

SUBJECT: Taxing small quantities of cigarettes imported from foreign countries

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 11 ayes — Oliveira, McCall, Bonnen, Craddick, Y. Davis, Heflin, Hilbert, Keffer, T. King, Ramsay, Sadler

0 nays

WITNESSES: For — Joe Ratcliff, Texas Association of Wholesale Distributors

Against — None

On — Jeannene Fox, Texas Alcoholic Beverage Commission; James LeBas, Comptroller of Public Accounts

BACKGROUND: Under current law, anyone who imports and personally transports more than 200 cigarettes, the amount contained in one carton, into Texas from another country must pay the state cigarette tax on those cigarettes. The Texas Alcoholic Beverage Commission (TABC) collects the tax at staffed border crossings. Upon payment of the tax, a person must affix a stamp to each package of cigarettes for which the tax was paid.

The tax rate is figured at \$20.50 per 1,000 cigarettes. This amounts to \$0.41 per pack or \$4.10 per carton.

A person who transports 200 or fewer cigarettes into Texas is not be subject to the tax if the person uses the cigarettes and does not sell them or offer them for sale.

DIGEST: HB 3600 would eliminate the exemption from the state cigarette tax for people who import 200 or fewer cigarettes into Texas from a foreign country. Such importers would have to affix a stamp on each package to show payment of the tax.

The bill would take effect on September 1, 1999, and would apply only to cigarettes imported on or after that date.

**SUPPORTERS
SAY:**

HB 3600 would apply the state tax to all cigarettes imported from another country to prevent further economic damage to the state and to small businesses. According to the fiscal note, the state would gain about \$2 million per year from this change.

Texas loses large amounts of money from the common practice of crossing the Mexican border to buy cigarettes. Under current law, every time a person transports a single carton of cigarettes across the border, the state is denied \$4.10 in tax revenue. For every carload of people who have purchased single cartons or for every person who makes multiple trips across the border to buy cigarettes tax-free, the revenue loss multiplies.

The current exemption deprives small Texas businesses of some customers. People cross the border to buy cigarettes not only because the cigarettes are not subject to taxes, but also because retail cigarette prices in Mexico are much cheaper. As a result, small business owners on the Texas side of the border find it hard to sell cigarettes, which typically constitute a significant portion of convenience store, gas station, and supermarket sales. This hurts the border economy, which already is depressed.

The absence of a tax on single cartons of imported cigarettes encourages a black market. People who import tax-free cigarettes purchased at low retail rates often sell them for profit on the American side of the border. This too harms Texas' small business owners.

As new federal excise taxes on cigarettes are being phased in, people will be even more likely to bring cigarettes across the border, exacerbating the problem. People who transport alcohol across the border must pay state taxes regardless of the amount they transport.

**OPPONENTS
SAY:**

HB 3600 would penalize consumers. Most people who import small quantities of cigarettes do so for personal use, not to resell them.

Extending the cigarette tax to customers who buy even one pack of cigarettes would increase TABC's workload greatly. The agency already is understaffed and overextended.

Currently, as many as seven legal border crossings are unstaffed by TABC, meaning that the agency does not collect cigarette and alcohol taxes at those

points. Three new bridges over the Rio Grande are scheduled to open before February 2000, and all will be staffed. However, requiring people to pay taxes on one carton of cigarettes or fewer might divert traffic to the unstaffed bridges. This would result in a loss of revenue on both cigarettes and alcohol and would promote the smuggling of these and other items.

Stopping every vehicle or pedestrian at a border crossing to collect taxes even on single packages of cigarettes could increase the long lines at checkpoints and worsen already serious traffic problems.

OTHER
OPPONENTS
SAY:

The Legislature should provide additional full-time employees for TABC to collect the proposed tax. Since this program would generate significant new revenue, these new full-time employees would not require additional appropriations.

NOTES:

The companion bill, SB 1253 by West, was reported favorably, without amendment by the Senate Finance Committee on April 27.