

SENATE BILL REPORT

SB 5776

AS OF MARCH 4, 1993

Brief Description: Enforcing certain cigarette and tobacco statutes.

SPONSORS: Senators McDonald, West, Moyer, Hochstatter and Oke

SENATE COMMITTEE ON WAYS & MEANS

Staff: Terry Wilson (786-7715)

Hearing Dates: March 3, 1993

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 \$.18 per pack, depending on price. Because price differentials exist between Washington and its neighboring states, an incentive for tax evasion exists.

According to estimates from the Department of Revenue, the state is losing \$19.5 million per year from illegal sales of untaxed cigarettes. These losses occur from casual smuggling from other lower-tax states and the purchase of cigarettes from tax-free outlets such as military post exchanges and Indian smoke shops. Studies indicate that the integrity of state cigarette tax revenues depends on state enforcement actions.

According to a 1990 report of the Legislative Budget Committee, enforcement of the cigarette tax has not been a high priority of the Department of Revenue.

The Liquor Control Board enforces the laws relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, including applicable taxes and licenses. In carrying out its duties, 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.

Under federal law, prevention and treatment of substance abuse block grants to each state will be cut by 10 percent a year up to a total of 40 percent for states that do not pass and enforce a law prohibiting the sale of tobacco products to individuals under the age of 18. Washington receives approximately \$20 million per year in these grants.

SUMMARY:

The duty to enforce the cigarette and tobacco laws 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:

(1) Cigarette retailers are prohibited from possessing unstamped cigarettes.

(2) The wholesaler's surety bond is increased to \$5,000.

(3) Cigarette wholesalers and retailers are required to display their license and a sign concerning the prohibition of tobacco sales to minors.

(4) The sale of tobacco products through vending machines is prohibited unless the device is located fully within premises from which minors are prohibited and not less than ten feet from all entrances or exits.

(5) The sale of a tobacco product that is not in the original unopened package with the required stamps affixed is prohibited except by businesses that specialize in the sale of loose leaf tobacco and generate a minimum of 60 percent of annual gross sales from tobacco sales.

(6) Free distribution of tobacco products is prohibited.

(7) Distribution of tobacco products at a reduced price by means of a coupon is prohibited if the coupon redemption does not require an in-person transaction between the buyer and the seller.

(8) The tobacco retailer's license fee is raised from \$10 to \$87, with a separate license required for each place of business.

(9) Sanctions for violations of the prohibitions on sales of tobacco products include the suspension or revocation of a cigarette retailer's license, civil penalties up to \$1,500, cease and desist orders, and injunctions. If civil penalties are not paid within 30 days, the board may pursue legal action and courts may award the board attorneys' fees and costs. Orders may be appealed to the board.

(10) The youth tobacco account is created to consist of tobacco retailers' license fees, and must be used to implement the prohibition on sales of cigarettes to minors.

Appropriation: none

Revenue: none

Fiscal Note: requested

Effective Date: The bill contains an emergency clause and takes effect July 1, 1993.

TESTIMONY FOR:

Revenue losses from illegal Indian sales is much greater than the Department of Revenue admits. The Department is not enforcing the statutes. It imposed the new penalties enacted two years ago in only 11 cases. The Liquor Control Board had officers in the field that visit retailers regularly. The average member of the tribe does not share in the profits from tribal cigarette sales.

TESTIMONY AGAINST: None

TESTIFIED: Chuck Hord, WA State Assn of Tobacco and Candy Distributors (pro); Jan Gee, WA Retail Assn (pro)