



Senate

General Assembly

File No. 611

January Session, 2011

Substitute Senate Bill No. 1215

Senate, April 20, 2011

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CERTAIN CIGARETTE TAX VIOLATIONS AND OTHER CHANGES.

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

1 Section 1. Subsection (e) of section 12-286 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2011*):

4 (e) (1) Any person who knowingly sells, offers for sale or possesses
5 with intent to sell any cigarettes, without a license as provided in this
6 chapter, shall be fined not more than five hundred dollars or
7 imprisoned for not more than three months, or both, for each offense.
8 Each day of such unauthorized operation may be deemed a separate
9 offense. The provisions of this subdivision shall not apply to any
10 person whose dealer's license has expired, provided the period of
11 operation without such license is not more than ninety days after the
12 date of expiration.

13 (2) Any person who knowingly sells at retail, offers for sale at retail
14 or possesses with intent to sell at retail any taxed tobacco products, as
15 defined in section 12-330a, without a dealer's license as provided in
16 this chapter, shall be fined not more than five hundred dollars or
17 imprisoned for not more than three months, or both, for each offense.
18 Each day of such unauthorized operation may be deemed a separate
19 offense. The provisions of this subdivision shall not apply to any
20 person whose dealer's license has expired, provided the period of
21 operation without such license is not more than ninety days from the
22 date of expiration.

23 (3) Any person whose dealer's license has expired and who
24 knowingly sells at retail, offers for sale at retail or possesses with intent
25 to sell at retail any cigarettes or taxed tobacco products, as defined in
26 section 12-330a, where such person's period of operation without such
27 license is not more than ninety days from the date of expiration of such
28 license, shall have committed an infraction and shall be fined ninety
29 dollars.

30 Sec. 2. Subsection (a) of section 12-304 of the general statutes is
31 repealed and the following is substituted in lieu thereof (*Effective July*
32 *1, 2011*):

33 (a) (1) No distributor shall sell, and no other person shall sell, offer
34 for sale, display for sale or possess with intent to sell, any cigarettes
35 [(1)] (A) which do not bear stamps evidencing the payment of the tax
36 imposed by this chapter, or [(2)] (B) the stamping of which is
37 prohibited by subsection (b) of section 12-302 or subsection (b) of
38 section 12-303, provided a licensed dealer may keep on hand, at the
39 location for which such dealer's license is issued, unstamped cigarettes,
40 other than cigarettes, the stamping of which is prohibited by
41 subsection (b) of section 12-303, for a period not exceeding twenty-four
42 hours. Any unstamped cigarettes in the possession of a dealer shall be
43 presumed to have been held by such dealer for more than twenty-four
44 hours unless proof is shown to the contrary.

45 (2) [Any] Except as provided in subdivision (3) of this subsection,

46 any person who knowingly violates any provision of subdivision (1) of
47 this subsection shall be fined not more than one thousand dollars or
48 imprisoned not more than one year or both.

49 (3) Any licensed dealer who knowingly violates any provision of
50 subdivision (1) of this subsection shall have committed an infraction
51 and shall be fined ninety dollars, provided (A) the quantity of
52 unstamped cigarettes in the possession of such dealer does not exceed
53 six hundred cigarettes, and (B) it is such dealer's first violation of the
54 provisions of this subsection.

55 Sec. 3. Section 12-487 of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective July 1, 2011*):

57 (a) Each motor carrier operating or causing to be operated on any
58 highway in this state any qualified motor vehicle, as defined in section
59 12-478, solely and exclusively in intrastate commerce shall register
60 each such vehicle with the Commissioner of Revenue Services, for a fee
61 of ten dollars per vehicle, which registration shall be renewable
62 annually. On the registration of any such vehicle, said commissioner
63 shall provide identification markers for such vehicle to be affixed to
64 the lower rear portion of the exterior side of the vehicle's doors. Such
65 marker shall remain the property of the state and may be recalled for
66 any violation of the provisions of this chapter or of the regulations
67 promulgated hereunder.

68 (b) (1) Each motor carrier operating or causing to be operated on
69 any highway in this state any qualified motor vehicle, as defined in
70 section 12-478, in interstate commerce shall, if such carrier's base
71 jurisdiction is this state, for purposes of any agreement entered into by
72 the commissioner under subsection (c) of section 12-486, register each
73 such vehicle with the Commissioner of Revenue Services, for a fee of
74 ten dollars per vehicle, which registration shall be renewable annually.
75 On the registration of any such vehicle, the commissioner shall provide
76 identification markers for such vehicle to be affixed as required by
77 such agreement. Such marker shall remain the property of the state
78 and may be recalled for any violation of the provisions of this chapter

79 or of the regulations adopted thereunder.

