

**REPORT OF THE
HOUSE FINANCE SUBCOMMITTEE ON
TOBACCO AND CIGARETTE TAXES
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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Report of the
House Finance Subcommittee on
Tobacco and Cigarette Taxes

To

The Governor and the General Assembly of Virginia

Richmond, Virginia

January, 1978

TO: Honorable John N. Dalton, Governor of Virginia

and

The General Assembly of Virginia

I. INTRODUCTION

Due to the increasing number of tobacco tax related bills introduced in recent sessions of the General Assembly, the House Finance Committee formed the Tobacco & Cigarette Tax subcommittee to thoroughly study the tobacco tax area. The area of study included not only the State and local tax rate questions but also, the tobacco industry in Virginia, the role of the tobacco tax in the State and local revenue structure, the relationship of State and local taxes, the localities' ability to impose a local cigarette tax, the administration of the tax, bootlegging problems in Virginia, and finally, the penalties for illegal possession or transportation of improperly taxed cigarettes. Because of the detailed nature of the study the House Finance Committee agreed to delay action on all tobacco tax related bills in the 1977 Session while awaiting the findings, conclusions and recommendations of this subcommittee.

In addition to legislators from the House Finance and Senate Finance Committees the subcommittee included a number of representatives from various segments of the tobacco industry and representatives of the community as well. The following delegates were appointed to serve on the subcommittee: Delegate Bernard G. Barrow, Chairman; Delegate Joseph A. Leafe; Delegate Lewis W. Parker, Jr.; Delegate Robert E. Quinn; and Delegate Erwin S. Solomon. Members appointed from the Senate Finance Committee included the following: Senator Howard P. Anderson; Senator William A. Truban; Senator Edward E. Willey. The following citizen members were also appointed to serve on the subcommittee: Richard L.

DeCair, Richmond; Jack W. Garrett, Danville; Alex Hamilton, Richmond; Charles P. Inman, Richmond; Margaret Jones, Charlottesville; Wallace A. Mergler, Richmond; Page H. Sutherland, Richmond; and W. Bruce Wingo, Richmond.

On January 23, 1978, the House Finance Committee accepted this report and ordered that it be printed and distributed.

The subcommittee was assisted in its study by the staff of the Virginia Division of Legislative Services. Specific staff assigned to the subcommittee were: E. M. Miller, Jr., Staff Attorney; John A. Garka, Economist; Jill M. Pope, Legislative Research Associate; and William L. Higgs, Student Research Associate.

II. FINDINGS

The subcommittee held numerous meetings and hearings at which time testimony was received from a broad range of groups having an interest in the tobacco industry and the tobacco tax. In addition, the subcommittee considered a vast amount of material provided by the subcommittee's staff. Because of the large amount of material presented and the many aspects of the tobacco tax, the subcommittee presents its findings in four separate areas.

A. Virginia's Tobacco Industry

1. Tobacco farming and the numerous component industries that are necessary for the manufacturing, packaging, distribution, transportation and eventual sale of tobacco products comprise a significant part of the Virginia economy. In fact, the tobacco industry and its related components are the largest single industry in the Commonwealth. An estimated 78,000 full-time jobs are derived from the tobacco industry in Virginia. Needless to say, this figure would be significantly larger if one attempted to estimate the number of jobs that were dependent, in some part, on the tobacco industry, such as transportation, insurance, fertilizer and chemical industries, tobacco auction industry, and manufacturing and farming machinery to name only a few. This number would be further increased if one attempted to count the number of individuals in Virginia families that are dependent on these jobs for their livelihood. Thus, any developments that affect tobacco will affect a large number of Virginians as well as the Virginia economy.

2. Tobacco is Virginia's largest cash crop and Virginia is one of the three largest tobacco growing states. Approximately one-third of the total income earned by farming in Virginia is generated by tobacco. Tobacco is grown in 55 of the 96 counties in Virginia and approximately 40,000 Virginia farms derive a portion of their income from tobacco products.

