



Senate

General Assembly

File No. 48

January Session, 2001

Substitute Senate Bill No. 1221

Senate, March 22, 2001

The Committee on Finance, Revenue and Bonding reported through SEN. LOONEY of the 11th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING CIGARETTE LICENSEES AND
NONPARTICIPATING CIGARETTE MANUFACTURERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 4-28i of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (a) Any tobacco product manufacturer selling cigarettes to
4 consumers within this state, whether directly or through a distributor,
5 dealer or similar intermediary or intermediaries, after July 1, 2000,
6 shall (1) become a participating manufacturer, as the term is defined in
7 section II (jj) of the Master Settlement Agreement, and generally
8 perform its financial obligations under the Master Settlement
9 Agreement; or (2) place into a qualified escrow fund not later than
10 April fifteenth of [each] the year following the year in question the
11 following amounts, as adjusted for inflation: For calendar year 2000,
12 \$.0104712 per unit sold after July 1, 2000; for each of calendar years

13 2001 and 2002, \$.0136125 per unit sold; for each of calendar years 2003
14 through 2006, \$.0167539 per unit sold; for calendar year 2007 and for
15 each calendar year thereafter, \$.0188482 per unit sold.

16 Sec. 2. Subsection (b) of section 12-15 of the general statutes is
17 repealed and the following is substituted in lieu thereof:

18 (b) The commissioner may disclose (1) returns or return information
19 to (A) an authorized representative of another state agency or office,
20 upon written request by the head of such agency or office, when
21 required in the course of duty or when there is reasonable cause to
22 believe that any state law is being violated, or (B) an authorized
23 representative of an agency or office of the United States, upon written
24 request by the head of such agency or office, when required in the
25 course of duty or when there is reasonable cause to believe that any
26 federal law is being violated, provided no such agency or office shall
27 disclose such returns or return information, other than in a judicial or
28 administrative proceeding to which such agency or office is a party
29 pertaining to the enforcement of state or federal law, as the case may
30 be, in a form which can be associated with, or otherwise identify,
31 directly or indirectly, a particular taxpayer except that the names and
32 addresses of jurors or potential jurors and the fact that the names were
33 derived from the list of taxpayers pursuant to chapter 884 may be
34 disclosed by the judicial branch; (2) returns or return information to
35 the Auditors of Public Accounts, when required in the course of duty
36 under chapter 23; (3) returns or return information to tax officers of
37 another state or of a Canadian province or of a political subdivision of
38 such other state or province or of the District of Columbia or to any
39 officer of the United States Treasury Department or the United States
40 Department of Health and Human Services, authorized for such
41 purpose in accordance with an agreement between this state and such
42 other state, province, political subdivision, the District of Columbia or
43 department, respectively, when required in the administration of taxes
44 imposed under the laws of such other state, province, political

45 subdivision, the District of Columbia or the United States, respectively,
46 and when a reciprocal arrangement exists; (4) returns or return
47 information in any action, case or proceeding in any court of
48 competent jurisdiction, when the commissioner or any other state
49 department or agency is a party, and when such information is directly
50 involved in such action, case or proceeding; (5) returns or return
51 information to a taxpayer or its authorized representative, upon
52 written request for a return filed by or return information on such
53 taxpayer; (6) returns or return information to a successor, receiver,
54 trustee, executor, administrator, assignee, guardian or guarantor of a
55 taxpayer, when such person establishes, to the satisfaction of the
56 commissioner, that such person has a material interest which will be
57 affected by information contained in such returns or return
58 information; (7) information to the assessor or an authorized
59 representative of the chief executive officer of a Connecticut
60 municipality, when the information disclosed is limited to (A) a list of
61 real or personal property that is or may be subject to property taxes in
62 such municipality or (B) a list containing the name of each person who
63 is issued any license, permit or certificate which is required, under the
64 provisions of this title, to be conspicuously displayed and whose
65 address is in such municipality; (8) real estate conveyance tax return
66 information or controlling interest transfer tax return information to
67 the town clerk or an authorized representative of the chief executive
68 officer of a Connecticut municipality to which the information relates;
69 (9) estate tax returns and estate tax return information to the Probate
70 Court Administrator or to the court of probate for the district within
71 which a decedent resided at the date of the decedent's death, or within
72 which the commissioner contends that a decedent resided at the date
73 of the decedent's death or, if a decedent died a nonresident of this
74 state, in the court of probate for the district within which real estate or
75 tangible personal property of the decedent is situated, or within which
76 the commissioner contends that real estate or tangible personal
77 property of the decedent is situated; (10) returns or return information

78 to the Secretary of the Office of Policy and Management for purposes
79 of subsection (b) of section 12-7a; (11) return information to the Jury
80 Administrator, when the information disclosed is limited to the names,
81 addresses, federal Social Security numbers and dates of birth, if
82 available, of residents of this state, as defined in subdivision (1) of
83 subsection (a) of section 12-701; (12) pursuant to regulations adopted
84 by the commissioner, returns or return information to any person to
85 the extent necessary in connection with the processing, storage,
86 transmission or reproduction of such returns or return information,
87 and the programming, maintenance, repair, testing or procurement of
88 equipment, or the providing of other services, for purposes of tax
89 administration; (13) without written request and unless the
90 commissioner determines that disclosure would identify a confidential
91 informant or seriously impair a civil or criminal tax investigation,
92 returns and return information which may constitute evidence of a
93 violation of any civil or criminal law of this state or the United States to
94 the extent necessary to apprise the head of such agency or office
95 charged with the responsibility of enforcing such law, in which event
96 the head of such agency or office may disclose such return information
97 to officers and employees of such agency or office to the extent
98 necessary to enforce such law; [and] (14) names and addresses of
99 operators, as defined in section 12-407, to tourism districts, as defined
100 in section 32-302; and (15) names of each licensed dealer, as defined in
101 section 12-285, and the location of the premises covered by the dealer's
102 license.

