

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 478

As Amended by Senate Committee on
Federal and State Affairs

Brief*

SB 478 would amend the Kansas Cigarette and Tobacco Products Act by redefining the definition of cigarettes, defining little cigars and cigars, changing the circumstances for when an applicant may be refused a license, imposing conditions for revocation of a license, conditions requiring proper cigarette stamps, requiring reports to be filed electronically, eliminate exemptions for vending machines to places that allow minors, and collection of tax due on end users.

The bill would revise the definition of cigarettes and provide new definitions for cigars and little cigars to distinguish the difference between cigar and cigarette. A little cigar would be defined as any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco and which has 1,000 units weigh not more than three pounds. Little cigars would be considered as cigarettes under the act and therefore be subject to the cigarette tax.

Under the bill, reports of sales of cigarettes by vending machine distributors, distributors, and wholesale dealers may be required to file reports electronically to the Director of Taxation.

The bill would allow refusal of an application for a license if an applicant:

- Has been convicted of a felony in any state of the United States;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Has been convicted of a violation of any law in the United States pertaining to regulated substances; and
- Has had a license revoked within ten years preceding the date of making an application for a license.

Under the bill an “applicant” would be defined as a president, vice president, secretary, treasurer, manager, member or any officer, owner, or majority shareholder if the license holder is a corporation, limited liability corporation, partnership or other business entity.

Under current law, violations of the act result in suspension or revocation of a license. “Revocation” would be defined to mean termination by formal action of a license or privilege to operate as a retail-dealer or distributor. Applications by such person applying for a new license may be denied for ten years. If a person continues to engage in activities requiring a license while such license is suspended, the license would be revoked and additional fines may apply.

The bill would allow the Director of Taxation to collect the tax due by the purchaser if the tax has not been paid by the wholesale dealer or distributor. Purchaser would be defined as a consumer who purchases the cigarettes for final use.

In addition, the bill would eliminate references to water applied stamps and meter imprints. The bill would require cigarette stamps to be affixed with legible characteristics and serial numbers affixed to them. The bill would assess a penalty of an administrative fine, suspension, or revocation if a wholesale dealer continuously issues illegible stamped cigarettes.

The bill would make it unlawful for a person to sell or transfer any tax indicia to any other person other than the Director of Taxation and for any person to buy any cigarettes or tobacco products for any person under the age of 18 years of age.

Finally, the bill would eliminate the exemptions for placement of vending machines in places open to minors.

Background

The Kansas Cigarette and Tobacco Products Act governs the regulation and taxation on the sale of cigarettes and other tobacco products by the Department of Revenue.

A representative from the Department of Revenue and the Tobacco Free Coalition testified as proponents of the bill.

A representative of Swisher International, Inc. testified in opposition.

The Senate Committee made technical amendments to the bill.

The Division of Budget's fiscal note indicates that the Department of Revenue states that because little cigars are a small segment of the total cigarette and tobacco market products market, enactment of the bill would have little effect on state revenues. The bill also would allow the Department of Revenue to assess cigarette taxes on Internet or other purchases from which no tax was paid by a Kansas wholesale dealer. The Department states that this provision could result in the collection of thousands of cigarette and tax use dollars, but the agency is unable to estimate the precise figure for future collections.