for play by the public. Owners may transfer stickers from one machine to another and from location to location so long as all machines in commercial use available for play by the public have a sticker and the owner uses the stickers only for machines that it owns.

§67-4-2206. (a) A penalty of fifty dollars (\$50.00) shall be assessed by the commissioner for every machine which is available for commercial use and for play by the public without a sticker or which is located in a business where the master license of the owner is not displayed.

(b) An owner who knowingly makes a bona fide coin-operated amusement machine available for commercial use and for play by the public without a current master license or without a sticker affixed to the machine commits a Class A misdemeanor. A business owner or business operator who knowingly permits bona fide coin-operated amusement machines to be operated by the public on the business' premises without display of a copy of the owner's master license or without a sticker affixed to each machine commits a Class A misdemeanor.

(c) Intentional removal of a machine tax sticker from a bona fide coin-operated amusement machine by the owner, except as permitted in § 67-4-2205(b), or by a person other than the owner is a Class C misdemeanor.

(d) Any bona fide coin-operated amusement machine available for commercial use and play by the public in a location that does not have a copy of the owner's master license displayed or any bona fide coin-operated amusement machine available for commercial use and play by the public without a valid sticker affixed is subject to confiscation as contraband. Prior to confiscation, the owner shall have thirty (30) days in which to remedy any noncompliance with the provisions of this part, including payment of any penalties.

§67-4-2207. Nothing in this part, including payment of the taxes or fees provided for herein, shall be construed to make legal an otherwise illegal device, or to authorize or permit gambling on any device whatsoever.

SECTION 3. (a) Tennessee Code Annotated, Section 67-4-2006(b)(1), is amended by adding the following as a new subitem (H) and relettering remaining items accordingly:

(H) Any depreciation permitted as a deduction in computing federal taxable income solely as a result of the provisions of Title 1, Section 101, of the Job Creation and Worker Assistance Act of 2002.

(b) Tennessee Code Annotated, Section 67-4-2006(b)(2), is amended by adding the following as a new subitem (I) and relettering remaining items accordingly:

(I) Any depreciation in excess of that which the taxpayer deducted in computing its federal taxable income that could have been deducted in computing such income if the taxpayer had computed its depreciation under the provisions of Section 168 of the Internal Revenue Code as it existed and applied immediately prior to the passage of Title 1, Section 101, of the Job Creation and Worker Assistance Act of 2002.

(c) Tennessee Code Annotated, Section 67-4-2007(a), is amended by deleting the words, figure and symbols "six percent (6%) of the net earnings" and by substituting instead the following:

six and one-half percent (6.5%) of the net earnings

SECTION 4. (a) Tennessee Code Annotated, Section 67-6-202(a), is amended by deleting the language "at the rate of six percent (6%) of" and by substituting instead the language "on" and by adding at the end of the subsection the language:

The tax shall be levied at the rate of seven percent (7%). There is levied an additional tax at the rate of two and three-quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars (\$1,600), but less than or equal to three thousand two hundred dollars (\$3,200), on the sale or use of any single article of personal property as defined in § 67-6-702(d). The tax levied at the rate of two and three-quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars (\$1,600), but less than or equal to three thousand two hundred dollars (\$3,200), on the sale or use of any single article of personal property shall be in addition to all other taxes and shall be a state tax for state purposes only. No county or municipality or taxing district shall have the power to levy any tax on the amount in excess of one thousand six hundred dollars (\$1,600), but less than or equal to three thousand two hundred dollars (\$3,200), on the sale or use of any single article of personal property.

(b) Tennessee Code Annotated, Section 67-6-103, is amended by deleting the language "six percent (6%)" in subsection (f) and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(c) Tennessee Code Annotated, Section 67-6-203, is amended by deleting the language "six percent (6%)" in subsection (a) and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(d) Tennessee Code Annotated, Section 67-6-204, is amended by deleting the language "six percent (6%)" wherever it appears in subsections (a) and (c) and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(e) Tennessee Code Annotated, Section 67-6-205, is amended by deleting the language "six percent (6%)" in subsection (a) and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(f) Notwithstanding the provisions of §67-6-103(a)(3) or any other law to the contrary, all increased revenues attributable to the amendments to Tennessee Code Annotated, Title 67, Chapter 6 set forth in this section of this act shall be paid into the state's general fund and shall be allocated exclusively for general state purposes.

