



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 494

**Assembly
Amendment 1**

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SECTION 1 of Assembly Bill 494 treats the provision of current s. 895.10, Stats. (tobacco product agreement), dealing with the amount of refund a nonparticipating manufacturer is eligible to receive from escrow payments made in connection with sales of cigarettes by that manufacturer in Wisconsin.

Assembly Amendment 1 provides that if all or any part of the statutory provision treated by SECTION 1 of the bill is found unconstitutional, the provision then reverts back to its prior status; i.e., the statutory provision as originally enacted, which is based on a model act, would remain in effect. The amendment overrides the general severability statute that would otherwise apply, s. 990.001 (11), Stats. (Under the general severability statute, if part of the amended statutory provision were found unconstitutional, it might be possible that the provision that remains would be different than both the Assembly Bill 494 version and the current version; the amendment precludes that possibility.)

According to the Department of Justice, the language of the amendment assures that Wisconsin meets its Master Settlement Agreement obligation if all or some of the treatment of s. 895.10 by SECTION 1 of the bill is found unconstitutional.

Assembly Amendment 1 was offered by the Assembly Committee on Judiciary. The committee recommended adoption of the amendment by a vote of Ayes, 8; Noes, 0.

DDL:tlu;ksm