

BILL SUMMARY
1st Session of the 52nd Legislature

Bill No.: SB 608
Version: Floor Amendment 1
Author: Rep. Jackson & Sen. Anderson
Date: April 15, 2009
Impact: Cigarette and Tobacco Tax Collections
FY10: Increase of \$177,000 from fees
**No Additional Revenue or Administrative
Impact for Floor Amendment 1**

Bill Summary

Research Analyst: Jonathan S. Small II

The floor amendment (1) adds provisions to the engrossed measure to:

- further clarify information that can be required and requested by the Attorney General for those selling tobacco products in Oklahoma,
- clarifies and applies administrative measures that are required for participating manufactures to nonparticipating manufacturers, and
- requires importers who have had legal issues in other jurisdictions to post a bond before being allowed to sell tobacco products in Oklahoma

Fiscal Summary

Fiscal Analyst: Diane Thomas

The floor amendment for SB 608 relates to cigarette and tobacco products taxes and includes provisions that:

- provides participating manufacturers must certify that it has made all payments calculated by the independent auditor due under the Master Settlement Complementary Act, except for any disputed amounts;
- requires a declaration from importers into the U. S. from nonparticipating manufacturers relating to brand families sold in Oklahoma and procedures of the declaration;
- requires nonparticipating manufactures located outside the U. S. to appoint and continuously engage the services of an agent in the state; and
- requires nonparticipating manufacturers located outside the U. S. and importers into the U. S. to bear certain liability for deposits of escrow due, payments of penalties imposed and payments of costs, including attorney fees.

There is no anticipated additional cost for the floor amendment to ESB 608.

The amendment does not otherwise change the provisions of SB 608 relating to cigarette and tobacco products taxes, including provisions that:

- Provides certain fees and penalties will be apportioned to the Tax Commission (OTC);

- Requires applicant's (retailers, wholesalers and manufacturers) to agree to abide by certain procedures relating to cigarette and tobacco products;
- Requires wholesalers and manufacturers to report to OTC electronically;
- Expands the requirement upon OTC to share records with state and local law enforcement officials;
- Includes actions by consumers, including knowingly using or selling cigarettes without a proper stamp that are subject to penalties;
- Increases fines for various prohibited actions; and
- Authorizes OTC the ability to immediately revoke licenses (for 5 years) of persons punished for certain violations.

Fiscal Analysis

SB 608 increases the license fees (from \$25 to \$250) for manufacturers and wholesalers of cigarettes. OTC currently issues 93 cigarette wholesalers licenses. Multiplying 93 licenses by \$225 (difference between current fee of \$25 and the increased fee of \$250) results in an increase in license fee collections of \$20,925 in FY10.

The bill requires dealers and wholesalers of tobacco products in the state to annually secure a written license and pay an annual fee (currently \$5) of \$250. OTC currently issues 56 tobacco wholesaler licenses. Multiplying 56 licenses by \$245 (difference between current fee of \$5 and the increased fee of \$250) results in an increase in license fee collections of \$13,720.

The measure also requires every retailer of tobacco products in this state to secure a license and pay a fee of \$30. OTC currently issues 4,725 retail cigarette licenses. Multiplying 4,725 retailers by \$30 results in increased retailers license fee collections of \$141,750.

The measure also requires distributing agents of tobacco products to annually secure a license and to pay an annual license fee of \$100. OTC currently issues 8 cigarette distributing agent licenses. Multiplying 8 by \$100 results in increased collections of \$800.

Description	No. of Current Licenses	Current Fee	Current Est. Revenue	Fee under SB 608	Estimated Revenue under ESB 608	Difference
Manufacturers/Wholesalers Licenses	93	\$25	\$2325	\$250	\$23,250	\$20,925
Dealers/Wholesale Licenses	56	\$5	\$280	\$250	\$14,000	\$13,720
Retailers License	4,725	\$0	\$0	\$30	\$141,750	\$141,750
Distributing Agents Licenses	8	\$0	\$0	\$100	\$800	\$800
Total Impact from Fees						\$177,195

The measure includes provisions for certain fines, including:

- a \$200 fine for certain consumer activities and strikes the criminal penalties;
- increases the fine for a wholesaler, retailer, or distributing agent intentionally failing to deliver a required invoice to cigarette purchasers to \$10,000 for the first offense and not more than \$25,000 for the second offense and strikes the criminal penalties;
- an administrative fine for a distributing agent who stores, delivers or distributes any unstamped cigarettes in Oklahoma without a valid license easily visible to the public to

\$10,000 for the first offense and not more than \$25,000 for the second offense and strikes the criminal penalties;

- an administrative fine for the sale or possession for sale of counterfeit cigarettes with a total quantity of less than 2 cartons not to exceed \$10,000 for the first violation and not to exceed \$25,000 for a subsequent violation, and strikes the criminal penalties; and
- an administrative fine for the sale or possession for sale of counterfeit cigarettes with a total quantity of more than 2 cartons not to exceed \$25,000 for the first violation and not to exceed \$50,000 for a subsequent violation, and strikes the criminal penalties; and provides that a person whose license is so revoked will not be eligible to receive another license for a period of 5 years.

Although there is a potential positive impact from fines, OTC makes no estimate regarding the penalties, since they are imposed to deter such actions rather than increase revenues.

The measure also requires all persons operating as a tobacco products wholesaler, retailer or distributing agent have an effective, unexpired license issued by OTC. If a person operates with an expired license or operates without a license, in addition to the annual license fee, a penalty of \$0.25 per day for each day in excess of 15 days will be collected.

Although there is a potential positive impact from this penalty, OTC makes no estimated impact from these penalties, since they are imposed to deter such actions rather than increase revenues.

There is no additional revenue or administrative impact anticipated from the provisions included in the floor amendment for ESB 608.

Long Term Fiscal Considerations

As stated above.

Fiscal Analysis Reviewed By:

Janice Buchanan

House Fiscal Director