

**DEPARTMENT OF TAXATION  
2005 Fiscal Impact Statement**

**1. Patron** R. Lee Ware, Jr.

**3. Committee** House Finance

**4. Title** Tobacco Products Tax

**2. Bill Number** HB 1887

**House of Origin:**

  X   **Introduced**

      **Substitute**

      **Engrossed**

**Second House:**

      **In Committee**

      **Substitute**

      **Enrolled**

**5. Summary/Purpose:**

This bill would provide definitions for the terms “distributor,” “manufacturer” and “manufacturer’s representative” for purposes of the tobacco products tax.

The effective date of this bill is not specified.

**6. No Fiscal Impact.** (See Line 8.)

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

**8. Fiscal implications:**

This bill would have no impact on state revenues.

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

Department of Taxation

**10. Technical amendment necessary:** Yes.

As House Bill 1885 uses these terms and provides identical definitions for these terms, except that House Bill 1885 uses “Commonwealth” and this bill uses “this state,” it is suggested that this bill be rolled into House Bill 1885.

**11. Other comments:**

Tobacco Products Tax

Under current law, a tobacco products tax will be imposed on cigars, smokeless tobacco, pipe tobacco and roll-your-own tobacco, effective March 1, 2005. Cigarettes are not subject to the tax on tobacco products.

In general, the tax will be imposed on wholesale dealers located within the Commonwealth that sell tobacco products to retail dealers or institutional, commercial or industrial users located within the Commonwealth. The tax will be imposed at a rate of 10 percent of the sales price charged by the wholesale dealer. Chain store distribution centers that distribute tobacco products to their stores for sale at retail will be deemed to be wholesale dealers selling to retail dealers and the tax will be imposed at a rate of 10 percent of the purchase price paid by the distribution center. In the case of a retail dealer located within the Commonwealth that purchases tobacco products from a wholesale dealer located outside the Commonwealth, the tax will be imposed on the retail dealer at a rate of 10 percent of the purchase price paid by the retail dealer. The retail dealer, however, is not required to collect and remit the tax if the out-of-state wholesale dealer is registered to collect and remit the tax.

Every wholesale and retail dealer subject to the tobacco products tax must register with TAX. Out-of-state wholesale dealers may voluntarily register with TAX to file monthly returns regarding their sales to retail dealers located within the Commonwealth and to remit the tax due on these sales.

Beginning in April 2005, wholesale and retail dealers subject to the tax will file monthly returns no later than the tenth of each month concerning their sale or purchase of tobacco products during the preceding month. The tax due on tobacco products sold or purchased in the preceding month will be paid at the time the return is filed. A return must be filed by each registered wholesale and retail dealer each month even if no tax is due for that month.

Under current law, all of the revenue from the tobacco products tax is deposited into the Virginia Health Care Fund. Moneys deposited to the fund are used solely for the provision of health care services as appropriated in the state budget. Health care services include, but are not limited to, Medicaid payments, disease diagnosis, prevention and control and community health services.

### **Proposal**

This bill would provide the following definitions for purposes of the tobacco products tax.

"Distributor" means (i) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale; (ii) any person who makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state; or (iii) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state; and (iv) any retail dealer in possession of untaxed tobacco products in this state.

"Manufacturer" means a person who manufactures or produces tobacco products and sells tobacco products to a distributor.

"Manufacturer's representative" means a person employed by a manufacturer to sell or distribute the manufacturer's tobacco products.

As House Bill 1885 uses these terms and provides identical definitions for these terms, except that House Bill 1885 uses "Commonwealth" and this bill uses "this state," it is suggested that this bill be rolled into House Bill 1885.

#### Other Legislation

**House Bill 1885** would (1) impose the tobacco products tax on the actual price paid by distributors of tobacco products; (2) change the due date of the tobacco products tax return to the twentieth of each month; (3) require all distributors to apply for a license from the Department of Taxation, pay a licensing fee and undergo a background check; (4) provide detailed recordkeeping and audit requirements for the tax; and (5) authorize the Department of Taxation to seize tobacco products from tax evaders and destroy the products.

cc : Secretary of Finance

Date: 1/30/2005 JEM