



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

DATE: May 12, 2015

TO: Honorable Mark Hass, Chair
Senate Committee on Finance and Revenue

FROM: Aaron Knott, Legislative Director

SUBJECT: SB 190 – Remote Sales of Tobacco Products

This testimony is presented in support of SB 190.

BACKGROUND

SB 190 addresses the problems posed by remote (*e.g.*, Internet and mail order) sales of tobacco products. The bill would restrict shipment and transport of cigarettes and smokeless tobacco products to tobacco distributors and retailers. The bill also prohibits retailers from selling cigarettes and smokeless tobacco products unless the retailer makes the sale to the purchaser in person as part of a face-to-face exchange. SB 190 authorizes the Attorney General to serve an investigative demand on a person who has information, documents, or other materials relevant to an investigation of a violation of the Act. The bill authorizes the Attorney General to bring a civil action against a person who violates the Act and seek an injunction and civil penalties.

PROBLEMS CAUSED BY REMOTE SALES

Remote sales of tobacco products circumvent Oregon laws in the following ways:

Sales to Minors

Oregon law prohibits distributors and retailers from selling tobacco to individuals under the age of 18 (ORS 163.575). The Internet offers minors relatively easy access to tobacco. Remote sellers cannot adequately verify the age of remote purchasers; neither can they verify that their products do not get shipped to persons under the age of 18. SB 190 addresses this problem by requiring that all sales be made in person as part of a face-to-face exchange.

Tax Evasion

Remote sellers avoid paying Oregon excise taxes. This creates several problems:

- The state is losing revenue.
- By avoiding Oregon excise taxes, remote sellers can offer tobacco products to Oregon customers at discount rates. This puts Oregon-licensed distributors and local retailers at a competitive disadvantage.
- The availability of discounted tobacco products thwarts the underlying purpose of Oregon's tobacco excise tax. Higher costs of tobacco products have been shown to be effective in deterring non-smokers—particularly minors—from starting to smoke, and serve as an incentive for smokers to quit.

SB 190 addresses the tax evasion problem by requiring that all shipments be made to Oregon-licensed distributors who will pay the tax due.

Sales of Cigarettes that are not “fire safe”

Oregon’s Reduced Cigarette Ignition Propensity statute was enacted in 2007. All cigarettes sold in Oregon must be certified by the Oregon Fire Marshal as fire standard compliant (ORS 476.760). Many of the cigarettes sold remotely are manufactured for foreign markets and may not be certified as fire standard compliant. SB 190 addresses this problem by requiring that all shipments be made to Oregon-licensed distributors and retailers who may only sell cigarettes that are fire standard compliant.

Sales of Cigarettes that are not on the Attorney General’s Directory

The Attorney General maintains directories of cigarette and smokeless tobacco brands of those manufacturers who have submitted annual certifications and are in compliance with state and federal law. It is unlawful for a distributor or retailer to sell or offer for sale cigarettes or smokeless tobacco products that are not listed on the Attorney General’s directory (ORS 180.440 and ORS 180.486). Remote sellers offer for sale cigarettes and smokeless tobacco products that have not been approved for sale in Oregon. SB 190 addresses this problem by requiring that all shipments be made to Oregon-licensed distributors and retailers who may only sell cigarettes that are listed on the Attorney General’s directory.

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