



Senate

General Assembly

File No. 577

February Session, 2012

Substitute Senate Bill No. 357

Senate, April 23, 2012

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 VARIOUS STATUTES PERTAINING TO THE DEPARTMENT OF REVENUE SERVICES.

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

1 Section 1. Subsection (b) of section 12-15 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2012*):

4 (b) The commissioner may disclose (1) returns or return information
5 to (A) an authorized representative of another state agency or office,
6 upon written request by the head of such agency or office, when
7 required in the course of duty or when there is reasonable cause to
8 believe that any state law is being violated, or (B) an authorized
9 representative of an agency or office of the United States, upon written
10 request by the head of such agency or office, when required in the
11 course of duty or when there is reasonable cause to believe that any
12 federal law is being violated, provided no such agency or office shall
13 disclose such returns or return information, other than in a judicial or

14 administrative proceeding to which such agency or office is a party
15 pertaining to the enforcement of state or federal law, as the case may
16 be, in a form which can be associated with, or otherwise identify,
17 directly or indirectly, a particular taxpayer except that the names and
18 addresses of jurors or potential jurors and the fact that the names were
19 derived from the list of taxpayers pursuant to chapter 884 may be
20 disclosed by the Judicial Branch; (2) returns or return information to
21 the Auditors of Public Accounts, when required in the course of duty
22 under chapter 23; (3) returns or return information to tax officers of
23 another state or of a Canadian province or of a political subdivision of
24 such other state or province or of the District of Columbia or to any
25 officer of the United States Treasury Department or the United States
26 Department of Health and Human Services, authorized for such
27 purpose in accordance with an agreement between this state and such
28 other state, province, political subdivision, the District of Columbia or
29 department, respectively, when required in the administration of taxes
30 imposed under the laws of such other state, province, political
31 subdivision, the District of Columbia or the United States, respectively,
32 and when a reciprocal arrangement exists; (4) returns or return
33 information in any action, case or proceeding in any court of
34 competent jurisdiction, when the commissioner or any other state
35 department or agency is a party, and when such information is directly
36 involved in such action, case or proceeding; (5) returns or return
37 information to a taxpayer or its authorized representative, upon
38 written request for a return filed by or return information on such
39 taxpayer; (6) returns or return information to a successor, receiver,
40 trustee, executor, administrator, assignee, guardian or guarantor of a
41 taxpayer, when such person establishes, to the satisfaction of the
42 commissioner, that such person has a material interest which will be
43 affected by information contained in such returns or return
44 information; (7) information to the assessor or an authorized
45 representative of the chief executive officer of a Connecticut
46 municipality, when the information disclosed is limited to (A) a list of
47 real or personal property that is or may be subject to property taxes in
48 such municipality, or (B) a list containing the name of each person who

49 is issued any license, permit or certificate which is required, under the
50 provisions of this title, to be conspicuously displayed and whose
51 address is in such municipality; (8) real estate conveyance tax return
52 information or controlling interest transfer tax return information to
53 the town clerk or an authorized representative of the chief executive
54 officer of a Connecticut municipality to which the information relates;
55 (9) estate tax returns and estate tax return information to the Probate
56 Court Administrator or to the court of probate for the district within
57 which a decedent resided at the date of the decedent's death, or within
58 which the commissioner contends that a decedent resided at the date
59 of the decedent's death or, if a decedent died a nonresident of this
60 state, in the court of probate for the district within which real estate or
61 tangible personal property of the decedent is situated, or within which
62 the commissioner contends that real estate or tangible personal
63 property of the decedent is situated; (10) returns or return information
64 to the (A) Secretary of the Office of Policy and Management for
65 purposes of subsection (b) of section 12-7a, and (B) Office of Fiscal
66 Analysis for purposes of, and subject to the provisions of, subdivision
67 (2) of subsection (f) of section 12-7b; (11) return information to the Jury
68 Administrator, when the information disclosed is limited to the names,
69 addresses, federal Social Security numbers and dates of birth, if
70 available, of residents of this state, as defined in subdivision (1) of
71 subsection (a) of section 12-701; (12) pursuant to regulations adopted
72 by the commissioner, returns or return information to any person to
73 the extent necessary in connection with the processing, storage,
74 transmission or reproduction of such returns or return information,
75 and the programming, maintenance, repair, testing or procurement of
76 equipment, or the providing of other services, for purposes of tax
77 administration; (13) without written request and unless the
78 commissioner determines that disclosure would identify a confidential
79 informant or seriously impair a civil or criminal tax investigation,
80 returns and return information which may constitute evidence of a
81 violation of any civil or criminal law of this state or the United States to
82 the extent necessary to apprise the head of such agency or office
83 charged with the responsibility of enforcing such law, in which event

