



Hundredth Legislature - First Session - 2007
Committee Statement
LB 580

Hearing Date: March 21, 2007

Committee On: Judiciary

Introducer(s): (Preister)

Title: Change provisions relating to tobacco product manufacturers

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
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Vote Results:

- | | | |
|---|---------------------|--|
| 7 | Yes | Sen. Ashford, Sen. Lathrop, Sen. Chambers, Sen. McDonald,
Sen. McGill, Sen. Pedersen, Sen. Pirsch |
| | No | |
| | Present, not voting | |
| 1 | Absent | Sen. Schimek |
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Proponents:

Sen. Preister
Lynne Fritz

Representing:

Introducer
Attorney General's Office

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

Legislative Bill 580 proposes to make the following changes to Nebraska laws regulating manufacturers of tobacco products sold in Nebraska who are not party to the tobacco Master Settlement Agreement, referred to as non-participating manufacturers:

1. Clarifies the responsibilities of the wholesale dealer to monitor the directory on the Tax Commissioner's web site to determine which brands may be sold in Nebraska;
 2. Removes ambiguous language in the criminal provision regarding tobacco products "intended for sale";
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3. Provides that the Secretary of State will be presumed to be the agent for service of process for nonparticipating manufacturers who don't appoint an agent for service of process; and
4. Adds an amendment to the penalty provisions which directs the court to order payment of profits or other benefits to the general fund.

The purpose of these changes is to enhance enforcement efforts and to comply with federal law requirements which can reduce payments under the tobacco Master Settlement Agreement to states which do not diligently enforce certain statutes relating to non-participating manufacturers which require them to place funds in escrow for each cigarette taxed and sold in Nebraska.

Explanation of amendments, if any:

The committee amendment to LB 580, AM 851, adds a new section to the bill containing recommendations by the Attorney General's office and makes several technical and grammatical corrections to the bill. Specifically, AM 851 provides the following:

- Clarifies the circumstances in which a nonparticipating manufacturer is required to make quarterly escrow payments during the year of sale.
- Ensures that the change just described is applicable to certifications filed by tobacco product manufacturers immediately upon its effective date.
- Requires as part of the directory certification that all nonparticipating manufacturers consent to be sued in Nebraska state courts for any violation of the escrow statute and on all claims which the state could bring to get a judgment to be paid from the escrow.
- Inserts language which clarifies that a non participating manufacturer and its brands can be removed from the directory of approved cigarettes for sale in this state for failure to make required quarterly escrow payments.
- Replaces language directing the profits or other benefits earned as a result of a violation of 69-2704 to 69-2710 to the general fund with language directing the funds to be remitted to the permanent school fund as required by Article VII, Section 5 of the Nebraska Constitution.
- Makes grammatical corrections to section 3 of LB 580 to ensure the language relating to cumulative penalties reflects the introducer's intent.

Senator Brad Ashford, Chairperson