

Research Plan: Senate Bill 1989, House Bill 2154 Cigarette Sales

Research Manager: TBD

Lead Research Associate: TBD

Due: January 2020 Support: TBD

Deputy Executive Director Approval: Initial: *WMB* Date: 4-27-18

Executive Director Approval: Initial: *Q* Date: 4/27/19

Purpose

Study the effect of prohibiting specific tobacco manufacturers (NPM) or brand families from selling cigarettes in Tennessee and determine whether any enforcement actions are necessary.

Background

Senate Bill 1989 by Senator Stevens, as amended, which was passed by the Senate Finance, Ways and Means Committee but remains in the Senate Calendar Committee, directs the Commission to study the Tennessee Department of Revenue's (DOR) use of state law to exclude an escrow-compliant NPM or brand family, or both, owned by the NPM from the directory of approved tobacco manufacturers in Tennessee based on the failure of an unrelated, third party NPM to make required escrow payments on prior sales of the brand family by the unrelated NPM in Tennessee. The Commission is also required to determine the necessity for any such enforcement action by DOR either under the provisions of the Tobacco Master Settlement Agreement (MSA) or for the purpose of limiting an adverse impact to state revenues. The amended bill requires the Commission to report its findings and recommendations to the Senate and House Finance, Ways and Means Committees, the General Assembly's Fiscal Review Committee, and the Office of Legislative Budget Analysis by March 1, 2019. Its companion, House Bill 2154 by Representative Hawk, was referred to the Commission by the House Finance, Ways and Means Committee, but with a requested due date of 2020.

Any tobacco manufacturer selling cigarettes to consumers within Tennessee must either become a participating member in the MSA and perform certain financial obligations or become an NPM and make certain escrow payments. Tobacco manufacturers whose

cigarettes are sold in this state are required to annually submit to the Commissioner of Revenue and the Attorney General and Reporter a certification that the tobacco manufacturer participates in the MSA or is in full compliance with the requirement that NPMs must escrow funds for the satisfaction of judgments. The Commissioner of the Department of Revenue is required to annually make available a directory listing all tobacco manufacturers that have provided current and accurate certifications. Being excluded from the directory excludes any such manufacturer from selling cigarettes in Tennessee.

Step 1. Define the Problem

Whether an escrow-compliant NPM or brand family, or both, owned by the NPM and not participating in the MSA should be prohibited from selling cigarettes in Tennessee based on the failure of an unrelated, third party NPM to make required escrow payments on prior sales of the brand family by the unrelated NPM in Tennessee?

Step 2. Assemble Some Evidence

- Review past and present legislation, statutes, and regulations relating to the Tobacco Master Settlement Agreement.
 - Review committee hearings on related legislation and summarize comments and concerns of committee members, bill sponsors, and others.
 - Interview bill sponsors, proponents, and other stakeholders to determine what is driving this issue.
 - Review fiscal notes. Consult with Fiscal Review Committee staff and follow up with agencies submitting support forms to determine estimated costs and the methods and rationale for the estimates.
- Review applicable Attorney General's opinions.
- Review relevant federal statutes and regulations.
- Review similar laws or regulations in other states.
- Interview legislators, state officials, industry experts and other stakeholders.
- Review relevant literature and data and seek out subject matter experts.

Step 3. Construct Alternatives

Alternatives will be based on

- current law,
- proposed changes in the current law, and

- any additional alternatives drawn from the research and analysis in Step 2.

Each alternative will be described specifically enough to project outcomes in Step 5.

Step 4. Select Criteria

- Cost, direct and indirect, to
 - state government,
 - tobacco companies, and
 - general public.
- Effectiveness at solving problem.
- Estimate receptiveness of
 - state government,
 - tobacco companies, and
 - general public.

Step 5. Project Outcomes

- Estimate cost.
- Estimate the effectiveness.
- Estimate the acceptability to the state governments, tobacco companies and the general public.

Step 6. Confront Trade-offs

- How will the alternatives, including any changes to current law, affect stakeholders?
- What are the pros and cons of the potential alternatives?

Step 7. Decide which alternatives to present to the Commission

Based on the results of Step 6, choose the alternatives that most practically and realistically resolve the problem.

Step 8. Produce the Draft Report

Develop and present a draft for review and comment to the Commission.

Revisit Steps 5 through 8.

- Respond to feedback from Commission regarding outcome projections, trade-offs, and selection of alternatives.
- Revise and edit the draft to reflect comments of the Commission.
- Submit final report to the Commission for approval.



Senate Finance, Ways and Means Committee 1

Amendment No. 1 to SB1989

Watson
Signature of Sponsor

AMEND Senate Bill No. 1989*

House Bill No. 2154

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. The Tennessee advisory commission on intergovernmental relations (TACIR) is directed to perform a study of the department of revenue's use of Tennessee Code Annotated, Title 67, Chapter 4, Part 26, to exclude or remove an escrow-compliant non-participating manufacturer (NPM) or brand family, or both, owned by the NPM from the directory of approved tobacco product manufacturers in Tennessee based on the failure of an unrelated, third-party NPM to make required escrow payments on prior sales of the brand family by the unrelated NPM in Tennessee, and to determine the necessity for any such enforcement action by the department of revenue either under the provisions of the tobacco master settlement agreement or for the purpose of limiting an adverse impact to state revenues, if any. This study must be conducted from TACIR's existing resources. On or before March 1, 2019, TACIR shall report its findings and recommendations to the finance, ways and means committees of the senate and the house of representatives, the fiscal review committee of the general assembly, and the office of legislative budget analysis.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.