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Summary of SB 462

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This memorandum summarizes the provisions of SB 462, which makes various amendments to the Cigarette and Tobacco Products Act, K.S.A. 79-3301 *et seq.* (the Act). The amendments contained in the bill can be categorized as follows: licensure administration; tax collection; taxable products; tax rate changes; distribution restrictions; and technical statutory cleanups.

Licensure Administration

First, section 17 of the bill requires that persons engaged in the business of selling other tobacco products must also receive a license from Director of Taxation in order to engage in such business in Kansas. Currently, only businesses that sell cigarettes are licensed. If a business only sells other tobacco products they currently do not need a license to do so. The fee for the license would be the same as for a current retail dealer; \$25. The definition of "retail dealer" in K.S.A. 79-3301 is also amended to reflect this change.

The other licensure amendments involve the refusal or revocation of a license. Section 6 amends K.S.A. 79-3304 to allow the Director to refuse a license to applicants if they have been convicted of a felony, or convicted of a crime related to controlled substances within the past 10 years. The term "applicant" includes officers and owners of the business entity. Current law allows refusal if the applicant is not of good moral character, convicted of a felony or convicted of a crime of moral turpitude or a violation of a tobacco law and has not completed their sentence at least two years prior to applying for a license.

Section 7 prohibits the renewal or restoration of a license that has been revoked for a period of 10 years. Current law imposes a one year prohibition. Also, a definition of the term “revocation” is added to K.S.A. 79-3301 to clarify what is meant by revoking a license under the Act.

Tax Collection

Sections 8 and 16 include new provisions that allow the Director to proceed directly against the purchaser, including the consumer, of cigarettes or tobacco products for collection of the tax due if the tax has not been paid previously. The bill also makes several amendments throughout the Act to cleanup some statutory language that no longer describes how the Director stamps cigarettes for tax collection purposes.

Taxable Products

The product known as “little cigars” is added to the Act. The definition of “little cigars” is found in section 3. While little cigars are defined as a tobacco product, they are treated for tax purposes under section 16 as cigarettes.

The definition of “tobacco products” in section 3 is expanded to include little cigars, blunt wrappers, moist snuff, cigarette wrappers made of tobacco, and any other form of tobacco made for human consumption.

Tax Rate Changes

Section 16 of the bill raises the tax rate on tobacco products to 30% of the wholesale price of the product. Current law establishes the tax rate at 10%. This new tax rate does not apply to little cigars, which are taxed as cigarettes under the bill.

Section 1 proposes a new section of law that imposes a tax of 20% of the wholesale price of those tobacco products in a distributor or retail dealer’s inventory on July 1, 2012. This is an inventory tax that is imposed to make up the difference between the tax already imposed and collected at 10%, and the new tax rate of 30%.

Sections 8 and 16 include new provisions which provide that if either the cigarette tax rate or the tobacco product tax rate is increased by the legislature, then the other tax rate is automatically increased proportional at the same time.

Distribution Restrictions

The bill repeals those provisions that permit the distribution of free samples of cigarettes and tobacco products. These amendments are in sections 11, 13, and 14 of the bill. Section 13 of the bill also strikes exemptions to the general prohibition of selling cigarettes and tobacco products by means of a vending machine that is open to minors. Current law provides three exemptions to the general prohibition.

Technical Statutory Cleanups

The following sections make technical cleanups to the statute that are either necessary as a result of the substantive amendments, or are part of a general cleanup of the Act: section 2, section 4, section 18, section 19, section 21, and section 22.

