

SENATE BILL REPORT

SHB 2027

As Reported By Senate Committee On:
Technology & Communications, April 3, 2003

Title: An act relating to seizing, shipping, and delivery of cigarettes through internet, telephonic, or other delivery services.

Brief Description: Regulating the sale of cigarettes.

Sponsors: House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Kirby, Delvin, Morris, DeBolt and Sullivan).

Brief History:

Committee Activity: Technology & Communications: 3/24/03, 4/3/03 [DPA].

SENATE COMMITTEE ON TECHNOLOGY & COMMUNICATIONS

Majority Report: Do pass as amended.

Signed by Senators Esser, Chair; Finkbeiner, Vice Chair; Eide, Poulsen, Reardon, Schmidt and Stevens.

Staff: Dario de la Rosa (786-7484)

Background: Washington regulates the sale of cigarettes by limiting access to and imposing taxes on the product. Anyone under the age of 18 is prohibited from purchasing or obtaining tobacco products. Selling cigarettes to anyone under the age of 18 is also a violation of Washington law.

Since July 1997, the Washington State Liquor Control Board (LCB) has had the responsibility of enforcing the state's tobacco tax laws. Washington imposes a cigarette tax of \$1.425 per pack. Some people do not pay this tax. As a consequence, as of March 2002, the Department of Revenue (DOR) estimates the state loses approximately \$106 million in cigarette tax revenue each year. One way the state loses this revenue is internet sales. Internet sales are attractive because taxes are not figured into the price. The Federal Jenkins Act allows DOR to monitor internet sales and requires interstate shippers to notify the state of any sale. Once DOR receives this notice, LCB assists in collection of taxes due. Through this process, \$12,000 in cigarette tax has been recouped.

Summary of Amended Bill: Telephone, mail order, and internet sales of cigarettes are regulated. Sellers who mail, ship, or deliver cigarettes must verify the age of the buyer before shipment to a Washington address. Sellers are required to obtain, before shipment, confirmation that the customer is at least 18 years of age and that the customer understands Washington laws regarding the sale of cigarettes to and purchase of cigarettes by minors. Sellers must use a method of mailing, shipping, or delivery that obligates the recipient to sign for receipt of the package and that verifies the recipient's age.

Sellers must file business information with DOR, including a monthly statement of sales made to Washington addresses. Sellers must collect and remit all cigarette taxes imposed by Washington. Sellers must also comply with requests from the LCB to inspect books, documents, or records of any person who makes delivery sales, ships, or otherwise delivers cigarettes insofar as such books, documents or records pertain to the financial transactions involved.

Violations of these provisions may result in fines, imprisonment, and the seizure and forfeiture of product. Violations of these provisions may also be a violation of the Washington criminal profiteering act.

Amended Bill Compared to Substitute Bill: The penalties for violating the regulations on the sale of cigarettes are expanded and clarified. In addition to being penalized for failing to pay tax on the cigarettes, failure to verify and confirm the age of the recipient of a purchaser of cigarettes is punishable by a fine or imprisonment. Failure to comply with regulations set forth in this bill may also be a violation of Washington's criminal profiteering act. Additional technical corrections were made to the bill.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The sale of cigarettes over the internet is becoming an increasing problem. Not only are the shippers of cigarettes avoiding paying Washington taxes on cigarettes, but mail order and internet sales often deliberately target underage smokers. This bill provides additional measures in the prevention of underage smoking.

Testimony Against: None.

Testified: Representative Steve Kirby, prime sponsor; Dave Horn, Office of the Attorney General (pro); TK Bentler, Washington Association of Neighborhood Stores (pro); Joe Daniels, Philip Morris USA (pro); Julie Sexton, Department of Revenue (pro).