

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2251/2dn
JK&MGG:wlj:rs

September 13, 2007

Senator Robson:

To facilitate the operation of this proposal, the draft has been modified to incorporate the relevant definitions for all those who manufacture or sell cigarettes in this state, as provided in subchapter II of chapter 139 of the statutes (the cigarette tax). Please examine the definitions carefully and let me know if you have any questions. In addition, the provisions in the draft related to enforcement and the seizure of cigarettes are similar, generally, to the enforcement and seizure provisions related to the cigarette tax.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

1. I did not draft the language concerning changes in the manufacturing of a cigarette, found in proposed s. 167.35 (2) (g) because it is covered by the overall ban under s. 167.35 (5).
2. We did not incorporate the language referring to New York law. Using such language would probably be viewed by the court as an unconstitutional delegation of law-making authority.
3. We did not include the language found in the last three statutory sections of the redraft instructions dealing with out-of-state sales, preemption, and local regulation because these provisions are not necessary. The bill does not prohibit out-of-state sales in the first place. As to preemption, if federal law preempts this legislation, it will simply not be enforceable. As to local regulation, conflicting local ordinances are invalid.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215