

**DEPARTMENT OF TAXATION
2005 Fiscal Impact Statement**

1. Patron William R. Janis

2. Bill Number HB 2899

3. Committee Senate Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. Title Cigarette Tax; Exclusive Distributors

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. Summary/Purpose:

This bill would allow manufacturers and exclusive distributors of cigarettes who also make wholesale sales of cigarettes to retail dealers to sell unstamped cigarettes to Virginia stamping agents.

Under current law, a manufacturer or distributor that makes any sales as a wholesale dealer to retail dealers must stamp all cigarettes it sells, unless an exemption applies.

The effective date of this bill is not specified.

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

7. Budget amendment necessary: No.

8. Fiscal implications:

Although this bill would allow manufacturers and exclusive distributors to sell unstamped cigarettes to Virginia stamping agents, this bill would have no impact on state revenues because the cigarette tax would be paid by the stamping agent.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

The state cigarette tax is currently 20 cents per pack. It will increase to 30 cents per pack on July 1, 2005. The cigarette tax is paid by stamping agents when they purchase revenue stamps from the Department to affix to packs of cigarettes. A discount equal to 2.5 cents for a ten-pack carton of cigarettes is available to stamping agents.

Although manufacturers, wholesale dealers and retail dealers may obtain stamping permits from the Department, stamping agents are typically wholesale dealers. Wholesale dealers are required to stamp all cigarettes sold to Virginia retail dealers or for sale in Virginia. Manufacturers and distributors are not required to stamp cigarettes unless they also act as a wholesale dealer selling to retail dealers. A manufacturer or distributor that makes any sales as a wholesale dealer must stamp all cigarettes it sells, unless an exemption applies.

Proposal

This bill creates an exclusion from the uniform cigarette stamping requirements for manufacturers and exclusive distributors who also make wholesale sales to retail dealers. This bill would define an "exclusive distributor" as a distributor with its principal place of business in the Commonwealth who has the exclusive rights to sell a brand of cigarettes to wholesale dealers in the Commonwealth. The manufacturer or exclusive distributor would be required to maintain a record of such transactions for three years.

Other Legislation

House Bill 2625 would increase the cigarette tax dealers discount from 2.5 cents per carton to 2 percent of the price of the cigarette stamps.

House Bill 2629 and **Senate Bill 1202** would modify the conditions under which escrow funds may be released to nonparticipating manufacturers.

House Bill 2918 would provide for the assignment of NPM escrow funds to the Commonwealth.

House Bill 2919 and **Senate Bill 1332** would provide for tax incentive payments to NPMs.

House Bill 2933 would permit stamping agents to receive a credit for the cost of the tax stamps on cigarettes they have sold but for which payment is uncollectible.

House Joint Resolution 664 would require the Department of Taxation study the feasibility of establishing uniformity and consistency among Virginia's localities in the design and use of tax stamps for local cigarette taxes.

Senate Bill 876 would change the cigarette tax laws to provide consistency with the non-participating manufacturer reporting requirements and to enhance compliance and administration.

cc : Secretary of Finance

Date: 2/8/2005 JEM