

Approved: 3-30-12
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 15, 2012, in Room 144-S of the Capitol.

All members were present

Committee staff present:

Jason Long, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Christopher J. Masoner, American Cancer Society
Mary Jane Hellebust, Tobacco Free Kansas Coalition
Edward Ellerbeck, MD, KU School of Medicine
Ron Hein, RAI Service Company
Whitney Damron, Swisher International, Inc.
Doug Mays, The Cigar Association of America
Tom Palace, Petroleum Marketers and Convenience Store
Doug Jorgensen, Alcoholic Beverage Control
Todd Thompson, County Attorney Leavenworth County

Others attending:

See attached list.

SB 462—Amendments to the Kansas cigarette and tobacco products act

Chairman Burngardt opened the hearing on **SB 462**.

Staff provided an overview of the bill. (Attachment 1)

Senator Roger Reitz spoke in support of the bill. (Attachment 2) The bill brings up the rate on other tobacco products making it approximately equivalent on a per dose basis to the appropriate similar tax on a pack of cigarettes. The bill also contains several technical amendments to conform the existing statutory language to current KDOR practices. The bill is not designed for revenue purposes; it is a Health Bill targeted to discourage the use of other tobacco products, products that render its users seriously ill and in turn increase the cost of health care to the citizens of our state.

Christopher J. Masoner, American Cancer Society, spoke in favor of the bill. (Attachment 3) The American Cancer Society actively encourages increases in the excise taxes levied against cigarettes and other tobacco products as a public health “win” that will reduce the use of these harmful products – especially among Kansas Kids. A chart on state excise tax rates for non-cigarette tobacco products by

CONTINUATION SHEET

The minutes of the Federal and State Committee at 10:30 a.m. on March 15, 2012, in Room 144-S of the Capitol.

state was attached to Mr. Masoner's testimony

Mary Jayne Hellebust, Tobacco Free Kansas Coalition, appeared in support of the bill. ([Attachment 4](#)) The Tobacco Free Kansas Coalition, which is represented by more than 200 organizational and individual members, supports the bill because it would work in concert with other proven tobacco prevention and cessation strategies to reduce the health and financial damage caused by tobacco use in our state. It would be another tool to keep our Kansas children tobacco free by making some of these known toxic products more expensive to buy.

Edward Ellerbeck, MD, Professor, KU School of Medicine, Chair, Department of Preventive Medicine and Public Health, testified in support of the bill. ([Attachment 5](#)) Dr. Ellerbeck stated that the testimony he provided is based on his expertise related to the subject matter related to the bill and the opinions and perspectives included in his testimony are his own and do not represent official policy of the University of Kansas. There are three specific issues for the committee to consider related to the bill:

1. Taxes have a strong impact on tobacco consumption, particularly among youth.
2. Kansas – particularly the rural communities are disproportionately affected by oral tobacco.
3. Cigarillos and other tobacco products are increasingly popular.

Increased marketing of these products and lower taxes support the sustained use of these products and threatens the health of the people of Kansas. There is clear evidence that the strategies outlined in the bill could have a strong, positive influence on the health of Kansans, particularly the youth, by discouraging the use of these alternative forms of tobacco.

Tonya Dorf Burnner, Executive Director of Oral Health Kansas, provided written testimony in support of the bill. ([Attachment 6](#))

Written testimony was provided by Beth Marolf, Health Promotions Coordinator, American Lung Association, in support of the bill. ([Attachment 7](#))

Kevin Walker, Regional Vice President of Advocacy for the American Heart Association, provided written testimony in support of the bill. ([Attachment 8](#))

Ron Hein, RAI Services Company, testified in opposition of the bill. ([Attachment 9](#)) RAI Service Company opposes the bill, which would increase the Other Tobacco Product tax from a 10% of wholesale price tax rate to a 30% tax rate, and the bill would also eliminate sampling of products.

Whitney Damron, on behalf of Swisher International, Inc., testified in opposition of the bill. ([Attachment 10](#)) Swisher International, Inc. is opposed to the provisions of the bill that would redefine "little cigars" as "cigarettes" and thereby increase their taxes substantially; increase the excise on Other Tobacco Products (OTP) by 200 percent with a statutory escalator provision tied to the tax rates for cigarettes; eliminate product sampling by anyone; and, make revisions to the licensure requirements for cigarette and OTP retailers.

Doug Mays, The Cigar Association of America, spoke in opposition of the bill. ([Attachment 11](#)) Mr. Mays stated that the internet is now the simplest method to purchase cigars and OTP without paying high taxes;

CONTINUATION SHEET

The minutes of the Federal and State Committee at 10:30 a.m. on March 15, 2012, in Room 144-S of the Capitol.

consumers today are internet savvy and require scant encouragement to shop online for less costly alternatives.