84 the head of such agency or office may disclose such return information
85 to officers and employees of such agency or office to the extent
86 necessary to enforce such law; (14) names and addresses of operators,
87 as defined in section 12-407, to tourism districts, as defined in section
88 10-397; (15) names of each licensed dealer, as defined in section 12-285,
89 and the location of the premises covered by the dealer's license; (16) to
90 a tobacco product manufacturer that places funds into escrow
91 pursuant to the provisions of subsection (a) of section 4-28i, return
92 information of a distributor licensed under the provisions of chapter
93 214 or chapter 214a, provided the information disclosed is limited to
94 information relating to such manufacturer's sales to consumers within
95 this state, whether directly or through a distributor, dealer or similar
96 intermediary or intermediaries, of cigarettes, as defined in section 4-
97 28h, and further provided there is reasonable cause to believe that such
98 manufacturer is not in compliance with section 4-28i; (17) returns,
99 which shall not include a copy of the return filed with the
100 commissioner, or return information for purposes of section 12-217z;
101 [and] (18) returns or return information to the State Elections
102 Enforcement Commission, upon written request by said commission,
103 when necessary to investigate suspected violations of state election
104 laws; and (19) returns or return information for purposes of, and
105 subject to the conditions of, subsection (e) of section 5-240, as amended
106 by this act.

107 Sec. 2. Section 5-240 of the general statutes is repealed and the
108 following is substituted in lieu thereof (*Effective July 1, 2012*):

109 (a) An appointing authority, subject to any regulations issued by the
110 Secretary of the Office of Policy and Management, may reprimand or
111 warn an employee in the classified service under the appointing
112 authority's jurisdiction or suspend such an employee without pay or
113 with reduced pay for an aggregate period not exceeding sixty calendar
114 days in any calendar year. For any employee not included in any
115 collective bargaining unit of state employees, any written reprimand or
116 warning shall be included in the employee's personnel file and, if not
117 merged in the next service rating, shall be expunged after twelve

118 months from the date of reprimand or warning. Any such written
119 reprimand or warning may be reviewed in accordance with the
120 procedures established in subsections (h) and (i) of section 5-202.

121 (b) An appointing authority, subject to any regulations issued by the
122 Secretary of the Office of Policy and Management, may demote an
123 employee in the classified service under the appointing authority's
124 jurisdiction from a position in any given class or grade to a position in
125 a lower class or grade. The appointing authority shall give the
126 Secretary of the Office of Policy and Management or the secretary's
127 designated representative written notice of the authority's intention to
128 effect any such demotion not less than two weeks before the date it is
129 intended to become effective. The Secretary of the Office of Policy and
130 Management may transfer such an employee whose record is
131 otherwise satisfactory to a position under the jurisdiction of another
132 appointing authority, with the approval of such other appointing
133 authority.