3. Tobacco products are sent to virtually all parts of the world and Virginia ports play a significant role in this distribution. Tobacco represents 23 percent of the value of all general cargo passing through Virginia's ports and provides the United States with substantial export earnings. An

estimated 356,000 jobs are dependent, in some part, on Virginia ports. Moreover, the State of Virginia receives \$150 million in estimated tax revenue from port activities. Clearly, the growth of Virginia's ports are closely tied to the growth of the tobacco industry.

4. Virginia is the second largest tobacco manufacturing state in the United States. Almost 30 percent of all cigarettes produced in the United States are produced in Virginia. This is a substantial increase from 1965 when only 20 percent of all cigarettes were produced in Virginia.

B. Taxation

1. The Virginia tax on cigarettes, excluding local taxes, is 2.5 cents per pack which is the second lowest in the nation. The lowest state tax is 2 cents per pack in North Carolina while the highest state cigarette tax (2 cents) is levied by Massachusetts, Connecticut and Florida. Net Virginia tobacco tax collections equaled \$17.8 million in the 1976-77 fiscal year, excluding taxes collected through the Retail Sales and Use Tax on cigarettes. (See Appendix Table A for a listing of the state cigarette taxes in other states.)

2. Virginia is one of seven states permitting a local option cigarette tax. Nineteen cities and two counties in Virginia levy local cigarette taxes. This local tax power is granted to cities by charter and to Arlington and Fairfax counties by specific State legislation. These local cigarette taxes range from 2 cents to 10 cents per pack. Eight of these jurisdictions impose a 10 cent local tax, one has a 7 cent tax, eight have 5 cent taxes, one 4 cents and three 2 cents. The total gross revenue derived by the localities from these taxes equaled \$14.2 million in fiscal year 1976-77. After payment of the local dealer discount, the localities received an estimated \$13.2 million in local tobacco taxes. (See Appendix Table B for a list showing Virginia localities that levy local cigarette taxes and their tax rates. Table B-1 lists the states that have local cigarette taxes and the total local tobacco tax collections.)

The effective Virginia State and local cigarette tax may be calculated in two ways rendering different results. If the effective State and local cigarette tax is calculated on the basis of total State and local tax collections, Virginia's effective tobacco tax was 4.3 cents per pack in fiscal year 1975-76. This is calculated by combining State and local cigarette tax collections and dividing by the total number of cigarette packs sold that are subject to the State cigarette tax. (Appendix Table C presents this data for all the states.) Alternatively, if the effective State and local cigarette tax is calculated on the basis of the population of the taxing jurisdictions, Virginia's effective tobacco tax was 5.6 cents per pack in fiscal year 1975-76. This calculation is derived by weighting each locality's State and local tax by the locality's percentage of total State population. Appendix Table C-1 presents this data for all the states. Note that these calculations exclude the applicable Virginia Sales and Use Tax.

3. Virginia has not levied a tax on tobacco products, other than cigarettes, since 1966. At that same time, the cigarette tax was decreased

from 3 cents to 2 1/2 cents per pack when the Retail Sales and Use Tax Act was adopted.

4. The United States imposes a tax of 8 cents per pack on cigarettes.

5. On-base sales of cigarettes, as well as other retail sales, to military personnel are currently exempt from State and local taxation. The Advisory Commission on Intergovernmental Relations (ACIR) estimates that Virginia lost \$1.7 million in revenue in fiscal year 1972-73 due to this exclusion. ACIR has recommended that Congress amend the existing law to allow the application of State and local tobacco taxes to all military store sales in the United States.

6. In 1969, North Carolina enacted a 2 cents per pack cigarette tax, and in that same year 21 states increased their state tax rates. In 1970, Kentucky increased its tax by one-half cent per pack, and in the same year six states increased their taxes on cigarettes and in the following year 18 states increased their tax rate.

7. An analysis of cigarette sales in the Cities of Norfolk, Chesapeake, Hampton and Alexandria indicates that following a tax increase to 10 cents per pack by these localities, total sales of cigarettes in those localities dropped significantly while in Virginia Beach a similar tax increase was followed by an increase in total cigarette sales. The Virginia Beach tax increase did, however, result in a decrease of per capita sales. (See Appendix Table D for the statistical data for these localities. Also, see Appendix Table G for a comparison of U. S. and Virginia sales on a per capita basis.)