(g) Notwithstanding the provisions of this section of this act to the contrary, sales to or use by a contractor, subcontractor, or material vendor of tangible personal property, including rentals thereof and labor or services performed in the fabrication, manufacture, delivery, or installation of such tangible personal property when such property is sold or used solely in performance of a lump sum or unit price construction contract entered into prior to July 15, 2002, or awarded by the state or a political subdivision pursuant to a bid opening which occurred prior to July 15, 2002, shall be subject to tax at the state rate of six percent (6%) plus the local option sales tax rate in effect or operative on July 1, 2002, in the county or municipality in which the property is sold or used. In addition, sales to or use by a subcontractor of tangible personal property, including rentals thereof and labor or services performed in the fabrication, manufacture, delivery, or installation of such

tangible personal property when such property is sold or used solely in performance of a written subcontract entered into prior to September 1, 2002, if such subcontract is made pursuant to a general contract qualifying for the reduced rate of tax as set out above, shall be subject to tax at the rate of six percent (6%) plus the local option sales tax rate in effect or operative on July 1, 2002, in the county or municipality in which the property is sold or used. Any vendor making such sales to any such contractor or subcontractor shall collect tax at the rate and in the amounts established by this act. Any such contractor or subcontractor may then file a claim with the Commissioner of Revenue for a refund of any such tax paid to any of the contractor's vendors at a rate in excess of six percent (6%) plus the local option sales tax rate in effect or operative on July 1, 2002, in the county or municipality in which the property is sold or used. For purposes of this subsection the term "lump sum or unit price construction contract" means a written contract for the construction of improvements to real property under which the amount payable to the contractor, subcontractor or material vendor is fixed without regard to the costs incurred in the performance of the contract. The provisions of this paragraph shall not be construed to increase the rate of tax imposed pursuant to the provisions of §67-6-206.

SECTION 5. (a) Tennessee Code Annotated, Section 67-4-506, is amended by deleting the section in its entirety.

(b) Tennessee Code Annotated, Section 67-6-102(24), is amended by adding the following language as a new subdivision (l):

(l) "Retail sale" or "sale at retail" includes charges made for the privilege of obtaining merchandise from any vending machine or device; provided, that "charges" for this purpose shall be the amount of money deposited into the vending machine or device.

SECTION 6. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding the following language as new, appropriately designated section:

§67-6-22_. (a) (1) Notwithstanding any provision of this part to the contrary, except as otherwise provided in subdivision (2), the retail sale of food and food ingredients for human consumption shall be taxed at the rate of six percent (6%) of the sales price of each single article of food or food ingredient.

(2) The retail sale of the following food and food ingredients shall be taxed at the rate of tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202:

(A) Candy;

(B) Dietary supplements; and

(C) Prepared food.

(3) For purposes of this section:

(A) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other

ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration.

(B) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(a) A vitamin;

(b) A mineral;

(c) An herb or other botanical;

(d) An amino acid;

(e) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(f) A concentrate, metabolite, constituent, extract, or combination of any ingredient described above; and

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "Supplement Facts" box found on the label and as required pursuant to 21 C.F.R. §101.36.

(C) "Prepared food" means:

(i) Food sold in a heated state or heated by the seller; or

(ii) Two (2) or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. "Prepared food" does not include food that is only sliced, repackaged, or pasteurized.

(b) Except as otherwise provided in this section, "food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

(c) As used in this section, "food and food ingredients" does not include the following items which shall be taxed at the rate of the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202:

(1) Beer, wine or any other beverage, however designated, that contains alcohol and is regulated pursuant to Title 57; or

(2) Cigarettes, cigars or any other product, however designated, that contains tobacco.

SECTION 7. (a) Tennessee Code Annotated, Section 67-4-1703, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The privilege tax established by this part is four hundred dollars (\$400) annually. The privilege tax is due and payable on June 1 of each year. Taxes paid after June 1 are delinquent.