134 (c) An appointing authority may dismiss any employee in the
135 classified service when the authority considers the good of the service
136 will be served thereby. A permanent employee shall be given written
137 notice of such dismissal at least two weeks in advance of the
138 employee's dismissal, except as hereinafter provided, and a copy of the
139 same shall be filed with the Secretary of the Office of Policy and
140 Management or the secretary's designated representative. Such notice
141 shall set forth the reasons for dismissal in sufficient detail to indicate
142 whether the employee was discharged for misconduct, incompetence
143 or other reasons relating to the effective performance of the employee's
144 duties and shall be prepared in such form and given in such manner as
145 the Secretary of the Office of Policy and Management prescribes. The
146 Secretary of the Office of Policy and Management may provide by
147 regulation for the waiving of advance notice in cases of serious
148 misconduct by an employee affecting the public, the welfare, health or
149 safety of patients, inmates or state employees or the protection of state
150 property. Such regulation shall provide for written notice to a
151 permanent employee who has attained permanent status and shall not

152 preclude whatever rights any employee may have to appeal. The name
153 of any such employee dismissed for incompetence or other reasons
154 relating to the effective performance of the employee's duties shall be
155 immediately removed from the eligible list in the office of the
156 Commissioner of Administrative Services. No appointing authority
157 shall pay any dismissed employee notice period pay or any other
158 separation pay at a rate that exceeds the dismissed employee's rate of
159 compensation, at the time of dismissal, for two weeks, or the amount
160 of notice period provided for in an applicable collective bargaining
161 agreement.

162 (d) An appointing authority, subject to any regulations issued by the
163 Secretary of the Office of Policy and Management, may lay off any
164 employee in the classified service as provided in section 5-241.

165 (e) (1) As provided in subsection (b) of section 12-15, as amended by
166 this act, the Commissioner of Revenue Services may, subject to such
167 terms and conditions as said commissioner may prescribe, disclose
168 return or return information, as defined in said section 12-15, in
169 connection with a personnel proceeding, including any administrative
170 or judicial proceedings related thereto, involving an employee or
171 former employee of the Department of Revenue Services, if said
172 commissioner determines that such information is relevant and
173 material to such proceeding. Return and return information disclosed
174 under this subsection shall be used only for purposes of and to the
175 extent necessary in such proceeding and shall not be further disclosed
176 by any person involved in such proceeding.

177 (2) Any person who violates any provision of this subsection shall
178 be fined not more than one thousand dollars or imprisoned not more
179 than one year, or both.

180 Sec. 3. Section 12-3a of the general statutes is repealed and the
181 following is substituted in lieu thereof (*Effective July 1, 2012*):

182 (a) There is created a Penalty Review Committee which shall consist
183 of the State Comptroller or an employee of the office of the State

184 Comptroller designated by said Comptroller, the Secretary of the
185 Office of Policy and Management or an employee of the Office of
186 Policy and Management designated by said secretary and the
187 Commissioner of Revenue Services or an employee of the Department
188 of Revenue Services designated by said commissioner. Said committee
189 shall meet monthly or as often as necessary to approve any waiver of
190 penalty, where such waiver is in excess of one thousand dollars, which
191 the Commissioner of Revenue Services [, or the Commissioner of
192 Consumer Protection,] is authorized to waive in accordance with this
193 title, [which is in excess of five hundred dollars] or which the
194 Commissioner of Consumer Protection is authorized to waive in
195 accordance with chapter 226. A majority vote of the committee shall be
196 required for approval of such waiver.

197 (b) An itemized statement of all waivers approved under this
198 section shall be available to the public for inspection by any person.

199 (c) The Penalty Review Committee created pursuant to subsection
200 (a) of this section shall adopt regulations in accordance with chapter 54
201 establishing guidelines for the waiver of any penalty, where such
202 waiver is in excess of [five hundred] one thousand dollars.

203 (d) Any person aggrieved by the action of the Penalty Review
204 Committee may, within one month after notice of such action is
205 delivered or mailed to such person, appeal therefrom to the superior
206 court for the judicial district of New Britain, which shall be
207 accompanied by a citation to the members of said committee to appear
208 before said court. Such citation shall be signed by the same authority,
209 and such appeal shall be returnable at the same time and served and
210 returned in the same manner as is required in case of a summons in a
211 civil action. The authority issuing the citation shall take from the
212 appellant a bond or recognizance to the state of Connecticut with
213 surety to prosecute the appeal to effect and to comply with the orders
214 and decrees of the court in the premises. Such appeals shall be
215 preferred cases, to be heard, unless cause appears to the contrary, at
216 the first session, by the court or by a committee appointed by it. Said

217 court may grant such relief as may be equitable. If the appeal is
218 without probable cause, the court may tax double or triple costs, as the
219 case demands; and, upon all such appeals which may be denied, costs
220 may be taxed against the appellant at the discretion of the court, but no
221 costs shall be taxed against the state.

