

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 578

As Amended by Senate Committee of the Whole

Brief*

SB 578 would amend the statutes dealing with the regulation of cigarettes and would bring the regulation of tobacco products under the Kansas Cigarette and Tobacco Products Act. The bill also would prohibit any supplier of novelty cigarette lighters from selling or giving away such novelty lighters.

Regulation of Cigarettes

The bill would allow refusal of an application for a license if an applicant:

- Has been convicted of a felony in any state of the United States;
- Has been convicted of a violation of any law in the United States pertaining to regulated substances within ten years preceding the date of making an application; and
- Has had a license revoked within ten years preceding the date of making an application for a license.

Under the bill an “applicant” would be defined as a president, vice president, secretary, treasurer, manager, member or any other officer, owner, or majority shareholder if the license holder is a corporation, limited liability corporation, partnership, or other business entity.

Under current law, violations of the act result in suspension or revocation of a license. “Revocation” would be defined to mean termination by formal action of a license or

privilege to operate as a retail-dealer or distributor. Applications by such person applying for a new license may be denied for ten years. If a person continues to engage in activities requiring a license while such license is suspended, the license would be revoked and additional fines could apply.

The bill would allow the Director of Taxation to collect the tax due by the purchaser if the tax has not been paid by the wholesale dealer or distributor. "Purchaser" would be defined as a consumer who purchases the cigarettes for final use.

In addition, the bill would eliminate references to water applied stamps and meter imprints. The bill would require cigarette stamps to be affixed with legible characteristics and serial numbers affixed to them. The bill would assess a penalty of an administrative fine, suspension, or revocation if a wholesale dealer continuously issues illegible stamped cigarettes.

The bill would make it unlawful for a person to sell or transfer any tax indicia to any other person other than the Director of Taxation and for any person to buy any cigarettes or tobacco products for any person under the age of 18 years of age.

The bill would eliminate the exemptions for placement of vending machines in places open to minors.

Under the bill, the Director of Taxation could require reports of sales of cigarettes by vending machine distributors, distributors, and wholesale dealers to be filed electronically.

Regulation of Tobacco Products

The bill would require the licensing and registration of tobacco products in the same manner as a retail dealer selling cigarettes under the Kansas Cigarette and Tobacco Products Act.

The bill also would subject a retail dealer of tobacco products to the same requirements as a licensed retail dealer selling cigarettes.

The bill would add to the current definition of “tobacco products” to include blunt wrappers, moist snuff and cigarette wrappers made of tobacco.

Under the bill, distributors of tobacco products may be required to file reports electronically to the Director of Taxation.

Novelty Cigarette Lighter Prohibition

Under the bill, the Secretary of the Department of Revenue would be responsible for the enforcement of the provisions of the act and may adopt rules and regulations necessary to implement provisions that would prohibit suppliers of novelty cigarette lighters from selling or giving away those lighters. The Secretary or the Secretary’s designee would be authorized to impose a fine of \$500 for each violation of the act. Fines would be credited to the Cigarette and Tobacco Products Regulation Fund.

The bill would define a “novelty cigarette lighter” as a mechanical or electrical device typically used for lighting cigarettes, cigars or pipes that has entertaining audio or visual effects, or resembles, in physical form or function, articles commonly recognized as appealing or intended for use by children 10 years of age or younger. This definition would include lighters that resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or that play musical notes or have flashing lights or other entertainment features.

The bill would exclude, from the definition, a lighter incapable of being fueled, or lacking a device necessary to produce combustion or a flame, or a mechanical or electrical device used to ignite fuel for fireplaces or for charcoal or gas grills.

Background

The Kansas Cigarette and Tobacco Products Act governs the regulation and taxation on the sale of cigarettes and other tobacco products by the Department of Revenue.

No proponents or opponents testified on SB 578 due to time constraints. The bill was introduced to the Senate Federal and State Affairs Committee, had a hearing the next day, and then was passed out of the Committee the day after.

The Senate Committee of the Whole amended the bill by allowing the refusal of an application for a license if an applicant has been convicted of a violation of any law within the years preceding the date of making an application. The Committee also inserted provisions that would prohibit the sale of novelty cigarette lighters.

The fiscal note on the original SB 578 would be negligible. The fiscal note on SB 342 (novelty cigarette lighter prohibition) would be an increase in expenditures of \$500,000.