

# HOUSE BILL REPORT

## SB 5560

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*As Reported By House Committee on:  
Commerce & Labor  
Revenue*

**Title:** An act relating to enforcement of cigarette and tobacco statutes.

**Brief Description:** Transferring power and duty to enforce cigarette and tobacco laws to the liquor control board.

**Sponsor(s):** Senators McDonald, Owen, Craswell and Niemi.

**Brief History:**

Reported by House Committee on:  
Commerce & Labor, April 4, 1991, DPA;  
Revenue, April 6, 1991, DPA(CL).

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**HOUSE COMMITTEE ON  
COMMERCE & LABOR**

**Majority Report:** *Do pass as amended.* Signed by 6 members: Representatives Heavey, Chair; Cole, Vice Chair; Fuhrman, Ranking Minority Member; R. King; O'Brien; and Vance.

**Minority Report:** *Do not pass.* Signed by 4 members: Representatives Franklin; Jones; Prentice; and Wilson.

**Staff:** Jim Kelley (786-7166).

**Background:** The State of Washington imposes a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes equal to \$.34 per pack. In addition, state and local sales and use taxes and business and occupation taxes apply to the sale of cigarettes equal to approximately \$.16 per pack. Because of lower taxes, cigarettes are less expensive in neighboring states and an incentive for tax evasion exists.

The Department of Revenue estimates that the state is losing \$17.9 million per year from illegal sales of untaxed cigarettes. These losses result from military base "leakage," purchases made out of state (casual smuggling), and the sale of untaxed cigarettes to non-Indians on Indian land.

According to a 1990 report of the Legislative Budget Committee, the Department of Revenue's efforts to enforce the cigarette tax have been frustrated by: 1) Legal uncertainties; 2) executive branch policy considerations and events related to state/tribal relations; and 3) the department's emphasis on other priorities, such as major tax reform issues.

The Liquor Control Board enforces the laws relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor. The board employs liquor enforcement officers who have the authority to enforce the penal laws of the state that are under the board's jurisdiction.

**Summary of Amended Bill:** The duty to enforce cigarette taxes is transferred to the Liquor Control Board. Appropriations, personal property, and personnel used by the Department of Revenue in enforcing the cigarette and tobacco laws are transferred to the Liquor Control Board. In addition, retailers are prohibited from possessing unstamped cigarettes and the wholesaler's surety bond is increased to \$5,000.

**Amended Bill Compared to Original Bill:** The section of the bill allowing the board to compensate informants is stricken.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect July 1, 1991.

**Testimony For:** (Witnesses testified as being neutral on the bill): The Liquor Control Board can enforce the cigarette taxes as long as the funds are appropriated to enable it to increase personnel. There is some bootlegging occurring now.

**Testimony Against:** (Witnesses testified as being neutral on the bill): This tax is very difficult to enforce. The return that can be achieved with the same effort in other areas of tax enforcement far outweighs what can be achieved with the cigarette tax. This could harm negotiations with the Indian tribes. The section providing for compensation to informants should be stricken.

**Witnesses:** Carter Mitchell, Liquor Control Board (neutral); Bill Fritz, The Tobacco Institute (neutral); and Russ Brubaker and Gary O'Neill, Department of Revenue (neutral).

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**HOUSE COMMITTEE ON  
REVENUE**

**Majority Report:** *Do pass as amended by Committee on Commerce and Labor.* Signed by 15 members: Representatives Wang, Chair; Fraser, Vice Chair; Holland, Ranking Minority Member; Wynne, Assistant Ranking Minority Member; Appelwick; Belcher; Brumsickle; Day; Leonard; Morris; Morton; Phillips; Rust; Silver and Van Luven.

**Staff:** Rick Peterson (786-7150).

**Summary of Recommendation of Committee on Revenue Compared to Recommendation of Committee on Commerce & Labor:** Same as Committee on Commerce and Labor.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect July 1, 1991.

**Testimony For:** Increased enforcement of the cigarette tax can only be accomplished with additional appropriations.

**Testimony Against:** None.

**Witnesses:** Carter Mitchell, Liquor Control Board (neutral).