

# SENATE BILL REPORT

## SB 6688

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As Reported By Senate Committee On:  
Labor, Commerce & Financial Institutions, February 6, 2002

**Title:** An act relating to preventing cigarette stamps from being affixed to packages containing cigarettes manufactured by nonparticipating tobacco product manufacturers that are not making required escrow payments.

**Brief Description:** Preventing certain nonparticipating tobacco product manufacturers from selling cigarettes in Washington.

**Sponsors:** Senators Prentice, Thibaudeau, Oke and Rasmussen.

**Brief History:**

**Committee Activity:** Labor, Commerce & Financial Institutions: 2/6/02 [DP].

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### SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

**Majority Report:** Do pass.

Signed by Senators Prentice, Chair; Keiser, Vice Chair; Benton, Fairley, Franklin, Gardner, Honeyford, Rasmussen, Regala and Winsley.

**Staff:** David Cheal (786-7576)

**Background:** In 1998 leading tobacco product manufacturers entered into a litigation settlement agreement entitled the "Master Settlement Agreement," with the state. That agreement and current law requires manufacturers selling cigarettes to consumers in this state to either become a "participating manufacturer" as defined in the Master Settlement Agreement, or place a prescribed amount of money into a qualified escrow account each calendar year based on sales volume. Some manufacturers have neither become a participating manufacturer or kept current in their escrow payments.

Tobacco products may only be sold if the proper stamps are affixed to the packages. Stamps indicate a determination that all legal requirements for selling the product have been met.

**Summary of Bill:** Stamps may not be affixed to products of any manufacturer who has neither become a participating manufacturer or made all required escrow payments.

The Attorney General must publish a list annually of all tobacco manufacturers who have made all escrow payments as required by law. An appeal process for excluded manufacturers is provided. An appealing manufacturer is to be provisionally placed on the list of complying manufacturers during the pendency of the appeal to the Attorney General. Final decisions of the Attorney General may be appealed to a court of competent jurisdiction.

In order to encourage compliance, the Attorney General may require escrow payments to be made quarterly.

The Attorney General and the Department of Revenue are authorized to share information to enhance enforcement and administration of the provisions of the bill.

**Appropriation:** None.

**Fiscal Note:** Requested on February 5, 2002.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Cigarette manufacturers who don't make their legally required escrow payments under the Master Settlement Agreement have a competitive advantage over complying manufacturers. They can and do price their products lower, which causes a market share shift. This leads to not only a loss to the state of the unpaid escrow payments, but smaller payments from complying manufacturers, since their payments are based on sales volume. This bill will give the state additional enforcement tools to obtain the payments that are legally due to the state.

**Testimony Against:** (Concerns) The Attorney General supports the spirit of the bill, but expresses concern that it might have some adverse effect on the Master Settlement Agreement. Further work is needed to assure that does not happen.

**Testified:** David Remes, Covington & Burling (pro); T.K. Bentler, WA Assn. of Neighborhood Stores (pro); Dave Horn, Attorney General's Office (pro w/concerns).