(b) Any person who is licensed or registered for two (2) or more professions taxed pursuant to the provisions of this part shall not be required to pay more than one (1) tax in the amount of four hundred dollars (\$400).

(b) Tennessee Code Annotated, Title 67, Chapter 4, Part 17, is amended by adding the following new section:

§67-4-1710. The provisions of this part shall not apply to full-time state employees.

SECTION 8. (a) Tennessee Code Annotated, Section 55-4-111, is amended by deleting subdivisions (a)(1) Class (E) in its entirety and substituting instead the following:

Class (E) Private buses (not for hire) – In the case of buses or motor driven coaches utilized exclusively for transporting either the owner or persons associated with the owner in a trade, business or vocation, or both of them, together with personalty constituting the tools of such trade, business or vocation, between places where such trade, business or vocation may be carried on, and not used to transport persons or property for hire – registration fee \$200.

(b) Tennessee Code Annotated, Section 55-4-112(a)(1) through (5), are amended by deleting the present fees and substituting a new fee schedule as follows:

(a) The registration fees for private and commercial motor vehicles operating for hire who transport passengers shall be as follows:

(1) Motor vehicles with not more than seven (7) seats for passengers \$37.13

(2) Motor vehicles with over seven (7) seats and not more than fifteen (15) seats for passengers 86.63

(3) Motor vehicles with over

fifteen (15) seats and not more than
twenty-five (25) seats for passengers 152.63

(4) Motor vehicles with over
twenty-five (25) seats and not more
than thirty-five (35) seats for passengers 235.12

(5) Motor vehicles with over thirty-five (35) seats for passengers
317.63

(c) Tennessee Code Annotated, Section 55-4-112(b), is amended by deleting the language "fifty cents (50¢)" and "twenty-five dollars (\$25.00)" and substituting the language "fifty-five cents (55¢)" and "twenty-seven dollars fifty cents (\$27.50)" respectively.

(d) Tennessee Code Annotated, Section 55-4-113(a), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) Fixed load vehicles, as defined in §55-1-117, so designated and used only for the transportation of equipment that is mounted thereon may be registered at a rate of twenty-five percent (25%) of the tax schedules set forth in subdivision (a)(2).

(e) Tennessee Code Annotated, Section 55-4-113(a), is further amended by deleting subdivision (2) and by substituting instead the following:

(2) Private Carriers, Public Carriers and Household Goods Carriers: Every person, firm or corporation operating, for commercial purposes, a freight motor vehicle as herein defined over the roads of the state shall first register such vehicle with the department and shall pay therefor a tax as follows, according to the indicated classes set forth in this subdivision

(A) Class 1.. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, of not more than nine thousand pounds (9,000 lbs.).
Registration tax \$ 48.50

(B) Class 2. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of sixteen thousand pounds (16,000 lbs.).
Registration tax 102.50

(C) Class 3. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of twenty thousand pounds (20,000 lbs.).
Registration tax 307.50

(D) Class 4. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of twenty-six thousand pounds (26,000 lbs.).
Registration tax 461.00

(E) Class 5. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of thirty-two thousand pounds (32,000 lbs.).

Registration tax 615.00

(F) Class 6. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of thirty-eight thousand pounds (38,000 lbs.).

Registration tax 691.00

(G) Class 7. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of forty-four thousand pounds (44,000 lbs.).

Registration tax 768.00

(H) Class 8. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of fifty-six thousand pounds (56,000 lbs.).

Registration tax 922.00

(I) Class 9. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of sixty-six thousand pounds (66,000 lbs.).

Registration tax 999.00

(J) Class 10. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of seventy-four thousand pounds (74,000 lbs.).

Registration tax 1,178.50

(K) Class 11. Freight motor vehicles with declared maximum gross weight, including the weight of vehicle and load, not in excess of eighty thousand pounds (80,000 lbs.).

