

OKLAHOMA TAX COMMISSION

FISCAL IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
SECOND REGULAR SESSION, FIFTY-FOURTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 13, 2014

BILL NUMBER: HB 2361 STATUS AND DATE OF BILL: Engrossed 03/12/2014

AUTHORS: House Cox & Pittman Senate David

TAX TYPE (S): Cigarette SUBJECT: Other

PROPOSAL: Amendatory and New Law

The measure proposes new sections of law be added to the Cigarette Stamp Tax Code regulating the sale and distribution of cigarettes from mailing, shipping or delivering cigarettes to any person in this state. The measure also proposes amendment to Section 349.1 of Title 68 prohibiting any trader from selling tobacco, cigars or cigarettes to any Indian or other person under eighteen years of age.

EFFECTIVE DATE: November 1, 2014

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 15: None

FY 16: None

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 15: None

Mar. 13, 2014 Rick Miller
DATE DIVISION DIRECTOR

cjc

3-13-14 Reece Womack
DATE REECE WOMACK, ECONOMIST

March 14, 2014 Dawn Cook
DATE FOR THE COMMISSION

ATTACHMENT TO FISCAL IMPACT - HB 2361 - [Engrossed] - Prepared 03/13/2014

Section 1-68 O.S. § 317.8

Provides that the provisions of Section 317.8 of Title 68 would only relate to violations of Section 317.1 of Title 68. Currently, these provisions also relate to Sections 317.2, 317.3, 317.4, 317.5 and 317.6 which are repealed pursuant to the provisions of Section 4 of this measure.

Section 2-New section of law to be codified as Section 317.9 of Title 68

Subsection A of this Section proposes to prohibit any person or entity engaged in the business of selling or distributing cigarettes from mailing, shipping or otherwise delivering cigarettes to any person in this state that is not:

- A retailer, distributor or wholesaler of cigarettes licensed by the Oklahoma Tax Commission pursuant to Section 304 of Title 68 of the Oklahoma Statutes;
- An export warehouse proprietor pursuant to Chapter 52 of the Internal Revenue Code or the operator of a customs bonded warehouse pursuant to 19 U.S.C., Section 1311 or 1555; or
- A person who is an officer, employee or agent of the United States government, this state or a department, agency, instrumentality or political subdivision of the United States or this state when the person is acting in accordance with the official duties of the person.

Subsection B provides that for purposes of Section 317.9 "cigarette" shall have the same definition as the one outlined in Section 600.22 of Title 37 of the Oklahoma Statutes and "distributor", "wholesaler" and "retailer" shall have the same definitions as the ones found in Section 301 of Title 68 of the Oklahoma Statutes.

Further subsection C makes it illegal for any common or contract carrier to transport knowingly cigarettes to any person in this state reasonably believed by the carrier to be a person other than the authorized persons described above.

Conversely, cigarettes may be transported to a home or residence in this state by persons other than common and contract carriers in quantities that do not exceed one thousand (1,000) cigarettes at any one time.

Subsection D provides penalties for violations of subsections A or C of this section as follows:

- a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00) for each violation or Twenty-five Dollars (\$25.00) for each pack of cigarettes shipped or transported, whichever is greater,
- an injunction to restrain a threatened or actual violation of this section,
- the costs of any investigation conducted by the state related to a violation of this section, and
- attorney fees and costs.

Provides for forfeiture and destruction of any cigarettes which are unlawfully shipped or transported into Oklahoma in violation this Section.

Each shipment, transport, or attempted shipment or transport of cigarettes or tobacco products in violation of this section shall constitute a separate violation.

All civil penalties obtained as a result of an action brought under this Section shall be deposited into the Attorney General's Evidence Fund.

Section 3-68 O.S. § 349.1

Pursuant to 25 C.F.R., Section 140.17, no trader shall sell tobacco, cigars or cigarettes to any Indian or other person under eighteen (18) years of age.

Section 4

Repeals Sections 317.2, 317.3, 317.4, 317.5, 317.6 and 317.7 of Title 68 relating to delivery sales of cigarettes.

There is no estimated change in state revenues or any administrative costs/savings associated with the proposals set forth in HB 2361.