

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 96

As Amended by Senate Committee on
Assessment and Taxation

Brief*

SB 96, as amended, would make a number of amendments to the Cigarette and Tobacco Products Act relating to definitions, licenses and permits, bonds, suspension or revocation of licenses, tax stamps, redemption of stamps, records required of dealers, penalties, license fees, and administrative fines designed to keep Kansas in compliance with the Master Settlement Agreement (MSA).

One of the bill's provisions would make individuals who purchase, possess, use, or consume more than 400 cigarettes liable for the tax imposed if the cigarettes do not have the required tax stamp.

The bill would clarify what would be considered a first, second, third, or subsequent conviction for the purposes of sentencing. The fine for a first conviction of trafficking in counterfeit or illegal cigarette and tobacco products would be at least \$1,000, but no more than \$2,500. Subsequent convictions could result in fines of up to \$100,000 and possible jail time after the third conviction.

The bill would define when certain cigarettes and tobacco products would be considered contraband.

Counterfeit or illegal cigarettes and tobacco and property used in the trafficking would be subject to seizure and sale. The bill would outline the procedure and process

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

the Kansas Department of Revenue (KDOR) would be required to follow to effectuate the sale and disbursement of any funds.

Any packages of cigarettes bearing indicia of tax payment pursuant to compacts signed between the Governor and the Prairie Band Potawatomi Nation and the Iowa Tribe of Kansas and Nebraska and approved by the Legislature would not be deemed as contraband.

The bill would make it unlawful to possess, transport, import, distribute, wholesale, or manufacture more than 1,000 cigarettes, cigarettes without Kansas stamps being affixed, or cigarettes or tobacco products otherwise in violation of the MSA. Transportation of cigarettes not bearing tax stamps to a retailer would also be made unlawful.

The bill would require tobacco distributors to file their reports electronically on forms and in a manner prescribed by KDOR.

Additional language would provide that all moneys received from license fees, fines, and forfeiture proceedings must be used exclusively for assisting in funding diligent enforcement as required by the MSA.

An additional provision would require wholesale dealers to be in good standing with the Director of Taxation (Revenue) in order to receive a discount on stamps purchased. KDOR would be authorized to suspend, deny, or non-renew license applications under certain circumstances.

The bill would clarify its provisions would apply to the sale of tobacco products over the Internet and telephone and through mail order transactions. The bill would revise outdated language related to vending machines and allow KDOR to divulge information related to vending machines to contracting entities.

The bill would require any retailer selling cigarettes to Kansas consumers without a tax stamp to file an annual statement for each consumer to KDOR that includes the name and address of the consumer, the date of the purchase, and the total number of packs of cigarettes purchased by the consumer.

Background

The bill was requested for introduction and supported at the Senate Committee on Assessment and Taxation hearing by KDOR, whose representative said the bill's provisions were necessary to insure Kansas could demonstrate "diligent enforcement" and continue receiving money from the MSA. The Office of the Attorney General also appeared as a proponent. The Petroleum Marketers and Convenience Store Association of Kansas provided testimony in opposition to the bill.

The Senate Committee subsequently adopted a package of amendments provided by KDOR to address several concerns raised by the opponents.

A fiscal note prepared by the Division of the Budget on the bill, as introduced, notes that approximately \$50 million in annual MSA payments to Kansas could be at risk if the bill were to not be enacted.