

1999 DRAFTING REQUEST

Bill

Received: 03/16/2000

Received By: jkreya

Wanted: Soon

Identical to LRB:

For: Michael Lehman (608) 267-2367

By/Representing: andrew

This file may be shown to any legislator: NO

Drafter: jkreya

May Contact:

Alt. Drafters:

Subject: Tax - cigarettes and t.p.

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Cigarettes not intended for sale in the U.S.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreya 03/16/2000	ygeller 03/16/2000		_____			State
/1	jkreya 03/16/2000	ygeller 03/16/2000	martykr 03/16/2000	_____	lrb-docadmin 03/16/2000		State
/2			martykr 03/16/2000	_____	lrb-docadmin 03/16/2000	lrb-docadmin 03/17/2000	

FE Sent For:

12"
3/20/00

<END>

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/1		1/2 3/10 jlg	martykr 03/16/2000	_____	lrb_docadmin 03/16/2000		
			km 3/16	kt 3/16			

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1/?	jkreye	11/3/15 jlg	km/12	Sept 3/12			

FE Sent For:

<END>

3-16-2000

Andrew - M Lehman
267-2367

Senate bills - ^{to} Assembly bills = companion bills.

~~① 4146 lottery/credit ^{and gaming property}~~

② 4622 - gray market cigarettes

4775/1
①

m 3-16-2000
500N

~~1999 SENATE BILL 413~~

~~February 23, 2000 - Introduced by Senators ROBSON, RISSER, ROSENZWEIG, ROESSLER, WIRCH and CLAUSING, cosponsored by Representatives M. LEHMAN, FREESE, TOWNSEND, PLALE, HUEBSCH and SYKORA. Referred to Committee on Human Services and Aging.~~

Regen

- 1 **AN ACT** to *amend* 139.30 (7) and 139.321 (1) (intro.); and to create 139.31 (4),
- 2 139.34 (3) and 139.39 (4m) of the statutes; **relating to:** the sale of cigarettes
- 3 that are not intended for sale in the United States and providing a penalty

Analysis by the Legislative Reference Bureau

Under current law, tax stamps must be **affixed** to each package of cigarettes that is sold in this state. Under current law, a person who possesses over 400 cigarettes without tax stamps but not more than 6,000 cigarettes without tax stamps is subject to a fine of not more than \$200 or imprisonment for not more than six months or both. A person who possesses over 6,000 cigarettes without tax stamps but not more than 36,000 cigarettes without tax stamps is subject to a fine of **not** more than \$1,000 or imprisonment for not more than one year or both. A person who possesses over 36,000 cigarettes without tax stamps is subject to a fine of not more than \$10,000 or imprisonment for not more than two years or both.

This bill prohibits affixing tax stamps to cigarettes that are intended for sale outside the United States; to cigarettes that are labeled as provided under federal law as not for consumption inside the United States; and to cigarette packages that are modified by a person who is not the cigarette manufacturer or an authorized agent of the cigarette manufacturer. Under the bill, a person who possesses, sells or distributes these types of cigarettes is subject to the same penalties that are applicable to the possession of cigarettes without tax stamps.

The bill allows any person to bring a suit for damages or injunctive relief against a person who **affixes** tax stamps to cigarettes that are intended for sale outside the United States.

SENATE BILL 413

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 139.30 (7) of the statutes is amended to read:

2 139.30 (7) "Manufacturer" means any person who manufactures cigarettes for
3 the purpose of sale, including the authorized agent of a person who manufactures
4 cigarettes for the purpose of sale.

5 **SECTION 2.** 139.31 (4) of the statutes is created to read:

6 **139.31 (4)** No person may affix stamps, as described under s. 139.32, to any of
7 the following:

8 (a) A cigarette package that is labeled as tax exempt under section 5704 (b) of
9 the Internal Revenue Code or as tax exempt under 27 CFR 290.185.

10 (b) A cigarette package that is labeled as provided under federal law as not
11 intended for consumption in the United States.

12 (c) A cigarette package that is modified by a person who is not the cigarette
13 manufacturer.

