

*Be it resolved by the people of the State of Missouri that the Constitution be amended:*

*Article X is amended by adopting two new sections to be known as Sections 26 and 27.*

Section 26. (a). All revenues generated under Section 27 of this article shall be used to reduce the individual income tax as further provided in this Section 26.

(b). “Reduction factor” means the percentage rounded to the nearest tenth of one percent, but not less than one tenth of one percent, sufficient to reduce tax collections by the amount collected by the state from the fees or assessments imposed or increased in Section 27 of this Article in any state fiscal year in excess of the amount collected by the state, in the immediately preceding state fiscal year, from the fees or assessments imposed or increased in Section 27 of this Article.

(c). The existing rate of the individual income tax shall be permanently reduced by the reduction factor effective the immediately ensuing tax year.

Section 27. (a). In addition to all other taxes imposed on cigarettes, a special assessment of seventeen cents (\$0.17) per package of twenty (20) cigarettes is imposed upon cigarettes acquired by wholesalers after the effective date of this amendment. This assessment shall be paid by the wholesaler and collected in the same way, and subject to the same rules and regulations, as other cigarette taxes collected by the department of revenue.

(b). A new special assessment shall be imposed at a rate of one (1) cent per zero point zero one (.01) fluid ounces on the distribution or sale of vapor product material. “Vapor product material” means a solution containing nicotine suitable for use in a vapor product. “Vapor product” means any device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that is intended to vaporize a liquid nicotine solution for human consumption. This special assessment shall be paid by the person who first acquires vapor product material or vapor products containing vapor product material in this state, but shall not apply to products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetics Act.

(c). No person shall sell or distribute vapor product or vapor product material to anyone under the age of 18, and no person under the age of 18 shall purchase or possess such products or material.

(d). The counties and political subdivisions of this state shall not impose any new or increased tax, license, fee or special assessment on the purchase, storage, use, consumption, handling, distribution or wholesale sale of vapor products or vapor product material, except as imposed on all other taxable tangible property.

(e). Every person providing cigarette manufacturing services or access to automatic cigarette manufacturing equipment to consumers shall, with respect to each cigarette manufactured, be deemed to be a manufacturer of cigarettes sold to a consumer for all purposes under the law of this state unless the consumer acquires complete and exclusive title to and possession of the automatic cigarette manufacturing equipment prior to its use at a place the provider does not control.

(f). A non-participating manufacturer shall post a bond in favor of the state of Missouri if its cigarettes were not sold in the state during any one of the four preceding calendar quarters; it or any person affiliated with it failed to make a full and timely escrow deposit by law, unless the failure was not knowing or reckless and was promptly cured on notice; or, it or any person affiliated with it was removed from the state directory of any state during any of the five preceding calendar years, unless the removal was determined to have been erroneous or illegal. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the other. “Non-participating manufacturer” shall be as defined by law on the effective date of this amendment.

(g). The bond required by this amendment shall be posted at least ten days in advance of each calendar quarter as a condition to the non-participating manufacturer and its brand families being included in the state directory for that quarter. The amount of the bond shall be the greater of (i) the greatest required escrow amount due from the non-participating manufacturer or its predecessor for any of the twelve preceding calendar quarters or (ii) \$25,000. The bond shall be written in favor of the state of Missouri and shall be conditioned on the performance by the non-participating manufacturer of all of its duties and obligations under this amendment. The bond shall remain in effect for twenty-four (24) months from the date posted.

(h). If any non-participating manufacturer fails to perform the duties and obligations on which the bond is conditioned, the state shall be authorized to execute on the bond, first to recover any amounts the non-participating manufacturer failed to place into escrow as required by this amendment, then to recover penalties and attorneys’ fees.