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SFA BILL ANALYSIS

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Senate Bill 809 (as introduced 10-14-99)
Sponsor: Senator Joanne G. Emmons
Committee: Finance

Date Completed: 10-19-99

CONTENT

The bill would amend the revenue Act to do the following:

- **Prohibit the acquisition, possession, sale, distribution, or importation of tobacco products that violated Federal law, or that were intended for sale outside the United States.**
- **Allow the confiscation of noncomplying products and associated records.**
- **Allow private lawsuits for violations.**

The current Act prohibits the importing of tobacco products that violate any Federal requirement for the placement of labels, warnings, or other information, including health hazards. The bill would prohibit a person from acquiring, possessing, selling, distributing, or importing into the State a tobacco product that violated any Federal law or regulation, including requirements concerning health warnings or other information on the container or individual package.

In addition, the bill would prohibit a person from acquiring, possessing, selling or distributing, or importing into the State a tobacco product or container of tobacco products if one or more of the following applied:

- The tobacco product or container bore any statement, label, stamp, sticker, or notice indicating that the manufacturer intended that the tobacco product be sold or distributed outside the United States, including a non-United States health warning and/or labels or markings stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording.
- The tobacco product, container of tobacco products, or any statement, label, stamp, sticker, or notice on a tobacco product or container had been altered from the manufacturer's original packaging to conceal the fact that the manufacturer intended that the tobacco product be sold or distributed outside the United States.
- The person knew or should have known that the manufacturer intended the tobacco product to be sold or distributed outside the United States.
- The tobacco product was imported into the United States after January 1, 2000, in violation of the Internal Revenue Code.

The bill specifies that a tobacco product or container of tobacco products that did not comply with these provisions and books and records associated with those tobacco products would be subject to seizure and confiscation by the Department of Treasury, a police officer, or designated agent under the same conditions as provided in the Tobacco Products Tax Act.

Any person who was injured by another person who violated these provisions could bring an action in circuit court for damages or equitable or injunctive relief including reasonable attorney fees. In awarding damages, the court could award up to three times the actual damages if the violation were intentional. A manufacturer of tobacco products whose tobacco products were acquired, possessed, sold, distributed, or imported into the State in violation of the current and proposed prohibitions would be presumed to be injured.

MCL 205.14 Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would increase the enforcement activities of the Department of Treasury for the Cigarette Stamp Enforcement program. The additional enforcement could increase the revenue received from cigarette tax revenue; however, the amount of additional revenue that would be received is unknown at this time. In the FY 1999-2000 General Government appropriations bill, the Legislature appropriated $1,725,000 for cigarette stamp enforcement.

Fiscal Analyst: E. Limbs

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