80 (2) Each motor carrier operating or causing to be operated on any
81 highway in this state any qualified motor vehicle, as defined in section
82 12-478, in interstate commerce shall, if such carrier's base jurisdiction is
83 other than this state, for purposes of any agreement entered into by the
84 commissioner under subsection (c) of section 12-486, affix, in the
85 manner required by such agreement, identification markers to such
86 vehicle.

87 (c) No person shall operate or cause to be operated any such vehicle
88 in this state unless such vehicle bears the identification markers
89 required by this section, provided the commissioner by letter or
90 telegram may authorize the operation, for a period not to exceed ten
91 days as to any one motor carrier, of a vehicle or vehicles without such
92 identification marker when the enforcement of this section would
93 cause undue delay and hardship in the operation of such vehicle or
94 vehicles and when the enforcement of this chapter will not be
95 adversely affected. Any person operating or causing to be operated in
96 this state any qualified motor vehicle, as defined in section 12-478, to
97 which the identification markers required by this section or any
98 regulations adopted in accordance with the provisions of chapter 54
99 are not properly affixed shall have committed an infraction, the fine for
100 which shall be ninety dollars. Any [provision of the general statutes to
101 the contrary notwithstanding, any] person who is alleged to have
102 committed such an infraction shall follow the procedures set forth in
103 section 51-164n or section 51-164o, as applicable.

104 (d) (1) For purposes of this subsection, "dyed diesel fuel" means
105 diesel fuel that has been dyed in compliance with, or in intended
106 compliance with, regulations adopted under Section 4082 of the
107 Internal Revenue Code of 1986, or any subsequent corresponding
108 internal revenue code of the United States, as amended from time to
109 time; "highway" has the same meaning as provided in section 14-1; and
110 "motor vehicle" has the same meaning as provided in section 14-1, but
111 does not include any passenger motor vehicle, as defined in section 14-

112 1, or any passenger and commercial motor vehicle, as defined in
113 section 14-1.

114 (2) Any person operating or causing to be operated on any highway
115 any motor vehicle that contains dyed diesel fuel in the fuel supply tank
116 of the propulsion engine of such vehicle, unless permitted to do so
117 under a federal law or regulation relating to the use of dyed diesel fuel
118 on the public highways, shall be fined not more than one thousand
119 dollars.

120 (3) Any person who, upon request by an authorized official of the
121 Department of Revenue Services or another state agency, refuses to
122 allow an inspection of the fuel supply tank of the propulsion engine of
123 a motor vehicle shall be fined not more than one thousand dollars.

124 (4) Any person who is alleged to have violated a provision of this
125 subsection shall follow the procedures set forth in section 51-164n or
126 section 51-164o, as applicable.

127 Sec. 4. Subdivision (2) of subsection (b) of section 12-687 of the
128 general statutes is repealed and the following is substituted in lieu
129 thereof (*Effective from passage and applicable to payments for tax periods*
130 *beginning on or after January 1, 2012*):

131 (2) (A) Where any tax payment is treated under this subsection as a
132 tax payment not made in a timely manner because it is made by other
133 than electronic funds transfer, there shall be imposed a penalty
134 computed as follows: (i) For the first imposition of a penalty under this
135 subparagraph relating to a tax period beginning on or after January 1,
136 2012, the penalty shall be equal to ten per cent of the tax payment
137 required to be made by electronic funds transfer, or one hundred
138 dollars, whichever is less; (ii) for the second imposition of a penalty
139 under this subparagraph relating to a tax period beginning on or after
140 January 1, 2012, the penalty shall be equal to ten per cent of the tax
141 payment required to be made by electronic funds transfer, or ten
142 thousand dollars, whichever is less; and (iii) for the third or any
143 subsequent imposition of a penalty under this subparagraph relating

144 to a tax period ending on or after January 1, 2012, the penalty shall be
 145 equal to ten per cent of the tax payment required to be made by
 146 electronic funds transfer.

147 (B) Where any tax payment made by electronic funds transfer is
 148 treated under this subsection as a tax payment not made in a timely
 149 manner because the bank account designated by the department is not
 150 credited by electronic funds transfer for the amount of the tax payment
 151 on or before the due date thereof, there shall be imposed a penalty
 152 equal to two per cent of the tax payment required to be made by
 153 electronic funds transfer, if such failure to pay by electronic funds
 154 transfer is for not more than five days, five per cent of the tax payment
 155 required to be made by electronic funds transfer, if such failure to pay
 156 by electronic funds transfer is for more than five days but not more
 157 than fifteen days, and ten per cent of the tax payment required to be
 158 made by electronic funds transfer, if such failure to pay by electronic
 159 funds transfer is for more than fifteen days.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	12-286(e)
Sec. 2	<i>July 1, 2011</i>	12-304(a)
Sec. 3	<i>July 1, 2011</i>	12-487
Sec. 4	<i>from passage and applicable to payments for tax periods beginning on or after January 1, 2012</i>	12-687(b)(2)

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Department of Revenue Services; Judicial Dept.	GF - Revenue Impact	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill reduces and limits certain penalties related to electronic tax filing and cigarette violations, and imposes a fine for the use of dyed diesel fuel in a motor vehicle.