222 Sec. 4. Subsection (a) of section 12-285b of the general statutes is
223 repealed and the following is substituted in lieu thereof (*Effective from*
224 *passage*):

225 (a) (1) Every tobacco product manufacturer, as defined in section 4-
226 28h, selling cigarettes to consumers within this state, whether directly
227 or through a distributor, dealer, or similar intermediary or
228 intermediaries, shall secure a cigarette manufacturer's license from the
229 Commissioner of Revenue Services. Such license shall be renewable
230 annually. The annual fee for a cigarette manufacturer's license shall be
231 five thousand two hundred fifty dollars. The commissioner shall not
232 include or retain in the directory of tobacco product manufacturers
233 developed and maintained in accordance with section 4-28m the name
234 or brand families of any tobacco product manufacturer that has failed
235 to secure and retain a cigarette manufacturer's license in accordance
236 with this section.

237 (2) Every person owning, leasing, possessing, controlling, operating
238 or otherwise using any cigarette rolling machine, as described in
239 subdivision (3) of this subsection, at such person's retail establishment
240 or commercial premises in this state, or permitting or allowing the
241 operation or use at such person's retail establishment or commercial
242 premises in this state of any such cigarette rolling machine, shall be
243 deemed to be a tobacco product manufacturer, as defined in section 4-
244 28h, and shall be required to secure and retain a cigarette
245 manufacturer's license in accordance with this section.

246 (3) Any machine at a retail establishment or commercial premises
247 that enables a person to process, at such establishment or premises,
248 tobacco or any product that is made or derived from tobacco into a roll
249 or tube shall be deemed a cigarette rolling machine.

250 (4) Any cigarette dealer's license or cigarette distributor's license
251 issued under the provisions of this chapter, and any tobacco products
252 distributor's license issued under the provisions of chapter 214a, to any
253 person described in subdivision (2) of this subsection shall, if such
254 person has not secured and does not retain a cigarette manufacturer's
255 license in accordance with this section, be subject to suspension or
256 revocation in accordance with section 12-295. Any such person's failure
257 to secure and retain a cigarette manufacturer's license in accordance
258 with this section shall also be deemed to be a failure to comply with
259 the provisions of chapter 219 and the seller's permit of any such person
260 shall also be subject to suspension or revocation in accordance with
261 section 12-409.

262 Sec. 5. Subsection (b) of section 38a-91nn of the 2012 supplement to
263 the general statutes, as amended by section 66 of public act 11-1 of the
264 October special session, is repealed and the following is substituted in
265 lieu thereof (*Effective July 1, 2012*):

266 (b) Each captive insurance company shall pay to the Commissioner
267 of Revenue Services, [in the month of March] on or before March first
268 of each year, a tax at the rate of (1) two hundred fourteen thousandths
269 of one per cent on the first twenty million dollars, (2) one hundred
270 forty-three thousandths of one per cent on the next twenty million
271 dollars, (3) forty-eight thousandths of one per cent on the next twenty
272 million dollars, and (4) twenty-four thousandths of one per cent on
273 each dollar thereafter, on assumed reinsurance premiums collected or
274 contracted for on policies or contracts of insurance written by the
275 captive insurance company during the year ending December thirty-
276 first next preceding, provided no tax under this subsection shall apply
277 to premiums for risks or portions of risks that are subject to taxation on
278 a direct basis pursuant to subsection (a) of this section. No tax under
279 this subsection shall be payable in connection with the receipt of assets
280 in exchange for the assumption by a captive insurance company of loss
281 reserves and other liabilities of another insurer under common
282 ownership and control, if such transaction is part of a plan to
283 discontinue the operations of such other insurer and if the intent of the

284 parties to such transaction is to renew or maintain such business with
285 the captive insurance company.