Registration tax 1,332.50

(L) Class 12. Fixed load vehicles, as defined in §55-1-117, may be registered at twenty-five percent (25%) of the rate set forth in this subdivision (a)(2) for a vehicle of comparable weight;

(f) Tennessee Code Annotated, Section 55-4-113(a)(4)(A), is amended by deleting the fee schedules for Classes 1 – 11 and by substituting instead the following:

(A) Motor vehicles used exclusively for the movement of farm products for the grower from the point of production to the first market, or operated as farm trucks as defined in § 55-1-119, or as a logging and lumbering truck as hereinafter defined, or as the owner's private conveyance, transporting only tangible personal property belonging to the owner or a guest occupant, shall be classified by the commissioner and registered with the department as freight motor vehicles at the following taxes in lieu of those set out in subdivision (a)(1):

| | |
|----------|---------|
| Class 1 | \$19.53 |
| Class 2 | 36.30 |
| Class 3 | 108.90 |
| Class 4 | 140.80 |
| Class 5 | 187.00 |
| Class 6 | 217.80 |
| Class 7 | 242.00 |
| Class 8 | 297.00 |
| Class 9 | 343.20 |
| Class 10 | 400.40 |
| Class 11 | 541.20 |

(g) Tennessee Code Annotated, Section 55-4-113(a)(5), is amended by deleting the figures "\$32.00" and substituting the figures "\$35.20".

(h) Tennessee Code Annotated, Section 55-4-113(a)(6)(A), is amended by deleting the amount "fifty dollars (\$50.00)" and substituting the amount "seventy-five dollars (\$75.00)".

(i) Tennessee Code Annotated, Section 55-4-113(a)(7), is amended by deleting the language "four hundred thirty dollars (\$430)", "five hundred dollars (\$500)", "three hundred ten dollars (\$310)", "five hundred sixty dollars (\$560)", "six hundred fifty dollars (\$650)", and "four hundred dollars (\$400)", and substituting, respectively, the language: "four hundred seventy-three dollars (\$473.00)", "five hundred fifty dollars (\$550.00)", "three hundred forty-one dollars (\$341.00)", "six hundred sixteen dollars (\$616.00)", "seven hundred fifteen dollars (\$715.00)", and "four hundred forty dollars (\$440.00)".

(j) Tennessee Code Annotated, Section 55-4-115(a)(1), is amended by deleting the language "five dollars (\$5.00)" wherever it appears and by substituting instead the language "five dollars and fifty cents (\$5.50)".

(k) Tennessee Code Annotated, Section 55-4-115(a), is further amended by deleting subdivision (5) and substituting the following:

(5) The permit fees for the several gross weight classes shall be as follows:

| | |
|-------------|---------|
| 16,000 lbs. | \$ 2.75 |
| 20,000 lbs. | 8.25 |

| | |
|-------------|--------|
| 26,000 lbs. | 11.00 |
| 32,000 lbs. | 14.30 |
| 38,000 lbs. | 16.50 |
| 44,000 lbs. | 55.00 |
| 56,000 lbs. | 71.50 |
| 66,000 lbs. | 82.50 |
| 74,000 lbs. | 99.00 |
| 80,000 lbs. | 115.50 |

(l) Tennessee Code Annotated, Section 55-4-117(b)(1), is amended by deleting the language "three hundred twenty-five dollars (\$325)" and substituting the language "three hundred fifty-seven dollars and fifty cents (\$357.50)".

(m) Tennessee Code Annotated, Section 55-4-221(b)(3), is amended by deleting the second sentence thereof and substituting instead the following:

The fee for the first plate is forty-seven dollars and thirty cents (\$47.30), and the fee for any plates in addition to the first plate is twenty-three dollars and sixty-five cents (\$23.65) for each additional plate.

(n) Tennessee Code Annotated, Section 55-4-221(c), is amended by deleting subdivision (4) and substituting the following:

(4) The commissioner is hereby authorized and empowered to design, issue and regulate the use of temporary plates for use in cases where dealer plates cannot be used. Temporary plates may be issued for a period of thirty (30) days. The fee for the thirty-day plate is five dollars and fifty cents (\$5.50). No person may operate a motor vehicle for more than sixty (60) days with the temporary plate. Nothing in this section shall be construed as a grant of authority for the issuance or use of such temporary plates on trucks or truck tractors being used or tested under load conditions over the streets and highways of this state.