103 Sec. 3. Subdivision (9) of section 4-28h of the general statutes is
104 repealed and the following is substituted in lieu thereof:

105 (9) "Tobacco product manufacturer" means an entity, or its
106 successor, that, after July 1, 2000, directly and not exclusively through
107 an affiliate (A) manufactures cigarettes anywhere which the
108 manufacturer intends to be sold in the United States, including
109 cigarettes intended to be sold in the United States through an importer,

110 provided that an entity that manufactures cigarettes that it intends to
111 be sold in the United States shall not be considered to be a tobacco
112 product manufacturer under this subparagraph (A) if (i) such
113 cigarettes are sold in the United States exclusively through an importer
114 that is an original participating manufacturer, as that term is defined in
115 the Master Settlement Agreement, that will be responsible for
116 payments under the Master Settlement Agreement with respect to such
117 cigarettes as a result of the provisions of subsection II (mm) of the
118 Master Settlement Agreement and that pays the taxes specified in
119 subsection II (z) of the Master Settlement Agreement, and (ii) the
120 manufacturer of such cigarettes does not market or advertise such
121 cigarettes in the United States; or (B) is the first purchaser anywhere
122 for resale in the United States of cigarettes manufactured anywhere
123 that the manufacturer does not intend to be sold in the United States.
124 A tobacco product manufacturer shall not include an affiliate of a
125 tobacco product manufacturer unless such affiliate itself meets the
126 criteria specified in subparagraph (A) or (B) of this subdivision.

127 Sec. 4. This act shall take effect from its passage.

FIN *JOINT FAVORABLE SUBST.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below

Affected Agencies: Office of the Attorney General, Department of Revenue Services

Municipal Impact: None

Explanation

State Impact:

The bill helps to ensure that there will be no future penalty assessments against the state’s tobacco settlement payments.

During the 2000 session the legislature enacted legislation to regulate cigarette manufacturers that are not participating in the tobacco Master Settlement Agreement (MSA). This bill makes technical clarifications to the 2000 legislation because the Attorney General’s Office has stated that the tobacco companies that signed the MSA found two technical points where our legislation did not conform to the “model legislation”. The MSA contains assessments against a state’s tobacco settlement payments if the state does not enact legislation that conforms to the “model legislation” language in the MSA. Therefore it is uncertain whether failure to pass this legislation would result in further assessments against the state’s tobacco settlement payments.

It should be noted that the state is currently disputing a reduction of \$6.5 million in its tobacco settlement payments (\$2 million in April

2000 and \$4.5 million in January 2001). The state's payments were reduced because the legislation regulating non-participating tobacco manufacturers was not enacted in 1999, as required by the MSA.

There is no fiscal impact associated with allowing the commissioner to disclose each licensed cigarette dealer's name and where the dealer is allowed to sell cigarettes.

OLR Bill Analysis

sSB 1221

AN ACT CONCERNING CIGARETTE LICENSEES AND NONPARTICIPATING CIGARETTE MANUFACTURERS.**SUMMARY:**

This bill allows the revenue services commissioner to disclose each licensed cigarette dealer's name and where the dealer is allowed to sell cigarettes. Under current law, the information is confidential.

The bill also expressly requires cigarette manufacturers that are not participating in the tobacco master settlement agreement to make escrow fund payments for cigarettes sold in Connecticut by April 15 of the year following the sale year. Current law could be interpreted as requiring manufacturers to make payments by April 15 of the year when the sales occur.

EFFECTIVE DATE: Upon passage

BACKGROUND***Cigarette Licenses***

The law bars anyone from selling cigarettes in the state without a license from the Department of Revenue Services. There are two kinds of licenses. Cigarette manufacturers, wholesalers, and cigarette sellers who operate five or more retail outlets or 25 or more cigarette vending machines are classified as "distributors". All other cigarette retailers are considered "dealers."

Nonparticipating Cigarette Manufacturers

By law, cigarette manufacturers that sell cigarettes in Connecticut must either: (1) enter into, and perform financial obligations under, the master settlement agreement between Connecticut and four leading

tobacco companies, or (2) pay into a qualified escrow account a specified amount for each cigarette they sell in the state. Tobacco companies that choose the latter option are considered “nonparticipating manufacturers.”

The escrow requirements are part of the “model statute,” which the General Assembly passed in 2000 as a condition of the state receiving its full funding allotment under the national tobacco settlement.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 41 Nay 0