286 Sec. 6. Subsection (d) of section 38a-91nn of the 2012 supplement to
287 the general statutes, as amended by section 66 of public act 11-1 of the
288 October special session, is repealed and the following is substituted in
289 lieu thereof (*Effective July 1, 2012, and applicable to calendar years*
290 *commencing on or after January 1, 2012*):

291 (d) The provisions of sections 12-204, [12-204d,] 12-204c to 12-204g,
292 inclusive, and 12-205 to 12-208, inclusive, shall apply to the provisions
293 of sections 38a-91aa to 38a-91tt, inclusive, as amended by this act, in
294 the same manner and with the same force and effect as if the language
295 of said sections 12-204, [12-204d,] 12-204c to 12-204g, inclusive, and 12-
296 205 to 12-208, inclusive, had been incorporated in full into this section
297 and had expressly referred to the tax due under this section, except to
298 the extent that any such language is inconsistent with a provision of
299 said sections 38a-91aa to 38a-91tt, inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012</i>	12-15(b)
Sec. 2	<i>July 1, 2012</i>	5-240
Sec. 3	<i>July 1, 2012</i>	12-3a
Sec. 4	<i>from passage</i>	12-285b(a)
Sec. 5	<i>July 1, 2012</i>	38a-91nn(b)
Sec. 6	<i>July 1, 2012, and applicable to calendar years commencing on or after January 1, 2012</i>	38a-91nn(d)

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 13 \$	FY 14 \$
Department of Revenue Services	GF - Revenue Gain	Less than \$1.0 million	Less than \$1.0 million

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires retailers with certain cigarette-rolling machines to obtain a manufacturer's license from the Department of Revenue Services. This results in a revenue gain of less than \$1.0 million annually from license fees and the cigarette tax.

The license fee for a cigarette manufacturer's license is currently \$5,250 payable annually. It is estimated there are currently fewer than 15 commercial locations within the state with applicable cigarette-rolling machines.

The remaining provisions of the bill do not result in any fiscal impact to the state or municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Department of Revenue Services Annual Report

OLR Bill Analysis**sSB 357*****AN ACT CONCERNING VARIOUS STATUTES PERTAINING TO THE DEPARTMENT OF REVENUE SERVICES.*****SUMMARY:**

This bill makes anyone who has or allows someone to use a “cigarette rolling machine” to make cigarettes at his or her retail or commercial premises a tobacco product manufacturer, subject to existing laws and restrictions governing such manufacturers who sell cigarettes in Connecticut.

By making such businesses tobacco product manufacturers, the bill requires them to certify annually to the Department of Revenue Services (DRS) commissioner that they are either (1) entering into, and performing financial obligations under, the 1998 master tobacco settlement agreement or (2) paying into a qualified escrow account a specified inflation-adjusted amount for each “unit” (cigarette or 0.09 ounces of roll-your-own tobacco) they sell in the state. For sales in 2011, the escrow payment is 2.82 cents per unit. It also extends to any such business the existing ban on, and penalties for, selling, either directly or through distributors or dealers, cigarettes made by manufacturers not listed in the DRS directory of manufacturers and their cigarette brands that comply with the law.

In addition, the bill expressly (1) requires those who meet its conditions regarding cigarette rolling machines to get and maintain a cigarette manufacturer’s license and (2) if they fail to do so, allows DRS, after a hearing, to suspend or revoke their cigarette dealer or cigarette or tobacco product distributor license and sales tax seller’s permit.

The bill also:

1. allows the DRS commissioner to disclose certain tax information in connection with personnel proceedings involving a current or former DRS employee (§§ 1 & 2);
2. increases, from more than \$500 to more than \$1,000, the threshold for tax or lottery sales agent penalty waivers requiring Penalty Review Committee review and approval (§ 3);
3. requires captive insurance companies to pay premium taxes on assumed reinsurance premiums by March 1st annually, rather than in March, thus making the deadline the same as the existing deadline for captives to pay premium taxes on direct-written premiums (§ 5); and
4. makes a technical change (§ 6).