(o) Notwithstanding any provision of law to the contrary, all revenues attributable to statutory changes effectuated by the provisions of this section of this act shall be deposited exclusively in the state's general fund and shall be allocated for general state purposes in accordance with the provisions of the General Appropriations Act.

SECTION 9. (a) Tennessee Code Annotated, Section 67-4-709(b), is amended deleting the subsection in its entirety and by substituting instead the following:

(b) In addition to the minimum tax, persons shall pay a tax, according to the dominant business activity of such persons as follows:

(1) *CLASSIFICATION 1* [§ 67-4-708(1)]:

(A) One-tenth (1/10) of one percent (1%) of all the retail sales of the business;

(B) One-fortieth (1/40) of one percent (1%) of all the wholesale sales of the business by persons classified under § 67-4-708(1)(A);

(C) Three-eighths (3/8) of one percent (1%) of all the wholesale sales of the business by persons classified under § 67-4-708(1)(B) and (1)(C); and

(D) One twentieth (1/20) of one percent (1%) of all the retail sales of the business by persons classified under § 67-4-708(1)(D);

(2) *CLASSIFICATION 2* [§ 67-4-708(2)]:

(A) Three-twentieths (3/20) of one percent (1%) of all the retail sales of the business; and

(B) Three-eighths (3/8) of one percent (1%) of all the wholesale sales of the business;

(3) *CLASSIFICATION 3* [§ 67-4-708(3)]:

(A) Three-sixteenths (3/16) of one percent (1%) of all the retail sales of the business; and

(B) Three-eighths (3/8) of one percent (1%) of all the wholesale sales of the business;

(4) *CLASSIFICATION 4* [§ 67-4-708(4)]:

(A) One-tenth (1/10) of one percent (1%) of the compensation entitled to under the contract, whether in the form of a contract price, commission, fee or wage, by the persons enumerated in § 67-4-708(4)(A);

(i) Persons who, during any taxable period, receive less than fifty thousand dollars (\$50,000) of compensation from contracts in a county and/or incorporated municipality other than the county or incorporated municipality where domiciled or located, shall be required to pay a tax on such compensation at the rate of one-tenth (1/10) of one percent (1%) in the county and/or incorporated municipality where domiciled;

(ii) When such tax is imposed on a business activity included in any of the above classifications payable by persons described in §67-4-708(4)(A), who, during any taxable period, receive fifty thousand dollars (\$50,000) or more of compensation from contracts in a county or incorporated municipality, such taxpayer shall pay the tax in the jurisdiction in which the contract is performed; provided, that no tax shall be imposed on the same

activity by the county and/or incorporated municipality where the taxpayer is domiciled or located.

(iii) In computing the measure of the tax, except as hereinafter provided, no deduction will be allowed on account of the cost of tangible property sold, the cost of materials used, labor cost, reimbursed cost, interest, discount, delivery cost, taxes, or no other expense whatsoever paid or accrued and without any deduction on account of losses; and

(B) One-tenth (1/10) of one percent (1%) of the gross commissions, margins, fees, or other charges by the persons enumerated in § 67-4-708(4)(B); and

(5) *CLASSIFICATION 5* [§ 67-4-708(5)]:

(A) Three-tenths (3/10) of one percent (1%) of the gross income of the business;

(B) Such persons shall pay a minimum tax of four hundred fifty dollars (\$450) per annum; however, under no circumstances shall the tax payable hereunder be more than one thousand five hundred dollars (\$1,500) per annum; and

(C) "Gross income of the business" means all interest income, earned discounts, earned lease rentals, commission fees exclusive of insurance commissions, past due charges, contract earnings or charges, collection charges, loan service fees, late fee income, and all other income, without any deduction except as hereinafter provided.

(b) Tennessee Code Annotated, Section 67-4-710, is amended by deleting the section in its entirety.

(c) (1) Tennessee Code Annotated, Section 67-4-713(a)(3), is amended by deleting the language "(a)(4)"; by substituting instead the language "(a)(4) or (a)(8)".

(2) Tennessee Code Annotated, Section 67-4-713(a), is amended by adding the following language as a new, appropriately designated subdivision:

(8) Notwithstanding any provision of law to the contrary, no credit otherwise allowable under subdivisions (a)(3) through (a)(7) may be taken with respect to the increase in privilege tax directly attributable to the 2002 amendments to §67-4-709(b), provided by subsection (a) of this section of this act.

