

HOUSE BILL REPORT

HB 2686

As Reported by House Committee On:

Commerce & Labor

Title: An act relating to inspection of books, documents, and records pertaining to the transportation or possession of cigarettes.

Brief Description: Authorizing inspection of records regarding transportation of cigarettes.

Sponsors: Representatives Hudgins, Condotta and Conway; by request of Liquor Control Board.

Brief History:

Committee Activity:

Commerce & Labor: 1/26/04, 1/28/04 [DPS].

Brief Summary of Substitute Bill

- The Liquor Control Board is given authority to inspect the records of individuals transporting cigarettes and of contract and common carriers involved in the transportation of cigarettes.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; McMorris, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse, Holmquist, Hudgins, Kenney and McCoy.

Staff: Susan Kavanaugh (786-7106).

Background:

The Liquor Control Board (Board) is responsible for enforcement of the state's tax on cigarettes.

In Washington, it is a gross misdemeanor for anyone except a wholesaler to sell cigarettes that are not stamped to show taxes have been paid on them. Likewise, it is prohibited to transport unstamped cigarettes without a wholesaler's permit.

The Department of Revenue collected \$399 million in cigarette taxes in Fiscal Year (FY) 2003. They estimate evasion of cigarette taxes reduced state revenue by \$213 million in FY 2003 and local revenue by \$9.5 million in FY 2003.

Untaxed cigarettes enter Washington from various out-of-state locations. For a variety of reasons, including to avoid the risk of having their own vehicle seized and forfeited, individuals trying to bring in untaxed cigarettes sometimes transport the cigarettes in rental vehicles or ship them via a company such as United Parcel Service or Federal Express. These businesses are generally not aware of the content being shipped or the use to which a rented truck is being put.

The Board is authorized to inspect records and books of licensed businesses in enforcing liquor control laws. They also have authority to inspect records of those who sell cigarettes by mail order to enforce the tobacco access to minors code. They do not have this authority with regard to enforcement of the tobacco tax.

In the absence of authority to inspect shipping invoices of shipping companies and rental agreements of rental companies, the Board must seek a search warrant for records in individual situations. To get this, the Board must conduct surveillance to determine whether the unstamped cigarettes are going to a legitimate destination, such as a wholesaler.

Summary of Substitute Bill:

For the purpose of enforcing the cigarette tax, the Board is given authority to inspect the records of any person transporting cigarettes in Washington. They are also given this authority with regard to records of common or contract carriers that have to do with possession or transportation of cigarettes.

It is a gross misdemeanor, and cause for seizure of cigarettes, to refuse to allow the Board or its agents to inspect records.

Substitute Bill Compared to Original Bill:

Several technical changes are made: a section numbering error is corrected; a complex clause is broken into subsections for clarity; and two typographical errors in the tobacco access to minors code are corrected.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The bill gives the Board a better way of enforcing Washington's tobacco tax law. It gives the Board the same authority with respect to the cigarette tax law that the Board has now has for liquor control and tobacco access to youth enforcement. It would be good to require notification to the Board by shipping companies if a large quantity of cigarettes is being shipped - as the pharmacy board is now notified about large pharmaceutical shipments. In this bill, the Legislature could also solve a drafting error in the tobacco access to youth statute.

Testimony Against: None.

Persons Testifying: Representative Hudgins, prime sponsor; Rick Garza, Liquor Control Board; Carter Mitchell, Liquor Control Board Tobacco Tax Enforcement; T.K. Bentler, Washington Association of Neighborhood Stores; and Julie Sexton, Department of Revenue.

Persons Signed In To Testify But Not Testifying: None.