EFFECTIVE DATE: The cigarette rolling machine provisions and expanded definition of a tobacco product manufacturer are effective on passage, and the remainder of the bill is effective July 1, 2012. The technical change applies to calendar years starting on or after January 1, 2012.

§ 4 — CIGARETTE ROLLING MACHINES AND TOBACCO PRODUCT MANUFACTURERS

Cigarette Rolling Machines

The bill defines a cigarette rolling machine as one that allows someone to process tobacco or anything made or derived from tobacco into a roll or tube. To be covered, the machine must be located, and the rolling process must take place, at a retail establishment or on commercial premises.

Expanded Definition of Tobacco Product Manufacturer

The bill expands the definition of a tobacco product manufacturer to cover anyone who owns, leases, possesses, controls, operates, or otherwise uses a cigarette rolling machine at his or her commercial or retail premises, or permits someone else to operate or use the machine at those premises.

Under current law, with some exceptions, a tobacco product manufacturer is any entity or its successor that, after July 1, 2000, directly and not exclusively through an affiliate (1) manufactures cigarettes intended for sale in the United States, including sale through an importer or (2) is the first purchaser anywhere of cigarettes for resale in the United States from a manufacturer that did not intend them for sale in the United States.

Tobacco Product Manufacturer Escrow Requirements

The bill applies the current law's tobacco product manufacturer payment requirements to businesses meeting the bill's cigarette rolling machine conditions.

By law, tobacco product manufacturers whose cigarettes are directly or indirectly sold in Connecticut must certify, under penalty of false statement, to the DRS commissioner and the attorney general by April 30 every year that, as of the certification date, they are either participating in the master settlement agreement or complying with escrow payment requirements for nonparticipating manufacturers. DRS must publish a directory of manufacturers and their cigarette brands that comply with the payment requirements.

Penalties for Violating Escrow Requirements

If businesses that meet the bill's cigarette rolling machine conditions do not comply with the escrow payment requirements for tobacco product manufacturers, the bill subjects them to existing penalties.

By law, manufacturers that violate the escrow payment requirements face a possible civil penalty of up to 5% of the improperly withheld escrow amount for each day of violation up to 100% of that amount. For a knowing violation, the penalty may be up to 15% of the improperly withheld amount per day up to 300% of that amount. For a second knowing violation, a violator is barred from selling cigarettes in the state, either directly or indirectly, for up to two years. Each failure to make the required annual deposit is a separate violation.

In addition, it is both a class A misdemeanor and an unfair and deceptive trade practice to sell, offer to sell, distribute, or possess for sale cigarettes in Connecticut that are not listed in the DRS directory. A class A misdemeanor is punishable by up to one year in prison, a fine of up to \$2,000, or both. Unlisted cigarettes sold or offered for sale are considered contraband and are subject to confiscation, search, and forfeiture. Seized contraband cigarettes must be destroyed. The attorney general, on the DRS commissioner's behalf, may ask for an injunction against actual or threatened violations of the sale prohibitions.

Finally, when it prevails in any action against a tobacco product manufacturer to enforce the payment law, the state is entitled to recover its costs for investigation, bringing the action, and expert witness and reasonable attorneys' fees. A violator must pay to the state any profits, gains, gross receipts, or other benefits it received from the violation. Unless expressly provided otherwise, these remedies and penalties are cumulative, both with each other and with those available under other state laws.

Cigarette Manufacturer's License Required

The law already requires anyone whose business includes selling cigarettes or tobacco products in Connecticut to have either a cigarette dealer's or cigarette or tobacco product distributor's license from DRS. In order to be listed and have its brands listed in the DRS directory, a tobacco product manufacturer whose cigarettes are sold to consumers in Connecticut must also have a cigarette manufacturer's license. Finally, a person who sells cigarettes or tobacco products at retail must have a sales tax seller's permit, since cigarette and tobacco product sales are subject to both the sales and either the cigarette or tobacco products taxes.

