

FINAL BILL REPORT

3E2SHB 2565

C 4 L 12 E2

Synopsis as Enacted

Brief Description: Concerning persons who operate a roll-your-own cigarette machine at retail establishments.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Kirby, Harris, Dammeier, Walsh, Orwall, Kelley, Moscoso and Zeiger).

House Committee on Business & Financial Services
House Committee on Ways & Means
Senate Committee on Ways & Means

Background:

Tobacco products are subject to various taxes, including state retail sales and use taxes and tobacco taxes that are paid by wholesalers or distributors of the products in the state.

Cigarette Taxes.

The cigarette tax is added directly to the price of cigarettes before the sales tax is applied. The cigarette tax is due from the first person who sells, uses, consumes, handles, possesses, or distributes the cigarettes in the state. The taxpayer pays the cigarette tax by purchasing cigarette tax stamps that are placed on cigarette packs. On May 1, 2010, the cigarette tax rate was increased from \$0.10125 to \$0.15125 per cigarette (from \$2.025 to \$3.025 per pack of 20 cigarettes).

Taxpayers pay the tax by purchasing cigarette tax stamps from banks authorized by the Department of Revenue (Department). The stamps are placed on cigarette packs. A licensed wholesaler may possess cigarettes for a reasonable period before affixing stamps. Except for licensed wholesalers, it is unlawful to possess unstamped cigarettes unless the possessor files a notice of intent to possess with the Department before receiving the cigarettes. It is unlawful for any person to place a cigarette tax stamp on a package of cigarettes unless the brand family is on the list on the Attorney General's website. Cigarettes without tax stamps are contraband and subject to seizure if in the possession of anyone other than a licensed wholesaler or a person who filed a notice of intent to possess.

Tobacco Products Taxes.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The tobacco products tax applies to all tobacco products, except cigarettes, which are taxed separately. Examples of tobacco products include cigars, pipe tobacco, snuff, and chewing tobacco. The tobacco products tax is due from the distributor when the distributor brings tobacco products into the state, manufactures tobacco products in the state, or ships tobacco products to retailers in the state.

Beginning May 1, 2010, the tobacco products tax was increased from 75 percent to 95 percent of the taxable sales price, with some exceptions. The tobacco products tax rate is 95 percent of the wholesale price, with some exemptions (cigars and snuff) but for cigars the tax is capped at 50 cents per cigar. The wholesale price is, generally, the actual purchase or selling price charged by the manufacturer or distributor. These tobacco products are not subject to any stamp requirement.

Tobacco Sales Regulation.

A retailer that sells tobacco products must be licensed and must comply with laws that:

- provide signage standards;
- limit access to minors; and
- prohibit sampling.

The Liquor Control Board (Board) may impose sanctions for statutory violations.

Enforcement.

The Board may revoke or suspend the license of any wholesaler who violates tax and stamping provisions. The Board or Department may impose civil penalties for a violation, not to exceed the greater of 500 percent of the retail value of the cigarettes or \$5,000. The Attorney General may seek a court injunction to restrain a threatened or actual violation. It is a gross misdemeanor to sell, distribute, or possess cigarettes with tax stamps that have been affixed in violation of the requirements. Cigarettes not in compliance with the tax stamp requirements may be seized as contraband.

Summary:

The definition of "cigarette" used for excise taxation is modified to explicitly include roll-your-own (RYO) cigarettes. Several new definitions are created including "cigarette paper," "cigarette tube," "commercial cigarette-making machine," and "roll-your-own cigarettes."

A tax enforcement and regulatory system for RYO cigarettes is established that requires RYO retailers to:

- purchase tax stamps that must be affixed to the containers that are provided by the retailer and used by consumers to transport RYO cigarettes from the retailer's place of business;
- limit consumer access to a RYO machine;
- pay an additional \$93 annual RYO retailer licensing fee; and
- use only commercial RYO machines that have metering devices.

Retailers that purchase stamps for RYO cigarettes are provided with compensation to offset the tobacco products tax. The amount is equal to 5 cents per cigarette.

Votes on Final Passage:

House 67 30

First Special Session

House 65 32

Second Special Session

House 66 32

Senate 27 19

Effective: July 1, 2012