C. Cigarette Bootlegging

1. The ACIR has identified cigarette bootlegging as a tax administration problem which has developed since 1965 and which has been described by the Federation of Tax Administrators as "among the most troublesome in the entire state tax field." It concludes that the basic cause of cigarette smuggling is the disparity in state tax rates. The ACIR has determined that the states have had difficulty in controlling cigarette bootlegging for six basic reasons:

a. Cigarettes are relatively easy to handle and transport and smuggling them across open borders is difficult to detect.

b. Penalties for cigarette bootlegging are generally light and are not an effective deterrent to bootleggers.

c. Cigarette bootlegging is not a federal offense and the interstate nature of the problem hampers State and local law enforcement efforts.

d. Potential profits in cigarette bootlegging are so great that a wide variety of people are attracted to this illegal activity.

e. Because of the high profit potential, organized crime has become

heavily involved in bootlegging.

f. Cigarette smuggling is a law enforcement problem and most tax administrators are not equipped to handle this type of problem.

2. The ACIR reports that the revenue loss to state and local governments as the consequence of cigarette bootlegging is about \$391 million annually. It also attributed other consequences to cigarette smuggling: "Taxpayers pay higher taxes or receive fewer services, cigarette wholesalers and retailers are driven out of business and jobs are lost, political and law enforcement officials are corrupted, trucks are hijacked and warehouses raided, and people are injured and even killed."

3. Representatives from ACIR, the Special Investigations Bureau of the New York State Department of Taxation and Finance, and the Virginia State Police Department all reported that organized crime was involved in cigarette bootlegging in Virginia. Patrick R. Vecchio of the New York State Department of Taxation and Finance reported that 15 to 20 percent of the untaxed cigarettes seized in New York City carried Virginia tax stamps. The Tobacco Tax Council and other representatives of the tobacco industry have expressed grave concern over the problem of bootlegging. The ACIR estimates that Virginia gains \$2.5 million annually in tax revenue from sales which ultimately end up in the bootlegging market.

4. Virginia law enforcement personnel are hampered by a lack of penalties and lack of seizure laws. Moreover, the interstate nature of the bootlegging hampers state and local enforcement efforts. Legislation is now pending before the United States Congress to make bootlegging a criminal offense and to impose criminal penalties.

D. Administration of Tobacco Taxes

1. Virginia, as well as all other states except Alaska, Hawaii and Michigan, use a stamp or meter impression on each pack of cigarettes as evidence of payment of the cigarette tax. The State attempts to compensate the wholesale distributor for the expense incurred in opening and repackaging cases and cartons and the stamping of each package of cigarettes by a discount from the face value of the stamp sold to the wholesaler. In Virginia this discount is 2.5 cents per carton, which is equivalent to 10 percent of the purchase price of the stamps. The cost of administering the State's tobacco tax is estimated at \$2,195,550 annually, of which \$1,950,000 is the dealer discount. Other costs include \$29,000 for administrative personnel, \$205,000 for the cost of printing the stamps and \$11,550 for freight, registered mail postage and insurance for shipping and mailing the stamps, forms and other miscellaneous expenses. Thus, by its administrative nature, it costs the Department of Taxation in excess of \$12.00 per \$100.00 of tobacco tax collected to administer the tax, as compared to approximately \$0.75 cost per \$100.00 of revenue for all other taxes administered and collected by the Department of Taxation. (See Appendix Table E for the discounts that other states grant wholesalers.)

2. The 21 Virginia localities which also administer a cigarette tax do so

independently of the State. In response to the inquiries, the subcommittee was advised that administrative costs vary with some localities contending that they spend only a minimal amount. However, each of the localities also provides the wholesaler a discount which ranges from 1 1/2 percent of the amount of the tax to 10 percent of the amount of the tax. (See Appendix Table F for a listing of the local discounts that are granted in Virginia.)

