

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 3467

DATE: April 29, 2010

Version: First engrossment

Authors: Davnie and others

Subject: Tobacco regulation and taxation

Analyst: Joel Michael, joel.michael@house.mn

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill makes a number changes in the regulation and excise taxation of tobacco products. It:

- Broadens the definition of tobacco products to include products that are designed to be consumed in ways other than through chewing or smoking.
- Requires tobacco-related devices to be sold behind the counter and prohibits their sale to children.

The commissioner is directed to prepare a study of ways to improve compliance with the tobacco taxes.

Section

1 **Definition of tobacco products; excise tax.** Modifies the definition of tobacco products for purposes of the excise tax. (This revised definition also affects application of the health impact fee on tobacco products.)

Present law defines tobacco products as a list of specific tobacco products and other kinds and forms of tobacco that are suitable for either (1) smoking or (2) chewing.

This section modifies that definition in two ways:

- Smoking and chewing is replaced with more methods of ingesting tobacco products –“chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means” – to cover a broader range of products, such as lozenges, sticks, and so forth.
- Tobacco cessation and similar products, approved by the U.S. Food and Drug Administration (FDA), are excluded from the definition.

2 **Promotional distribution.** Modifies the law prohibiting promotional distribution of tobacco products and cigarettes to refer to the revised definitions under section 1.

- 3 – 8** **Municipal tobacco licensing law.** Adds “tobacco-related devices” to the types of products that are covered by the municipal tobacco licensing and regulation law. This will subject sales of “e-cigarettes” and similar products to this law.
- 9** **Behind-the-counter sales.** Requires tobacco-related devices to be sold behind the counter under the same rules that apply to cigarettes and tobacco products. This section allows establishments where the retailer ensures that minors are not permitted to qualify to sell cigarettes and tobacco products from open displays. Present law required minors to be prohibited from entering (presumably by law).
- 10** **Definition of tobacco; prohibition on sales to children.** Modifies the definition of tobacco for purposes of the criminal law prohibiting sales of tobacco to minors in to be consistent with the changes made section 1.
- 11** **Criminal penalties for sales of nicotine delivery products to minors.** Provides it is a misdemeanor to sell a product containing or delivering nicotine or lobelia for human consumption to a minor. A second offense within five years of the first offense is a gross misdemeanor. Sales of products approved by the FDA are exempt from this prohibition.
Use of false identification to purchase nicotine or lobelia delivery products is a misdemeanor.
Possession of the products by a minor is a petty misdemeanor.