

Staff Present: Paul Warner, Legislative Revenue Officer
Kristi Bowman, Committee Assistant

TAPE 43, SIDE A

INFORMATIONAL MEETING

- 003 Acting Chair Berger Calls meeting to order at 1:03 p.m.
- 006 Paul Warner Gives overview of Oregon Tobacco Task Force (Exhibit 1). Discusses decrease of revenue from cigarette sales and increases in other tobacco products (OTP).
- 033 Pete Shepherd Gives overview of Task Force (Exhibit 2). Gives overview of Master Settlement Agreement (MSA) and Non-Participating Manufacturer (NPM) Law.
- 057 Shepherd Discusses Master Settlement Agreement (MSA). It gives a financial benefit by providing annual payments and requires companies to adhere to certain codes of conduct such as advertising to minors. Discusses financial impacts of the MSA.
- 097 Shepherd Discusses NPM law. Every manufacturer who doesn't participate in MSA pays an amount into an escrow fund equal to the amount they

would have paid had they belonged to the MSA. The NPM law doesn't generate revenue for OR.

159 Shepherd Discusses Task Force created in 2001. Discusses internet purchasing of cigarettes and the tax collection process involved.

Taxes for in-state sales are collected from the distributor by using revenue stamps.

246 Shepherd Discusses task force accomplishments regarding compliance issues. Discusses current revenue projections.

390 Shepherd Discusses internet sales compliance issues. This is an area of focus for the task force.

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009 Shepherd Discusses statutory funding of task force.

035 Rep. Olson Asks what measurement is used to show that the state has failed to enforce its NPM law?

042 Shepherd

Responds that there has not yet been a litigated challenge to a state not receiving its share of the MSA by failing to enforce its NPM law. The mechanism is an uncertainty because this situation has not yet occurred.

- 061 Rep. Olson Asks what is the measurement rate for the compliance rate?
- 071 Eric Smith Responds that the Dept. of Revenue field agents did a statistical survey of retailers. The two measures used were: how many retailers were out of compliance, and how many cigarette packs didn't have an OR tax stamp. Findings were that 99% of the packs had legitimate OR tax stamps.
- 093 Rep. Boquist Asks for recap of how each agency is funded for the task force.
- 095 Shepherd Responds that the total funding is first received by the Dept. of Revenue from cigarette tax collections. Both the Dept. of Justice and State Police send bills to the Dept. of Revenue for the personnel costs and are then reimbursed by the Dept. of Revenue. Dept. of Revenue funds for the task force are considered "other funds"
- 138 Chair Butler Requests clarification of the term "other funds" for freshmen members.
- 142 Smith Defines "other funds" as revenue from other tobacco products (OTP) to operate the task forces. Discusses the two task forces (see Exhibit 1, page 4) created in the 2001 and 2003 legislatures and how they were funded.

- 178 Rep. Boquist Asks about Task Force 1 and Task Force 2 funding for the full-time equivalent (FTE) positions.
- 185 Shepherd Discusses proposed budget proposals to consolidate both task forces and the impact on the staffing.
- 210 Rep. Boquist Asks what is the rationale to eliminate 27 positions on task force 2?
- 220 Shepherd Responds that while the Dept. of Justice does not agree with the governor's proposal, all three agencies have already downsized most of the affected positions. There is merit in reducing the size of task force 2, but targeting internet sales still needs to be pursued.
- 240 Chair Butler Asks if the Dept. of Justice has a position regarding re-selling of tobacco products from other states?
- 250 Shepherd Refers this question to the Oregon State Police representative, Mike McKiernan.
- 260 Mike McKiernan Responds to resale question. Rarely sees double-stamped packets.
- 282 Chair Butler Asks if he has seen OTP stamping by other states.

- 285 McKiernan Responds that he has seen some stamping of OTP, but not very many.
- 295 Chair Butler Asks about fair market pricing of tobacco.
- 296 Shepherd Discusses distributor market in OR. There are 244 licensed distributors in the state. One distributor in Portland has discussed a proposal with the Dept. of Justice regarding fair market pricing. The Dept. of Justice has not taken a policy position on this issue.
- 345 Chair Butler Asks about surveillance of neighboring states' non-taxation of other tobacco products that have no revenue stamps.
- 372 McKiernan The State Police frequently monitors other state operations, such as the Yakima Nation, where some Oregon retailers purchase their products.
- 400 Chair Butler Asks about the standard operating procedure on the surveillance program.
- 425 McKiernan Responds that some of the steps include identifying suspects. Then the Dept. of Revenue identifies products that are suspect by reviewing suspect invoices. Law enforcement then steps in and investigates.

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- 022 Chair Butler Provides information to members regarding reselling issues. Asks Mr. Shepherd about which state receives the share of the MSA or NPM if the cigarette pack is double-stamped by two states
- 055 Shepherd The OR share of the MSA is fixed, independent of the jurisdiction where the sale takes place. Will check on information requested and respond to the Chair.
- 103 Smith Dept. of Revenue is actively pursuing this issue and has meetings scheduled in March with distributors to update technology on preventing the reselling.
- 128 Rep. Berger Asks: 1) what percentage of tobacco tax revenue is attributed to cigarettes as opposed to OTP. 2) what strategies are proposed for the internet cigarette sales issue.
- 136 Smith Cigarette revenues for this biennium were \$463 M as of 12/04; OTP was \$42 M for a total of \$505 M.
- 143 Steve Briggs Responds to internet strategies question: 1) the task force is making an outreach to third party facilitators such as credit card companies, pay pal, USPS, distributors in order to make them aware of their obligations. (see letter in Exhibit 2). 2) serving indictments against internet distributors for racketeering. 3) pursuing civil lawsuits against distributors to provide a list of consumers to recoup tax that was evaded.

192	Rep. Hass	Asks about similar communication with shippers such as UPS and Fed Ex.
199	Smith	Responds that is being done
204	Rep. Boquist	Discusses issue of smuggling.
240	Chair Butler	Responds that the task force is addressing this issue. Dept. of Justice has an interim work group working on this and suggest Rep. Boquist follow-up with them.
250	Chair Butler	Committee business discussed.
290	Warner	Discusses schedule for week of 2/21/05. Revenue projection meeting on 2/25/05.
308	Rep. Hass	Committee business discussed.
328	Chair Butler	Adjourns meeting at 2:20 p.m.

Tape Log Submitted by:

Reviewed by:

Kristi Bowman, Committee Assistant

Kim Taylor James, Committee
Coordinator

Exhibit Summary:

1. 1. Handout: Tobacco Tax Enforcement in Oregon, Oregon Tobacco Task Force, 12 pp., 02/05
2. 2. Handout: Executive Summary, Peter Shepherd, 6 pp., 02/16/05