

Joint Committee on Ways and Means

Carrier – House: Rep. Nathanson
Carrier – Senate: Sen. Winters

Revenue: Revenue statement issued

Fiscal: Fiscal statement issued

Action: Do Pass with Amendments to the A-Eng Bill. (Printed B-Eng.)

Vote: 15 – 1 – 6

House

Yeas: Buckley, C. Edwards, D. Edwards, Galizio, Garrard, Jenson, Kotek, Nathanson, Richardson

Nays: Gilman

Exc: Shields, G. Smith

Senate

Yeas: Bates, Carter, Girod, Johnson, Monroe, Nelson

Nays:

Exc: Verger, Walker, Whitsett, Winters

Prepared By: Laurie, Byerly, Legislative Fiscal Office

Meeting Date: 6/18, 6/22

WHAT THE MEASURE DOES: Grants authority to Department of Revenue to examine premises of person or place of business and imposes civil penalties for refusal of access. Appropriates moneys to Department of Revenue (DOR) for administering cigarette and other tobacco tax programs. Allows exchange of information between DOR and the Public Utility Commission to support 9-1-1 tax enforcement.

ISSUES DISCUSSED:

- Good idea to recover federal fee from taxpayer
- Concern about the Department potentially abusing its authority
- Appropriate level for civil penalty

EFFECT OF COMMITTEE AMENDMENT: Clarifies that the Department needs reasonable cause to seek entry to premises outside regular business hours. The civil penalty for refusal to allow entry is set at \$500 per day for the first seven days no entry or examination is allowed, and then escalates to \$1,000 per day. The amendment also allows the Department to recover, from a delinquent taxpayer, the fee it pays to the federal government when federal refunds are intercepted for payment of past-due state income tax debts.

BACKGROUND: The Department's tobacco enforcement and auditing program would operate more efficiently with explicit statutory authority to be able to enter and examine premises; another bill (HB 2048) was attempting to resolve the issue but only covered licensed premises.

HB 2368 (2003), which revised cigarette tax and other tobacco products tax statutes to facilitate enforcement and compliance, also phased-out (effective January 2008) the Department's statutory authority to directly recover program administrative costs from tobacco tax collections. For the 2007-09 biennium a special Other Funds appropriation from those funds was used to cover program expenses. This bill restores the former statutory authority, which is consistent with past practice and statutory treatment of similar funds.

The Department participates in the federal Treasury Offset Program (TOP), which allows state agencies to submit past-due, legally enforceable state income tax obligations to the federal government for offset of the debtor's individual federal income tax refund. TOP charges a \$22 administrative fee for each offset; the agency usually pays about \$200,000 General Fund annually in fees. This measure allows the Department to pass the fee on to taxpayers whose federal refunds are intercepted for payment of past-due income tax debts. The amount of the fee would be added to the taxes, interest, and penalties owed by the taxpayer to the state.