



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

House Revenue & Finance Committee Meeting Minutes
6.6.18

Chair Keeley called the meeting to order at 4:19 p.m. Members present included Vice Chair B. Short and Reps. Baumbach, Bennett, Bolden, Q. Johnson, Potter, Matthews, Ramone, Gray, Spiegelman. For a list of guests present, please see the attendance list below.

At the request of Representative Paradee the committee agreed to defer action on **HB 426, AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES.**

Representative Matthews introduced **HB 417, AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TOBACCO PRODUCT TAXATION AND LICENSING.** He explained the idea for the bill was brought to him by small business owners, particularly those in his district who are close to the Pennsylvania border. When tobacco taxes were raised last year they included premium cigars, so the tax rate on premium cigars in Delaware is 30% while it is 0% in Pennsylvania. Representative Matthews stated he understands this is a sensitive topic in the public health community, but believes the bill is not a matter of whether people smoke, but whether or not they are purchasing premium cigars in Delaware, or going online or to a neighboring state to buy them.

Representative Q. Johnson asked what the tax rate on premium cigars in Maryland is.

Representative Matthews stated Maryland has a rate of 15%, not including sales tax.

Chair Keeley opened up the floor for public comment.

Raymond Miller, representing the American Heart Association, stated their opposition to the bill. He urged the committee to instead consider tobacco tax legislation that fairly taxes all tobacco products and increases the tax to discourage youth smoking and raise revenue.

Representative Ramone stated he finds it strange that organizations who try to discourage youth from smoking did not support a previous piece of legislation that would have made it illegal for children under the age of eighteen to smoke.

John Wakim, an owner of two tobacco and cigar shops in Delaware, stated he has been in business for fifteen years and business has heavily declined since the tobacco tax increase, especially for premium cigars. Customers are buying from Pennsylvania shops because they have no tax on premium cigars, the same cigar sold in Pennsylvania will cost \$9.50 compared to \$12.35 in Delaware, and boxes of cigars are \$60 to \$90 more expensive. Their sales have not come back and he is concerned he will have to cut hours from his employees and may go out of business.

Representative Ramone stated the General Assembly raised the tobacco tax last year to bring in more revenue, and he asked Mr. Wakim if he believed Delaware has brought in more revenue by raising that tax or if the money in sales is going to other states due to the increase.

Mr. Wakim stated he believes the money is going to other states.

Representative Ramone stated that Delaware is constantly competing with our neighbors because the state borders so many others. He asked Mr. Wakim if he believed his customers have stopped coming because they have stopped smoking, because of the tax, or if they are purchasing their products somewhere else.

Mr. Wakim stated his customers are purchasing their products out of state or online.

Chair Keeley asked what the percentage of premium cigar products sold was before and after the tax increase was implemented.

Representative Matthews stated he did not know, but the sales of premium cigars are significantly less than other tobacco products such as cigarettes.

Representative Bennett asked what percentage of Mr. Wakim's business consists of premium cigar sales.

Mr. Wakim stated about 60% of his sales are premium cigars.

Charles Leffler, an owner of about twenty tobacco stores in the state of Delaware, stated the tobacco tax has affected their business drastically. Their premium cigar sales are down about 35% and they had to close one of their stores last year and those employees are now unemployed. He stated studies show that minors try cigars but do not stick with them, and when they do they are not buying premium cigars because of the cost. Cigar smokers are typically older and will spend money on restaurants, outlets, and other places when they come in to Delaware. He stated he would like to keep his businesses in Delaware but is unsure if he can because they may not be sustainable.

Pat Singh, a tobacco store owner and President of the Delaware Convenience and Tobacco Store Association, stated the bill will only apply to premium cigars. He urged the committee to help small businesses in Delaware with this bill.

Debbie Hamilton, representing the American Lung Association, stated their opposition to the bill. Smoking cigars causes a significant risk to health and increases the chances of the smoker developing cancer. A single large cigar can contain as much tobacco as an entire pack of cigarettes. She also stated the American Cancer Society's opposition to the bill. (See attached).

Kiki Evinger, representing the Department of Health and Social Services (DHSS), stated the Department's opposition to the bill. (See attached).

Representative Bolden, asked if there was any information on what percentage of cancer cases in Delaware are caused by tobacco smoking.

Representative Ramone believed keeping the tax under the premise that less people will smoke was flawed. He felt Delaware raised the tax and had become uncompetitive; customers from Delaware, Maryland, and Pennsylvania who would buy premium cigars in Delaware are still smoking but no longer purchasing the products in Delaware.

Helen Arthur, representing DHSS, stated that lung cancer is the number one cause of death in Delaware and the cancer with the highest rates in the state of Delaware.

Representative B. Short asked what percentage of lung cancer in Delaware is tied to cigar smoking, as he felt it was pertinent to understanding the impact of the bill.

Ms. Arthur stated she has facts on general tobacco causes but not specifically on premium cigars.

Rebecca Goldsmith, representing the Department of Finance, stated their opposition to the bill. The department believes the definition of premium cigars is not clear and they would need to examine the definition and products to see if the definition is creatable by their office in order to exempt the product from the general tobacco tax. She also stated that Pennsylvania does have a state and local sales tax, so the tax is not 0% in the true sense.

Representative Bennett noted the high fiscal note and asked if there is a way to see the cost of revenue and job loss that the state has already lost due to the tobacco tax increase last year.

Ms. Goldsmith stated the Department of Finance would not have that data, as they do not complete forecasting with respect to job loss.

Representative Ramone stated his belief that the tax decrease associated with this bill would result in an increase of revenue for Delaware.

Ms. Goldsmith stated looking long-term there is a decline in smoking rates, which can also be contributing to the decrease in sales. She also stated this bill would create an even lower tax, despite the fact that sales were not an issue when the tax was fifteen percent.

Chair Keeley asked Representative Matthews if the intent was to change the rate back to previously established rates.

Representative Matthews stated the intent was to be competitive in premium cigar sales with the neighboring states Delaware is losing business to.

Representative B. Short asked if he would be open to reexamining the threshold of the tax rate in the bill.

Representative Matthews replied he would be open to that.

Chair Keeley requested a motion. A motion was made by Rep. Ramone and seconded by Rep. B. Short to release HB 417 from committee; motion carried. Yes=9 (Keeley, B. Short, Bennett, Bolden, Potter, Matthews, Ramone, Gray, Spiegelman); No=2 (Baumbach, Q. Johnson); Absent=2 (J. Johnson, Yearick). The bill was reported out of committee with a F=0, M=9, U=0 vote.

Chair Keeley adjourned the meeting at 4:57 p.m.

Respectfully submitted by:

Jennifer Proebstle

Attendance List:

1. Raymond Miller, representing the American Heart Association
2. John Wakim, an owner of two tobacco and cigar shops in Delaware,
3. Charles Leffler, an owner of about twenty tobacco stores in the state of Delaware,
4. Pat Singh, a tobacco store owner and President of the Delaware Convenience and Tobacco Store Association
5. Debbie Hamilton, representing the American Lung Association
6. Kiki Evinger, representing the Department of Health and Social Services (DHSS)
7. Helen Arthur, representing DHSS
8. Rebecca Goldsmith, representing the Department of Finance