

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2013

Bill Number: H.71 Name of Bill: An act relating to tobacco products

Agency/ Dept: AHS – HPDP – Tobacco Program Author of Bill Review: Barbara Cimaglio, Deputy Commissioner

Date of Bill Review: 3/27/13 Status of Bill: (check one):

☐ Upon Introduction ☒ As passed by 1st body ☐ As passed by both bodies ☐ Fiscal

Recommended Position:

☒ Support ☐ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

H.71 contains several provisions designed to clean and strengthen language related to tobacco taxation and enforcement. Specifically, H.71:

- **Amends the definition of tobacco products:** The amended definition is simplified, inclusive of new smokeless tobacco products, and aligns the definitions for other tobacco products that appear in two sections of state statute. The bill also inserts the amended language as necessary (e.g. for enforcement provisions) in state statute.
- **Amends definitions relating to tobacco dealers, manufacturers, and outlets:** The proposed definitions modernize language relating to wholesale and retail dealers and outlets and align definitions across different sections of statute. The statute had several definitions for the same entity; therefore the term “distributor” has been removed, and “licensed wholesale dealer” is the only term used in the amended language. These changes are designed to clarify definitions for the purposes of enforcement and taxation. The version passed by the House includes additional updates to distributor language.
- **Strengthens language related to sale of tobacco substitutes and tobacco paraphernalia:** New language adds tobacco substitutes and paraphernalia in all provisions relating to the purchase and sale of tobacco products, including purchasing age restrictions. These changes strengthen provisions that decrease youth access to tobacco products, substitutes, and paraphernalia.
- **Strengthens language related to proof of tax payment by licensed wholesale dealers:** The bill adds language stating that licensed wholesale dealers will be presumed to *not* have paid the proper tax for little cigars and roll-your-own tobacco if they cannot provide evidence of payment. These products are often less expensive than cigarettes. The tightened language will aid with tax collection and enforcement.
- **Strengthens language around taxation and enforcement for sales of other tobacco products:** Adds snuff and new smokeless tobacco to taxation language to clarify that all tobacco products are subject to the same tax and enforcement provisions. These changes strengthen provisions that decrease youth access to all tobacco products, including emerging smokeless products. The version passed by the House includes additional updates to other tobacco product language to strengthen taxation and enforcement.

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- **Introduces bond measures for manufacturers new to Vermont or at-risk for non-compliance:** New language requires manufacturers not currently in the state manufacturer directory to post a bond of \$20,000 or \$50,000, if they are deemed to pose a risk for noncompliance with Master Settlement Agreement provisions. The version passed by the House strengthens the language relating to the Attorney General's enforcement authority in these cases.

2. Is there a need for this bill? *Please explain why or why not.*

In an environment where influential tobacco companies continually research state statute and introduce and market new products annually – particularly tobacco products that target youth – tightening provisions in the state statute is an important tool. All of the provisions in this bill modernize language, align definitions across statute for consistency and to close loopholes, and strengthen language related to existing tobacco taxes. H.71 contains necessary follow-up measures to the Tobacco Omnibus Bill that passed in the 2012 legislative session. Vermont's tobacco control partners, including the Tobacco Evaluation and Review Board, the State Attorney General's office, Department of Liquor Control, and the Vermont Department of Health, collaborated on most of the components of H.71. As part of an inter-agency tobacco control effort, the State Attorney General's office spearheaded language review to ensure clean, simple, and consistent language across tobacco statutes.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

There are no anticipated costs of this bill for the Department of Health. Programmatically, the bill would reduce youth access to tobacco substitutes, paraphernalia, and smokeless tobacco, which aligns with the Vermont Department of Health's goals.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

The Attorney General's Office and Department of Liquor Control would be able to work with more consistent fine, tax, and license structures and enforcement measures. The Attorney General's Office, Department of Liquor Control, and Tax Divisions helped to draft the legislation and support its passage.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? *(for example, public, municipalities, organizations, business, regulated entities, etc)*

There are no anticipated fiscal impacts of this legislation beyond strengthening the State's ability to enforce existing tax measures. Clear and consistent tobacco statute would also help licensed wholesale dealers and retail dealers to comply with existing regulations.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

In addition to our state government partners (Attorney General, Vermont Tobacco Evaluation and Review Board, and Department of Liquor Control), the network of Vermont tobacco control advocates are likely supporters (Coalition for Tobacco-free Vermont, American Lung Association, American Heart Association, and American Cancer Society, among others). Vermont's network of coalitions that work on tobacco control would

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also be supporters, especially provisions that further limit youth access to tobacco substitutes and paraphernalia.

6.2 Who else is likely to oppose the proposal and why?

No major opponents are anticipated, although there may be some resistance from the tobacco lobby, cigarette and tobacco substitute manufacturers and their importers, and select small retailers.

7. Rationale for recommendation: *Justify recommendation stated above.*

Supporting H.71 is recommended. This bill is a necessary follow-up to legislation passed in the 2012 legislative session and creates consistent statute language while facilitating enforcement of tobacco taxes and sale provisions.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

None.

Secretary/Commissioner has reviewed this document: _____ **Date:** _____