

DEPARTMENT OF TAXATION

2002 Fiscal Impact Statement

1. **Patron** Albo

3. **Committee** House Finance

4. **Title** Cigarette Tax: Sales of Cigarettes Produced
for Export

2. **Bill Number** HB 1221

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would eliminate the requirement that persons who affix Virginia cigarette stamps to cigarettes imported into Virginia from outside the United States must provide the department with a sworn statement identifying the brand and brand styles of imported cigarettes that were stamped the previous month. This requirement would be replaced with a new requirement that such persons must file copies of customs certificates for cigarettes imported into the United States with the department.

This bill would also require the department to maintain information identifying all wholesale or retail dealers who affixed state tax stamps to each package of cigarettes. The department would be required to maintain such information for three years and to make the information available for public inspection.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not provided. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

The department's administrative costs as a result of this bill would be minimal. This bill would have no effect on General Fund revenues.

9. **Specific agency or political subdivisions affected:**

Department of Taxation

10. **Technical amendment necessary:** None.

11. Other comments:

Current Law

In 2000 session, the General Assembly enacted legislation that prohibits the distribution of cigarettes into Virginia that are intended to be sold outside the United States or would otherwise violate federal law if sold in Virginia.

This legislation made it unlawful for any person to sell, distribute or possess the following: 1) cigarettes in packages that indicate that they are intended for export; 2) cigarettes in packages that do not have the proper federally mandated warning labels; 3) cigarettes that have been legally exported outside the U.S., but have been illegally imported back into the U.S.; and 4) cigarettes which have not had their ingredients submitted to the Department of Health and Human Services pursuant to federal law.

This legislation also made it unlawful for any person to alter any stamp, label or warning label which is affixed to cigarette packages for the purpose of complying with federal law.

In addition to these prohibitions, the legislation imposed numerous requirements with respect to documentation that is required to be filed with the Commonwealth. Any person licensed to affix state tax stamps to cigarettes must file a sworn statement each month with a copy of their permit to import cigarettes into the U.S. and the related customs form. This statement must identify the brand and brand styles of all cigarettes to be stamped. Such person must also issue a sworn statement that all federal cigarette laws have been followed.

The Department may request or share any of this information with any other federal, state or local agency in order to enforce the provisions of the 2000 legislation.

Proposal

This bill would eliminate the requirement that persons who affix Virginia cigarette stamps to cigarettes imported into Virginia from outside the United States must provide the department with a sworn statement identifying the brand and brand styles of imported cigarettes that were stamped the previous month. This requirement would be replaced with a new requirement that such persons must file copies of customs certificates for cigarettes imported into the United States with the department.

This bill would also require the department to maintain information identifying all wholesale or retail dealers who affixed state tax stamps to each package of cigarettes. The department would be required to maintain such information for three years and to make the information available for public inspection.

Federal Law

The Internal Revenue Code ("IRC") imposes a federal excise tax on tobacco products manufactured or imported into the U.S. This tax does not apply to exported products. Packages of exported products must be marked for export to differentiate them from packages intended for domestic sales. The re-importation and sale of tobacco packages marked for export was legal prior to January 1, 2000 so long as the federal excise taxes were paid and customs cleared. Effective January 1, 2000, amendments to the IRC made it unlawful to sell tobacco products marked for export into the U.S. A violation of this law results in a maximum one year jail sentence and a \$1,000 fine. However, there is no violation of the IRC amendment if any tobacco products marked for export that have already lawfully entered the U.S. prior to January 1, 2000.

Federal law makes the distribution of cigarettes without the proper warning labels and the distribution of cigarettes without submitting the list of ingredients to the Department of Health and Human Services criminal offenses. The violation of these laws result in a maximum \$10,000 fine.

Other Legislation

Senate Bill 451 and **House Bill 909** would (1) allow the Tax Commissioner to disclose any information on the sales or purchases of tobacco products to any federal, state, or local agency, or any national association thereof or to any NPM (limited to brands or products of that NPM); (2) require tobacco product manufacturers to file a monthly report with the department identifying all purchasers of cigarettes with the quantities and brands of cigarettes purchased during the preceding month; and, (3) prohibit any person from purchasing Virginia revenue stamps from anyone other than the department.

Senate Bill 511 and **House Bill 908** require every tobacco product manufacturer whose cigarettes are sold in the Commonwealth to certify annually that they are a participating manufacturer in the MSA or that they are contributing to the escrow fund for NPMs.

Senate Bill 574 would prohibit a wholesale or retail dealer from affixing revenue stamps to cigarettes produced by a nonparticipating manufacturer under the Master Settlement Agreement if the nonparticipating manufacturer has not provided the wholesale or retail dealer with a copy of certification showing that it has complied with the Commonwealth's nonparticipating manufacturer statute, or if the Attorney General has notified the wholesale or retail dealer that the nonparticipating manufacturer is not in compliance with the Commonwealth's nonparticipating manufacturer statute.

Date: 01/29/02 CT

Document : S:\2002leg\WorkInProgress\OTPwork\House Bills\HB1221F161.doc