3. The Virginia wholesalers of tobacco products are required to purchase the necessary stamps in advance of their sale to retailers and are required to pay in cash or by certified check. The cost of carrying a prepaid stamp inventory has become a part of the wholesaler's cost of doing business. In addition, they are required to invest in equipment and personnel necessary to affix the stamps to each pack of cigarettes after it has been removed from its case and carton. One wholesaler testified that he was required to apply some twelve different stamps to cigarettes which he handled. A majority of the wholesalers who responded to inquiries from the subcommittee's staff expressed favor in eliminating the stamping of cigarettes as long as the local stamps were also eliminated.

4. Alaska, Hawaii and Michigan use a reporting system for the administration of their tobacco taxes in lieu of a stamping system. Each of these jurisdictions have reported to the committee that the systems work well and with a minimum of enforcement problems. It should be noted that both Alaska and Hawaii are geographically isolated from other states and are able to control entry of cigarettes into their states more easily. Michigan's success in using this system may be at least partially attributable to the fact that all other states in the continental United States do use a stamp. Its success is also directly related to its ability to control entry of cigarettes into the state by statute.

5. The Department of Taxation and the subcommittee received communications from representatives of high tax states in the Northeast urging that Virginia not abandon the stamping system for a reporting system. These representatives expressed fear that Virginia's elimination of the stamp would increase the bootlegging problem by making it easier to apply counterfeit stamps to cigarettes purchased in Virginia. Mr. William Forst, State Tax Commissioner, testified that the Department of Taxation would anticipate minimal administrative difficulty in converting to a cigarette tax reporting system. He observed that Virginia has already changed from a stamping to a reporting system in the administration of Virginia's beer tax. He estimated that the additional cost for auditing and enforcement would amount to approximately \$100,000 per year. Thus, a change to a reporting system for the administration of Virginia's tobacco tax laws and the resulting elimination of the dealer discount would yield the State an additional \$2 million annually. He suggested that if a reporting system were enacted it should include the following five provisions:

- a. All wholesalers who distribute or sell tobacco products to retailers in Virginia would have to be licensed under the Virginia Tobacco Tax laws;

b. All Virginia Tobacco retailers would have to be required to purchase cigarettes only from licensed wholesalers;

c. All Virginia tobacco retailers would have to demonstrate that they had an established place of business in Virginia with an on-going tobacco retailing business operating therefrom in order to be licensed under the Virginia Tobacco Tax laws;

d. Any violation of the Tobacco Tax law should subject a wholesaler or retailer to revocation of its license; and

e. The Department of Taxation should be given the power to confiscate untaxed tobacco products.

6. Testimony was given by the Northern Virginia Cigarette Tax Board, which administers cigarette taxes for the Northern Virginia communities and which presently use a reporting system in lieu of a stamp system. that they have not experienced any problems with their reporting system. However, the Board is considering changing to a stamping system.

III. CONCLUSIONS

Based on all the material that was presented and the findings agreed to by the subcommittee, the subcommittee has drawn the following conclusions. The conclusions are again divided into four specific areas.

A. Virginia's Tobacco Industry

The Virginia Tobacco Industry is one of the largest industries in the Commonwealth. Its roots are historically deep while touching almost every segment of Virginia's economy. It has been labeled during times of depression and recession as Virginia's "stabilizing factor" in keeping employment and the economy of the Commonwealth in balance during times when other states' economies and employment face extreme difficulties.

B. Cigarette Bootlegging

Cigarette bootlegging is a severe and growing problem nationally and for the Commonwealth. It is prompted by the disparity in the State tax rates on tobacco products and lack of proper enforcement by officials at all levels of government. Because of Virginia's geographic location between the lowest tax state of North Carolina and the higher tax states of the northeastern sector of the nation, Virginia with its fine interstate system is a prime movement location for the transportation of contraband cigarettes between these two areas. Virginia, also being a relatively low tax state also is a focal point, although on a smaller scale, for the purchase and shipment of cigarettes which will ultimately be illegally sold in northeastern states. It is true that the problem in disparity has been brought on by the high tax states in their tax levy, however, the ramifications to Virginia brought on by the possibility of making the quick dollar has brought criminal activities, including organized crime, into the

Commonwealth.

