

FINAL BILL REPORT

SHB 1943

C 114 L 03

Synopsis as Enacted

Brief Description: Modifying cigarette regulatory provisions.

Sponsors: By House Committee on Finance (originally sponsored by Representatives McIntire, Delvin, Conway, Gombosky, Armstrong, Clements, Edwards and Kenney).

House Committee on Finance

Senate Committee on Commerce & Trade

Background:

A tax is imposed on cigarettes at the rate of 142.5 cents per pack of 20 cigarettes. The tax is due from the first person who sells, uses, consumes, handles, possesses or distributes the cigarettes in this state. 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.

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. Possessing unstamped cigarettes or counterfeit cigarette stamps is a gross misdemeanor. Engaging in the business of purchasing, selling, consigning, or distributing cigarettes without a license from the state is a misdemeanor.

There are no criminal penalties for manufacturing or selling counterfeit cigarettes, as long as the counterfeit cigarettes have tax stamps. The owner of a trademark can bring a civil action for injunctive relief and damages against persons manufacturing or selling counterfeit cigarettes that infringe on the trademark.

Summary:

Only wholesalers may obtain or possess cigarette tax stamps. Wholesalers must not sell or provide stamps to any other person. Each roll of stamps, or group of sheets, provided to a wholesaler must have a separate and unique serial number. Retailers may obtain cigarettes only from a licenced wholesaler. These provisions do not limit any otherwise lawful activity under a cigarette tax compact with an Indian tribe.

The criminal classification for engaging in the business of purchasing, selling, consigning, or distributing cigarettes without a license is increased from a misdemeanor to a class C felony.

A counterfeit cigarette is defined as any cigarette, or its packaging, that resembles an authentic cigarette or package and has been manufactured by someone not authorized by the trademark or brand holder. The manufacturing, selling, or possessing for sale of counterfeit cigarettes is prohibited. A first offense is a class C felony punishable by up to five years in prison and a fine of up to \$10,000. A subsequent offense is a class B felony which is punishable by up to 10 years in prison and a fine of up to \$20,000.

Votes on Final Passage:

House 95 0

Senate 47 0 (Senate amended)

House 97 0 (House concurred)

Effective: July 27, 2003