(d) Tennessee Code Annotated, Section 67-4-724(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) (1) Each local collector of each county and/or incorporated municipality shall be required to pay the commissioner fifteen percent (15%) of the total amount

collected under the provisions of this part. This subdivision does not apply to any amount collected by a local collector of a county and/or incorporated municipality pursuant to a local government field audit and related collection effort. This subdivision does not apply to any amount collected by a local collector of a county and/or incorporated municipality pursuant to increased revenues directly attributable to the 2002 amendments to §67-4-709(b), provided by subsection (a) of this section of this act.

(2) Each local collector of each county and/or incorporated municipality shall pay the commissioner all increased revenues directly attributable to the 2002 amendments to §67-4-709(b), provided by subsection (a) of this section of this act.

SECTION 10. Notwithstanding any provision of law to the contrary, the Commissioner of Revenue is authorized to waive tax liability and associated interest and penalties otherwise imposed for failure to pay taxes levied pursuant to this act in a timely manner, but only to the extent that the taxpayer or vendor can demonstrate, to the commissioner's satisfaction, that the taxpayer's or vendor's noncompliance with the requirements of this act unavoidably and directly resulted from the close proximity of the effective date of this act with implementation of the increase in tax rates or items or activities taxed pursuant to the provisions of this act.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. (a) There is hereby created an independent Tax Structure Study Commission.

(b) The commission shall be composed of fifteen (15) members as follows:

(1) A chair who shall be appointed by the Governor and who shall not be affiliated with any group specified within this section;

(2) One (1) member, representing the interests of counties, who shall be appointed by the Speaker of the Senate following consultation with the County Services Association;

(3) One (1) member, representing the interests of municipalities, who shall be appointed by the Speaker of the House of Representatives following consultation with the Tennessee Municipal League;

(4) One (1) member, representing the interests of business, who shall be appointed by the Speaker of the Senate following consultation with the Tennessee Association of Business;

(5) One (1) member, representing the interests of agriculture, who shall be appointed by the Speaker of the House of Representatives following consultation with the Tennessee Farm Bureau;

(6) One (1) member, representing the interests of the banking industry, who shall be appointed by the Speaker of the Senate following consultation with the Tennessee Bankers Association;

(7) One (1) member, representing the interests of the various chambers of commerce, who shall be appointed by the Governor following review of a list of four (4) nominees: one (1) of whom shall be submitted by the Knoxville Chamber of Commerce, one (1) of whom shall be submitted by the Chattanooga Chamber of Commerce, one (1) of whom shall be submitted by the Nashville Chamber of Commerce and one (1) of whom shall be submitted by the Memphis Chamber of Commerce;

(8) One (1) member, representing the interests of labor, who shall be appointed by the Speaker of the Senate following consultation with the Tennessee AFL-CIO Labor Council;

(9) One (1) member, representing the interests of families, who shall be appointed by the Speaker of the House of Representatives;

(10) One (1) member, representing the interests of the elderly, who shall be appointed by the Governor following consultation with the American Association of Retired Persons;

(11) One (1) member, representing the interests of tax attorneys, who shall be appointed by the Speaker of the Senate following consultation with the Tennessee Bar Association;

(12) One (1) member, representing the interests of accountants, who shall be appointed by the Governor following consultation with the association of Certified Public Accountants;

(13) One (1) member, representing the interests of the health care industry, who shall be appointed by the Speaker of the House following consultation with the Tennessee Hospital Association;

(14) One (1) member, representing the interests of the insurance industry, who shall be appointed by the Speaker of the House following consultation with the Association of Tennessee Life Insurance Companies; and

(15) One (1) member, representing the interests of state employees, to be appointed by the Governor following consultation with the Tennessee State Employees Association.

In making appointments to the Commission, the Governor, the Speaker of the Senate, and the Speaker of the House shall make every effort to ensure that at least one (1) of the members of the commission is an African-American.

