

# HOUSE BILL ANALYSIS

## ESB 5897

**Brief Description:** Informing purchasers of cigarettes of adverse health consequences and whether the cigarettes were manufactured for consumption within the United States.

---

**Sponsors:** Senators Costa and Winsley

**Hearing:** March 31, 1999

### Brief Summary of Bill

- Prohibits, under certain circumstances, the application of cigarette stamps on packages and containers of cigarettes making them unlawful to sell, transport or possess under state law.
- Requires that forfeited cigarettes not meeting the requirements for proper stamps must be auctioned for export or destroyed.
- Establishes a consumer protection violation against anyone applying stamps to cigarette packages or containers that do not qualify for application of cigarette stamps.

### BACKGROUND:

It is unlawful to sell or possess cigarettes or packages of cigarettes that do not have appropriate stamps affixed to the package. Stamps indicate that the required state taxes have been paid or that the particular package is exempt from state taxation. There are a limited number of circumstances where possession, sale and transport of unstamped cigarettes are allowed.

Federal law on cigarette labeling and advertising requires all packages of cigarettes manufactured for sale in the United States to contain a warning label on the health hazards of cigarettes. Cigarettes manufactured for export are not subject to the same requirements.

Currently, it is legal to bring into the United States, cigarettes that have been manufactured

for export and have been exported to another country. As of January 1, 2000, federal law limits who can purchase previously exported cigarettes to manufacturers and wholesalers who export. These products are then treated as if they have not been exported and must comply with regulations for the sale of the product in the United States.

Cigarettes that are forfeited may be kept by the seizing agency for official use or may sell them at a public auction to the highest bidder.

**SUMMARY OF BILL:**

Even though cigarettes may be subject to state tax, no cigarette tax stamp may be placed on any package or container of cigarettes under the following circumstances: (1) The cigarette package or container differs in any respect with federal labeling and advertising laws for cigarettes sold in the United States; (2) the cigarette container has been imported after January 1, 2000, in violation of new federal requirements; (3) the product is marked for export or use outside the United States; and (4) the container has been altered to delete or change the surgeon general's warning label or the export markings.

A package or container of cigarettes that does not meet the requirements for application of cigarette stamps is subject to seizure and forfeiture. Cigarettes seized as a result of violating this new requirement may be sold only for export from the United States or must be destroyed.

It is a violation punishable as a gross misdemeanor for anyone to possess, sell or transport within the state any container that does not comply with the requirements regarding proper and appropriate application of cigarette stamps. Applying stamps to packages and containers that do not qualify for stamps is a violation of the consumer protection act and may subject individuals to penalties under the act.

**RULES AUTHORITY:** The bill does not contain provisions addressing the rule making powers of an agency.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** The bill contains an emergency clause and takes effect immediately.