

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman David Corbin at 10:45 a.m. on March 23, 2004, in Room 519-S of the Capitol.

All members were present except:
Senator Barbara Allen- excused

Committee staff present:
Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:
Representative David Huff
Kathy Damron, Philip Morris USA
Sally Finney, Kansas Public Health Association, Inc.
Tom Whitaker, Kansas Motor Carriers Association
Tom Palace, Petroleum Marketers and Convenience Store Association
Ron Hein, R. J. Reynolds Tobacco Company

Others attending:
See Attached List.

Senator Corbin called the Committee's attention to the minutes of the March 22 meeting. Senator Taddiken moved to approve the minutes of the March 22, 2004, meeting, seconded by Senator Buhler. The motion carried.

HB 2682--Sale and shipment of cigarettes to Kansas residents; licensure and requirements of dealers; unlawful acts

Representative David Huff testified in support of **HB 2682**, noting that it has been one year in the making and that it is the best possible bill with the number of groups involved. He explained that the bill would require a cigarette license for all Internet providers, a Kansas cigarette tax stamp, a registration certificate for all Internet providers, and confirmation that the purchaser is of legal age. It would also require dealers selling cigarettes over the Internet to file sales tax returns with the State of Kansas. In addition, all packages of cigarettes shipped from an Internet cigarette dealer to purchasers who reside in Kansas must have "CIGARETTES" printed on all sides of the package along with a notice that the purchaser is legally responsible for all applicable state taxes on the cigarettes. The Department of Revenue would publish a list of active licensees, and counterfeit cigarettes would be seized by the Department. (Attachment 1)

Kathy Damron, representing Philip Morris USA, testified in support of **HB 2682**. She noted that the bill gives the state more effective tools to deal with the increasing sales of counterfeit cigarettes in the United States. She pointed out that, basically, the bill provides for better controls throughout the distribution system, a more workable age verification for direct shipment sales, and stronger enforcement tools. She pointed out that there is a strong possibility that the bill would result in an increase in sales tax collections. (Attachment 2)

Sally Finney, Kansas Public Health Association, testified in support of **HB 2682**. She noted that the bill would benefit the health of Kansans first by limiting the ability of children to purchase cigarettes through the Internet. Secondly, the bill will encourage Internet cigarette vendors to raise the price of their goods. Therefore, it has the potential to discourage smoking in both children and adults as there is an inverse relationship between cigarette price and cigarette consumption. (Attachment 3)

Tom Whitaker, Kansas Motor Carriers Association, testified in support of **HB 2682**. He reminded the Committee that he testified before the interim Assessment and Taxation Committee in opposition to the original proposal. He now supports the proposal because the language that would have made the truck drivers delivering the cigarettes felons has been removed. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:45 a.m. on March 23, 2004, in Room 519-S of the Capitol.

Tom Palace, Petroleum Marketers and Convenience Store Association (PMCA), testified in support of **HB 2682**. PMCA is an advocate of responsible tobacco retailing and feels that the bill is a step in the right direction to control the number of sellers of tobacco products. He pointed out that Internet sales of tobacco have taken a bite out of PMCA's sales because Internet sales are tax free. He applauded Representative Huff's effort to make Internet sellers of tobacco accountable and pay their fair share of excise taxes. (Attachment 5)

Kevin Walker, American Heart Association, testified in support of **HB 2682**. He noted that the Association believes that the bill represents a good compromise and urges its passage. (Attachment 6)

Ron Hein, representing R. J. Reynolds Tobacco Company, testified in support of **HB 2682**. He applauded the diligent efforts of Representative Huff to solve the concerns of opponents and yet meet the goals to prevent under-age acquisition of cigarettes and ensure that the Kansas excise and sales taxes on Internet sales of cigarettes are paid. He urged passage of the bill without any amendments. (Attachment 7)

Richard Cram, Kansas Department of Revenue, confirmed for Senator Taddiken that intent of the bill was to discourage the shipping of cigarettes into Kansas by Internet sellers by making the violation of any of the licensure, certification, or certification verification provisions a nonperson felony.

Senator Corbin called attention to written testimony in support of **HB 2682** submitted by Gwendolyn Cargnel, American Cancer Society (Attachment 8), and Dr. Philip Bradley, Kansas Licensed Beverage Association (Attachment 9).

There being no others wishing to testify, the hearing on **HB 2682** was closed.

With regard to previously heard bill, **SB 532**, Senator Donovan reminded Mr. Cram that, on March 22, he requested a new fiscal note on destination sourcing sales, using only complying companies. Mr. Cram provided a copy of an e-mail message he sent in response to the request, noting that the fiscal note is based upon the assumption that all 14,000 merchants will eventually comply. Senator Donovan noted that his request was for a fiscal note applied only to the 2,000 retailers currently complying with destination sourcing. Mr. Cram concurred that a fiscal note only for retailers currently complying would be much lower. However, when preparing the fiscal note, he felt it was important to consider that all 14,000 will be implementing destination sourcing. Senator Donovan noted that all retailers will not come aboard at one time, but it will be a gradual process. He noted that his request was an attempt to illustrate that the fiscal note to the State General Fund will be much lower at this time. He explained further that the intent of his proposal was to show people who are having difficulty with the idea of complying with destination sourcing that the program will benefit them in the long run.

Senator Buhler emphasized that retailers need a reason to comply with destination sourcing and expressed his support for Senator Donovan's concept. Senator Corbin commented that the problem with the concept is that, once a number is thrown out, everyone will assume that number will remain the same when applied to all sales. He suggested that the concept be the topic of an interim study when there would be more time for serious discussion.

The meeting was adjourned at 11:15 a.m.

No further meetings are scheduled.