(c) The Commission shall also consist of five (5) non-voting members as follows:

(1) One professor from the University of Tennessee at Knoxville, who shall be designated by the Dean of the School of Business;

(2) One professor from Vanderbilt University, who shall be selected by the Dean of the School of Business;

(3) One professor from Tennessee State University, who shall be selected by the Dean of the School of Business;

(4) One professor from the University of Memphis, who shall be selected by the Dean of the School of Business; and

(5) One professor from Middle Tennessee State University, who shall be selected by the Dean of the School of Business.

(d) If a vacancy occurs in commission membership for any reason, then the vacancy shall be filled in the same manner as the initial appointment.

(e) The commission is authorized to employ such staff, as it deems necessary, subject to the availability of funding specifically appropriated for such purpose. The commission may also call upon other state and local governmental agencies and entities for other assistance.

(f) (1) The commission shall perform a comprehensive study of the tax structure in Tennessee. The study shall include state taxes, local taxes, special district taxes and state-shared taxes. The commission shall study the elasticity of the current tax structure, the effect of e-commerce upon the current tax structure, the method of allocation of state tax revenue, the effect of allocation of tax revenue based on situs of collection, current distribution formulas for tax revenue, special allocations of tax revenue based on population or tourism-related special treatment and the deductibility of state and local taxes from federal taxes. The commission shall also study issues pertaining to exportability and federal deductibility of Tennessee's state and local taxes. The commission shall also study taxes on beer, liquor, wine and cigarettes. The commission shall examine, compare and evaluate the impact and potential impact of various taxes upon the state's business climate and economic competitiveness.

(2) The commission shall study issues pertaining to retaliatory taxes and shall determine if Tennessee tax rates should be tied to average tax rates subject to retaliation. Business taxes shall be studied to determine if taxes in Tennessee are comparable to surrounding states, whether or not business activity is fairly taxed and whether the business tax structure in Tennessee should be revised due to the shift in the economy from manufacturing industry to service industries. The franchise and excise tax shall be studied to determine if consolidated filing should be required and if current allocation formulas fairly apportion income and losses. The business tax structure shall also be studied to determine the extent, if any, to which the form of a business entity should be a factor in determining whether such business entity pays state taxes. The commission shall also examine the effect of tax structure and rates on tax leakage to the states surrounding Tennessee.

(3) In general, the commission is charged with performing a comprehensive study of the entire system of taxation in Tennessee, as well as

evaluating such system as to its soundness, fairness, equity, and deductibility for all Tennesseans, and, if deemed necessary, with recommending changes to the tax code in order to encourage and enhance such soundness, fairness, equity and adequacy.

(g) The commission shall report its findings, recommendations and any proposed legislation to the Chief Clerk of the Senate and the Chief Clerk of the House of Representatives on or before July 1, 2004, at which time the commission shall terminate and cease to exist.

SECTION 13. No expenditure of public funds pursuant to this act shall be made in violation of the provisions of Title VI of the Civil Rights Act of 1964, as codified in 42 United States Code 2000(d).

SECTION 14. (a) Section 1 of this act shall take effect on July 15, 2002, the public welfare requiring it.

(b) Section 2 of this act shall take effect on September 1, 2002, the public welfare requiring it.

(c) Section 3 of this act shall take effect on July 15, 2002, the public welfare requiring it and shall apply to tax years ending on or after such date.

(d) Section 4 of this act shall take effect on July 15, 2002, the public welfare requiring it.

(e) Section 5 of this act shall take effect on July 15, 2002, the public welfare requiring it.

(f) Section 6 of this act shall take effect on July 15, 2002, the public welfare requiring it.

(g) Section 7 of this act shall take effect on July 15, 2002, the public welfare requiring it.

(h) Section 8 of this act shall take effect October 1, 2002, the public welfare requiring it.

(i) Section 9 of this act shall take effect September 1, 2002, the public welfare requiring it, and shall apply to tax years ending on or after such date.

(j) Section 10 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall be repealed sixty (60) days thereafter.

(k) Unless otherwise provided by the provisions of this act, all remaining sections of this act shall take effect on becoming a law, the public welfare requiring it.

PASSED: July 3, 2002


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of July 2002


DON S. QUIGLEY, GOVERNOR