14 (d) Any cigarettes that are imported into the United States after December 31,
15 1999, in violation of section 5754 of the Internal Revenue Code.

16 **SECTION 3.** 139.321 (1) (intro.) of the statutes is amended to read:

17 139.321 (1) (intro.) It is unlawful for any person to possess in excess of 400
18 cigarettes unless the required stamps are properly affixed as provided in ss. 139.32
19 (1) and 139.33 (4). It is unlawful for any person to possess, sell or distribute
20 cigarettes as described under s. 139.31 (4).

21 **SECTION 4.** 139.34 (3) of the statutes is created to read:

Joe,

Could you incorporate

SA1 + SA2 into this draft?
(ca1585) (ca1721)

Thanks,

Andrew

Kreye, Joseph

From: Nowlan, Andrew
Sent: Thursday, March 16, 2000 2:46 PM
To: Kreye, Joseph
Subject: RE: Analysis of LRB-4775

Thanks Joe, I am actually sending 4775 back to be redrafted. When I spoke with you before I did not realize that the Senate committee had passed a couple of amendments that would like incorporated into the draft (LRBs a1721 and al 565)

Andrew Nowlan
Andrew.Nowlan@legis.state.wi.us (work)
Antrout@terracon.net (home)

-----Original Message-----

From: Kreye, Joseph
Sent: Thursday, March 16, 2000 2:40 PM
To: Nowlan, Andrew
Subject: Analysis of LRB-4775

Analysis by the Legislative Reference Bureau

Under current law, tax stamps must be affixed to each package of cigarettes that is sold in this state. Under current law, a person who possesses over 400 cigarettes without tax stamps but not more than 6,000 cigarettes without tax stamps is subject to a fine of not more than \$200 or imprisonment for not more than six months or both. A person who possesses over 6,000 cigarettes without tax stamps but not more than 36,000 cigarettes without tax stamps is subject to a fine of not more than \$1,000 or imprisonment for not more than one year or both. A person who possesses over 36,000 cigarettes without tax stamps is subject to a fine of not more than \$10,000 or imprisonment for not more than two years or both.

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The bill allows any person to bring a suit for damages or injunctive relief against a person who affixes tax stamps to cigarettes that are intended for sale outside the United States.

Joseph T. Kreye, Legislative Attorney
Legislative Reference Bureau
(608) 266-2263
joseph.kreye@legis.state.wi.us



1999 BILL

m 3-16-2000
SOON
Regen

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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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SECTION 2. 139.31 (4) of the statutes is created to read:

139.31 (4) No person may affix stamps, as described under s. 139.32, to any of the following:

(a) A cigarette package that is labeled as tax exempt under section 5704 (b) of the Internal Revenue Code or as tax exempt under 27 CFR 290.185.

(b) A cigarette package that is labeled as provided under federal law as not intended for consumption in the United States.

(b.m) a cigarette package that is not labeled as provided under federal law.

(c) A cigarette package that is modified by a person who is not the cigarette manufacturer.

(d) Any cigarettes that are imported into the United States after December 31, 1999, in violation of ~~section 5704 of the Internal Revenue Code.~~ *federal law*

SECTION 3. 139.321 (1) (intro.) of the statutes is amended to read:

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(1) and 139.33 (4). ~~It is unlawful for any person to possess, sell or distribute~~ *in excess of 400*
cigarettes as described under s. 139.31 (4).

SECTION 4. 139.34 (3) of the statutes is created to read:

or to sell or distribute cigarettes as described under s. 139.31(4); other than cigarettes that may be brought into the United States for personal use and cigarettes that are sold or intended for sale by a duty-free enterprise, as provided under federal law.

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 03/16/2000

To: Representative M. Lehman


Relating to LRB drafting number: LRB-4775

Topic

Cigarettes not intended for sale in the U.S.

Subject(s)

Tax - cigarettes and t.p.

1. **JACKET** the draft for introduction _____ 
in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the **LRB's** drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Joseph T. Kreye, Legislative Attorney
Telephone: (608) 266-2263