Tom Palace, Executive Director, Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), testified in opposition of the bill. (Attachment 12) The tax disparity is huge between Kansas and Missouri for tobacco and gasoline sales and increasing the tax on smokeless tobacco products gives the consumer one more reason to buy in Missouri rather than Kansas.

Jeff Stier, Senior Fellow, National Center for Public Policy Research, Director, Risk Analysis Division, provided written testimony in opposition of the bill. (Attachment 13)

Written testimony was provided by Brad Rodu, DDS, Professor of Medicine, Endowed Chair in Tobacco Harm Reduction Research at the University of Louisville, in opposition of the bill. (Attachment 14)

Tom Jacob, Cigar Chateau, LLC, Wichita, Kansas, provided written testimony in opposition of the bill. (Attachment 15)

Written testimony was provided by Curt Diebel, President, Diebel's Sportsmens Gallery, in opposition of the bill. (Attachment 16)

Doug Jorgensen, Director, Alcoholic Beverage Control, (ABC) testified as neutral on the bill. (Attachment 17) The bill encompasses several different tasks:

- it raises the tax on other tobacco products
- the tax increase would create a one time inventory tax
- ties any future cigarette tax increase to other tobacco products
- creates a licensing requirement for retailers selling other tobacco products
- defines little cigars eliminating the loophole, eliminates all exceptions to free samples
- creates a 10 year period after revocation for reapplication
- changes the standard of licensee character analysis
- allows the director to require reports to be filed electronically
- cleans up meter imprint language.

Chairman Brungardt closed the hearing on **SB 462**.

Discussion and Final Action:

SB 356—Amusement ride regulation; removing exception for home-owned amusement rides

Senator Ostmeyer moved the amendment provided by the Secretary of Labor. (Attachment 18) Senator Longbine seconded the motion. The motion carried.

*Senator Ostmeyer moved to pass **SB 356** out favorably as amended. Senator Longbine seconded the motion. The motion carried.*

CONTINUATION SHEET

The minutes of the Federal and State Committee at 10:30 a.m. on March 15, 2012, in Room 144-S of the Capitol.

SB 400–Municipalities; landlord requirement to keep tenants list; changes

Staff provided a balloon on the bill. ([Attachment 19](#))

Senator Abrams moved the balloon. Senator Reitz seconded the motion. The motion carried.

*Senator Faust-Goudeau moved to pass **SB 400** out favorably as amended. Senator Haley seconded the motion. The motion carried.*

HB 2324 - Making it unlawful to furnish electronic cigarettes to people under 18 years of age.

Chairman Brungardt opened the hearing on **HB 2324**.

Staff provided an overview of the bill.

Christopher J. Masoner, American Cancer Society, spoke in favor of the bill. ([Attachment 20](#)) Given the substantial concerns surrounding e-cigarettes and the lack of verifiable data concerning their safety, prohibiting their sale to minors through the bill is a good first step. In this process, it is also recommended that the Legislature consider updating other tobacco laws to ensure that all new tobacco (and nicotine-derivative) products – including e-cigarettes, little cigars, and dissolvable tobacco are properly regulated to the same extent as traditional cigarettes.

Todd G. Thompson, County Attorney, Leavenworth County, appeared in support of the bill. ([Attachment 21](#)) In an effort to continue to attempt to protect the health of the children of Kansas, Mr. Thompson would ask that electronic cigarettes be illegal to possess for anyone under the age of 18; and be added to the already existing legislation that make the possession of tobacco products and cigarettes illegal to juveniles. The states of New Hampshire and Arizona have already taken steps to make possessing electronic cigarettes illegal for anyone under the age of 18.

Mary Jayne Hellebust, Tobacco Free Kansas Coalition, provided written testimony in support of the bill. ([Attachment 22](#))

Doug Jorgensen, Director, Alcoholic Beverage Control, (ABC) testified as neutral on the bill. ([Attachment 23](#)) The bill is making amendments to KSA 79-3321 in the Cigarette and Tobacco Enforcement. The Cigarette and Tobacco Enforcement unit of ABC only has administrative jurisdiction over licensed cigarette and tobacco retailers; ABC would not have jurisdiction over some vendors, kiosks in malls, or any other eclectic retailer that would like to sell e-cigarettes. This issue could be remedied by requiring the sellers to obtain a cigarette retailer's license. This can be accomplished with an amendment.

Chairman Brungardt closed the hearing on **HB 2324**.

The meeting was adjourned at 11:45 a.m.