The bill requires anyone who meets the conditions concerning cigarette rolling machines to also obtain and maintain a cigarette manufacturer's license in addition to other required licenses. The manufacturer's license fee is \$5,250 and the license is renewable

annually for the same fee. The bill makes such a person's failure to get and maintain a manufacturer's license grounds for DRS, after a hearing, to suspend or revoke the person's dealer or distributor license and sales tax seller's permit.

§§ 1 & 2 — DISCLOSURE OF CERTAIN TAX INFORMATION IN PERSONNEL PROCEEDINGS

The bill allows the DRS commissioner to disclose tax returns and return information (see BACKGROUND) in connection with personnel proceedings, including any related administrative or judicial proceedings, involving a current or former DRS employee if the commissioner determines that the information is relevant and material to the proceeding. The commissioner may prescribe terms and conditions for the disclosures, which can be used only for purposes of, and to the extent necessary in, the proceedings.

The bill prohibits anyone involved in the proceeding from further disclosing the information and subjects violators to a fine of up to \$1,000, up to one year in prison, or both. The same penalty already applies under existing law for other unauthorized disclosures of tax information.

§ 3 — TAX PENALTY WAIVERS

By law, the Penalty Review Committee must review and approve (1) tax penalty waivers issued by the DRS commissioner and (2) lottery sales agent penalty waivers issued by the Department of Consumer Protection (DCP) commissioner, if they exceed a minimum threshold. The bill increases this minimum from \$500 to \$1,000.

The Penalty Review Committee consists of the comptroller, DRS commissioner, and the Office of Policy and Management secretary or their designees, who must be employees of their respective agencies. The committee (1) must meet as often as needed, but at least monthly, and make an itemized statement of all approved waivers available for public inspection and (2) may approve a waiver only by majority vote.

BACKGROUND

Related Court Case

In a recent Superior Court case, the court ruled that merely owning and renting cigarette rolling machines was not enough to make a business a tobacco product manufacturer subject to a temporary injunction against selling cigarettes not listed in the DRS directory. Rather, to meet the current definition, a business's employees must directly participate in operating the machines "to make finished cigarettes for sale or for the benefit of customers" (*State of Connecticut v. Tracey's Smoke Shop and Tobacco, LLC.*, 2012 WL 953408, Feb. 24, 2012, Bright, J., unpublished).

Cigarette and Tobacco Products Taxes

The cigarette tax is 17 cents per cigarette or \$3.40 for a pack of 20. The tobacco products tax (applicable to cigars, snuff, pipe and other types of loose tobacco, and similar products) is (1) 50% of the wholesale price, capped at 50 cents each for cigars, and (2) \$1 per ounce for snuff tobacco.

Tax Returns and Return Information

By law, a "return" is any of the following filed with the DRS commissioner by, on behalf of, or with respect to, any person: (1) a tax or information return; (2) an estimated tax declaration; (3) a refund claim; or (4) any license, permit, registration, or other application. The term also covers amendments or supplements, including supporting schedules, attachments, or lists that supplement or are part of a filed return.

"Return information" is:

1. a taxpayer's identity;
2. the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, under- or over-reporting, or tax payments;
3. whether the return is being, was, or will be examined or

investigated; or

4. any other data received, recorded, prepared, or collected by or furnished to the DRS commissioner regarding a return or regarding any determination of liability for a tax, penalty, interest, fine, forfeiture, or other imposition or offense (CGS § 12-15 (h) (1) & (2)).

Lottery Sale Agent Penalties

Lottery sales agents have a fiduciary duty to remit proceeds from lottery ticket sales to the Connecticut Lottery Corporation (CLC) on a timely basis as required by CLC regulations. If an agent is delinquent in doing so, the CLC president must notify the DCP commissioner. The DCP commissioner must assess the agent for the delinquency (1) at the rate of 10% of the amount due or \$10, whichever is greater, plus (2) 1.5% interest for each month or part of a month the payment is late. The commissioner can waive the penalty, subject to the Penalty Review Committee's authority, if he determines it was unintentional and not due to neglect (CGS § 12-569 (a)).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 33 Nay 17 (04/03/2012)