The reduction in penalties for cigarette and tax filing violations is anticipated to result in a revenue loss; the imposition of the fine for the use of dyed diesel fuel is anticipated to result in a revenue gain. Since there are relatively few violations under these statutes, any revenue impact is anticipated to be minimal.

The Out Years

The annualized ongoing fiscal impact identified above would remain constant into the future as fine and penalty amounts are set by statute.

OLR Bill Analysis**sSB 1215*****AN ACT CONCERNING CERTAIN CIGARETTE TAX VIOLATIONS
AND OTHER CHANGES.*****SUMMARY:**

This bill:

1. reduces penalties for certain cigarette dealers who (a) continue to sell cigarettes or taxed tobacco products after their licenses expire or (b) possess cigarettes that do not have required Connecticut tax stamps;
2. imposes a fine of up to \$1,000 on anyone who (a) uses dyed diesel fuel in a commercial vehicle on a public highway or (b) refuses to allow authorized state officials to inspect such a vehicle's fuel tank for dyed diesel fuel on request;
3. limits the penalties imposed on taxpayers who, for the first or second time, fail to make tax payments electronically when required to do so; and
4. requires a nonresident charged with an infraction for operating a motor carrier on state highways without proper identification markers to either post a bond equal to the fine or, if the violator lives in a state that has reciprocity with Connecticut for suspending an operator's license for nonpayment of a fine, pay by mail or plead not guilty through the Centralized Infractions Bureau, as appropriate.

EFFECTIVE DATE: July 1, 2011, except for the electronic payment penalty limits, which are effective on passage and applicable to tax periods starting on or after January 1, 2012.

§ 1 – SALE OF CIGARETTES OR TAXED TOBACCO PRODUCTS WITH AN EXPIRED LICENSE

It is illegal to sell, offer to sell, or possess with intent to sell cigarettes or taxed tobacco products without a license from the Department of Revenue Services (DRS). Under current law, the penalty for each knowing violation is a fine of up to \$500, up to three months in jail, or both, with each day of unauthorized operation counted as a separate offense. In the case of a cigarette dealer who operates for no more than 90 days after his or her license expires, the bill reduces the penalty to an infraction, with a \$90 fine.

Taxed tobacco products include snuff, cigars, cheroots, pipe tobacco, and similar products.

§ 2 – SALE OR POSSESSION OF UNSTAMPED CIGARETTES

It is illegal to sell, offer to sell, display for sale, or possess cigarettes without the required Connecticut tax stamp, except that a licensed cigarette dealer may possess unstamped cigarettes, other than those that may not legally be stamped, at a licensed location for no more than 24 hours. Under current law, the penalty for any knowing violation is a fine of up to \$1,000, up to one year in jail, or both. Under the bill, if it is the dealer's first violation and he or she possesses no more than 600 unstamped cigarettes, the penalty is reduced to an infraction, with a \$90 fine.

§ 3 – ILLEGAL USE OF DYED DIESEL FUEL

Federal law exempts diesel fuel used for certain non-highway purposes from federal fuel taxes and requires exempt diesel fuel to be dyed red so it can be identified.

This bill imposes a fine of up to \$1,000 on anyone who uses dyed diesel fuel in a motor vehicle, other than a passenger or combined passenger-commercial vehicle, on a public highway. The penalty does not apply to those who use dyed diesel fuel under federal law or regulation. It imposes the same penalty on anyone who refuses to allow an authorized DRS or other state official to inspect such a

vehicle's fuel tank upon request.

The bill requires violators who live in Connecticut to pay the fine by mail, or plead not guilty through the Centralized Infractions Bureau. If the violator is a nonresident, he or she must either post a bond equal to the fine or, if the violator lives in a state that has reciprocity with Connecticut for suspending an operator's license for nonpayment of a fine, pay or plead not guilty through the Centralized Infractions Bureau.

§ 4 – PENALTY FOR FAILING TO PAY TAXES ELECTRONICALLY

The law allows the DRS commissioner to require taxpayers and employers to pay taxes by electronic funds transfer if they have (1) \$4,000 or more in annual tax liability or (2) more than \$2,000 in annual withholding tax payments. The law also penalizes any such payment not made electronically as if it were paid late.

Under current law, the penalty for failing to pay electronically when required to do so is 10% of the required electronic payment. This bill maintains the 10% penalty for a third or subsequent failure, but establishes maximum penalties of \$100 for the first and \$10,000 for the second such failure.

BACKGROUND

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus a \$20 or \$35 surcharge and an additional fee based on the amount of the fine. There may be other added charges depending upon the type of infraction. With the various additional charges, the total amount due can be over \$300 but often is less than \$100. An infraction is not a crime and violators can pay the fine by mail without making a court appearance.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 52 Nay 0 (04/07/2011)