

SS SCS SB 884 -- TOBACCO REGULATIONS

SPONSOR: Schaefer (Diehl)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on General Laws by a vote of 9 to 0.

This substitute changes the laws regarding tobacco regulations. In its main provisions, the substitute:

(1) Requires every tobacco product manufacturer whose cigarettes are sold in Missouri to certify to the Director of the Department of Revenue by April 30 of each year that it is in compliance with the Tobacco Master Settlement Agreement. A participating tobacco manufacturer must include in its certification a list of its brand families and update the list 30 days prior to any addition to or modification of its brand families by a supplemental certification. A nonparticipating manufacturer must include in its certification a list of all of its brand families and the number of units sold for each brand family that was sold in the state during the preceding calendar year indicating any brand family that is no longer being sold in the state as of the date of the certification and the name and address of any other manufacturer of the brand families in the preceding or current year. The nonparticipating manufacturer must update the list 30 days prior to any addition to or modification of its brand families by a supplemental certification. A nonparticipating manufacturer must also certify that it is registered to do business in the state or has appointed an agent within the state for the service of process regarding the enforcement of the provisions of the substitute, that it is in full compliance with the provisions regarding the master agreement, and other specified information on its financial transactions;

(2) Requires, on or after January 1, 2011, the department director to issue, maintain, update when necessary, make available for public inspection, and publish on its web site a directory listing all tobacco product manufacturers that have provided current and accurate certifications in compliance with the requirements of the substitute and all brand families listed in the certifications with certain specified exceptions;

(3) Requires the department director and the Attorney General to share with each other any information received under the provisions of the master agreement;

(4) Allows the Attorney General, on behalf of the department director, to seek an injunction to restrain a threatened or actual violation of certain provisions;

(5) Requires a stamping agent, who affixes tax stamps to cigarette packages, to submit an electronic mail address to the department director for the receipt of required notifications;

(6) Allows the seizure and forfeiture of cigarettes deemed by a court of competent jurisdiction to have been sold, offered for sale, or possessed for sale in violation of the provisions of the substitute. The state may also recover the costs of investigating and litigating a violation; and

(7) Specifies the penalties for a violation of the provisions of the substitute including suspension of the license of a stamping agent and a class A misdemeanor offense for a violation of various transactions involving contraband cigarettes. Monetary penalties will be deposited into the newly created Tobacco Control Special Fund to be used to enforce the provisions of the substitute.

The substitute contains an emergency clause.

FISCAL NOTE: Estimated Income on General Revenue Fund of \$0 in FY 2011, \$88,871 in FY 2012, and \$91,536 in FY 2013. Estimated Income on Other State Funds of Unknown in FY 2011, FY 2012, and FY 2013.

PROPOSERS: Supporters say that the bill will allow the state to enforce the terms of the Tobacco Master Settlement Agreement by providing the Attorney General and the Department of Revenue with additional information on cigarette manufacturers. Missouri needs to ensure that it retains all possible settlement funds in future years.

Testifying for the bill were Representative Diehl for Senator Schaefer; Office of the Attorney General; Michael Hering, National Association of Attorney Generals; Missouri Hospital Association; March of Dimes, Greater Missouri Chapter; and various smoke shop retailers.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say that it now provides adequate time for retailers to comply with its terms. The bill creates a level playing field for tobacco retailers and allows adequate due process prior to the seizure of assets.

Testifying on the bill were Missouri Petroleum Marketers and Convenience Store Association; Andy Arnold; and several small tobacco shop owners.