

Senate Ways and Means Committee

Sonja Caldwell 271-2117

SB 305-FN, relative to allowing wholesalers of cigarettes to retain tax revenue collected for each package of cigarettes with tax stamps sold.

Hearing Date: January 17, 2024

Members of the Committee Present: Senators Lang, D'Allesandro, Innis and Rosenwald

Members of the Committee Absent : Senator Murphy

Bill Analysis: This bill permits wholesalers of cigarettes to retain one cent of the tax collected for each package of cigarettes to which a tax stamp is affixed as compensation for affixing tax stamps and collecting and remitting tax revenue.

Sponsors:
Sen. Avard

Who supports the bill: Richard Rigazio (East West Distributors), Peter Brennan (New England Convenience Store Assoc.), Daniel Richardson, Rick Newman (McLane Northeast)

Who opposes the bill: Janet Lucas

Who is neutral on the bill: Lauren O'Sullivan (NHDRA), Wendy Metivier (NHDRA)

Summary of testimony presented:
Sen. Avard

- SB305 would restore a tax stamp discount allowance to wholesalers of cigarettes in NH.
- Until 2003 wholesalers were compensated by the state for the cost of affixing tax stamps to cigarette packages.
- 48 other states provide a discount to wholesalers to compensate them for collecting the cigarette and tobacco taxes.
- This bill provides for a one cent per pack discount on the purchase price of the tax stamp as compensation for wholesalers.
- Sen. Avard gave an example of one wholesaler, the McLane Company in Contoocook, which employs 340 people at their facility. Their annual out of pocket cost to affix tax stamps is \$140,000.00. Under this bill, they would receive about \$111,000.00 as compensation to offset some of that cost.

Sen Rosenwald mentioned the monthly revenue focus and asked Sen. Avard if he was aware that NH's tobacco tax revenues are \$13 million below plan.

Sen. Avard stated that he was not aware of that.

Lauren O’Sullivan and Wendy Metivier - DRA

- The DRA has no position on the bill.
- They brought up a technical defect in the bill. It does not provide guidance on how the DRA would administer the one cent retention.
- Under current law, the Tobacco Tax is a direct tax imposed upon the consumer. The tax is prepaid by the wholesaler through the purchase of tobacco stamps that they put on the product.
- The wholesaler is able to obtain a refund of the purchase price of the stamps if they return unused tax stamps to the DRA. The DRA does not know which stamps have been affixed until they file a quarterly report.
- The DRA suggested that additional legislative guidance is needed on how the retention of the one cent should work.

Sen. Lang asked how it is managed with the meals and rooms tax retention.

Ms. O’Sullivan said that if you file electronically and remit more than \$25,000 a month or you file timely you can withhold three percent. Not everyone gets that three percent.

Sen. Lang asked if that process was in rules or law.

Ms. O’Sullivan said she had to check.

Sen. Innis asked if it made sense to put boundaries around this.

Ms. O’Sullivan said she did not have an answer on what makes sense. She suggested that was something that could be worked on together.

Sen. Innis asked how the \$25,000 threshold for the meals and rooms tax was established and asked if it changes.

Ms. O’Sullivan said she would get back to the committee.

Sen. Lang stated that right now, the wholesalers buy tax stamps, and if they don’t use them all, they put in for a credit. He stated that the tax stamp is \$1.78 per pack and the wholesalers are asking for one cent out of that \$1.78 per pack. He said that we do a similar process with the meals and rooms tax where we allow the tax collectors to withhold three percent of the revenue collected for acting as a tax agent of the state.

Ms. O’Sullivan said that was correct, but they are administered differently because the cigarette tax is prepaid vs. point of sale. That is why they are looking for guidance on how to administer that.

Richard Rigazio – East West Distributors in Seabrook NH

- He is a tobacco distributor. When he started in 2003 there was an allowance for stamping cigarettes. Back in 2003 a stamping machine was \$15,000. Prices have increased over the years. They are now on their fourth machine, which cost \$120,000.
- Originally, they only had to buy one stamp, but now there are two stamps: one for Master Settlement Agreement (MSA) products and one for non-MSA products.
- They used to be able to pick up stamps from the DRA as they needed them, however now they must order them from a stamp company. This requires them to have to absorb more stamps as a wholesaler in order to avoid running out due to potential delivery delays. They pay the shipping costs which are \$300 per month.
- He has a stamping license from Maine where they give a stamping allowance, and he is happy to share how they do it.
- NH is the only state that doesn’t give anything for this extra work they have to do for the state.

Sen. Lang stated that his understand is that they are asking for one cent, which is less than 1 percent of the tax collected, to help offset the cost of collecting the tax.

Mr. Rigazio said yes.

Sen. Lang said the stamp helps the DRA and other officials to identify illegal products.

Sen. Rosenwald asked about the two different machines.

Mr. Rigazio said he only has one machine. He explained again that there are two different tax stamps. One stamp is for cigarettes that pay into the MSA, and the other stamp is for the non-participating cigarettes that came out after the MSA that don't have to pay into that fund or don't pay the same percentage. The state decided it would be easier to keep track if there were two stamps. There is a green stamp for all of the major tobacco companies that pay into the MSA.

Sen. Rosenwald asked if he was able to depreciate that machine on his taxes.

Mr. Rigazio said yes.

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Date Hearing Report completed: January 19, 2024