Under the present system, arrests involving the movement of cigarettes not stamped in Virginia and not having the proper bill of lading are treated in the courts as a civil matter. Any person so apprehended pays the Virginia tax due, is normally not fined, is returned the contraband cigarettes and continues on his way. The subcommittee found that in very few cases are penalties ever levied upon such individuals. Even after payment of the Virginia tax if such person is apprehended, a large margin of profit is still to be made when the cigarettes reach the high tax northeastern areas.

The elimination or reduction of bootlegging will come about either by (1) stricter and more effective laws and law enforcement or (2) significantly less differential in tobacco taxes among the states.

C. Administration

The administration of the cigarette tax, when compared to the administration of other taxes collected by the Department of Taxation, is extremely burdensome. It is burdensome not only on the Department of Taxation but is also burdensome on the individual wholesalers who are required to place the tax stamps on each cigarette pack. The wholesaler must invest time, labor and money in this process.

The administration of local cigarette taxes are likewise excessively expensive when compared to the total revenue collected from the cigarette tax. The revenue is also small when comparing the localities' collections from all other tax sources. Also, local administration of the cigarette tax is unnecessarily duplicative. The only other method of collecting taxes by such a system in recent years was abandoned when it was found that changing from a stamp system to a reporting system would ease administration and thereby save money at all levels.

A change to a reporting system for the administration of Virginia's Tobacco Tax Laws would significantly reduce costs to wholesalers while yielding the state over \$2 million annually in additional revenue. It is recognized, however, that a change to a reporting system would run the risk of encouraging additional bootlegging unless it provided more effective control.

D. Taxation

The current tax brings in little revenue in comparison to the total state revenue collections. This appears to be true also for those localities levying a local tobacco tax. The fact that local governing bodies of cities are able to levy tobacco taxes at any rate they desire, makes it possible for large disparities to arise between localities. Such disparities will in time make it profitable for organized bootlegging of tobacco products between localities. It has been determined that a disparity of 7¢ per pack makes the bootlegging of cigarettes profitable. The differential between taxes in localities also causes artificial price competition. The General Assembly

should not, however, levy any tax or change any law which would cause harm to the tobacco industry.

The subcommittee notes that some of Virginia's localities have the privilege of levying a local tobacco tax while other Virginia localities do not have that privilege but rather must petition the General Assembly for specific permission.

IV. RECOMMENDATIONS AND RATIONALE

THE SUBCOMMITTEE RECOMMENDS THAT VIRGINIA IMPOSE CRIMINAL PENALTIES FOR THE TRANSPORTATION AND/OR POSSESSION OF CONTRABAND TOBACCO PRODUCTS SIMILAR TO THOSE PENALTIES IMPOSED IN VIRGINIA FOR THE TRANSPORTATION AND/OR POSSESSION OF CONTRABAND ALCOHOLIC BEVERAGES. To this end, the subcommittee recommends that the criminal penalty be confinement in jail for not less than thirty days nor more than twelve months and a fine of not less than \$50 nor more than \$500 either or both.

THE SUBCOMMITTEE FURTHER RECOMMENDS THAT THE VIRGINIA STATE POLICE, AS WELL AS OTHER LAW ENFORCEMENT AGENCIES, SHOULD BE GRANTED THE AUTHORITY TO CONFISCATE CONTRABAND CIGARETTES AS WELL AS VEHICLES USED TO TRANSPORT SUCH CONTRABAND. The subcommittee recommends that 60 cartons (12,000 cigarettes) be the dividing line used for the confiscation of a motor vehicle.

The subcommittee notes that cigarette bootlegging is a severe and growing problem caused by the tax disparity between low tax states and those that have chosen to impose higher taxes. At the state level, because of Virginia's low tax, cigarettes are purchased in Virginia for illegal sale o higher tax states. Moreover, because of Virginia's geographic location between the lowest tax state of North Carolina and the higher tax states of the Northeast, Virginia is a prime movement location for the transportation of contraband cigarettes. The subcommittee has heard testimony from a number of sources, including the Virginia State Police and the State Tax Commissioner, that organized crime is heavily involved in these illegal activities. They also stated that this problem is growing in Virginia.

At the local level, the subcommittee notes that the large differential of 10¢ per pack in the tax on cigarettes among different Virginia localities causes a significant amount of casual bootlegging within the State. Also casual bootlegging exists between border towns in North Carolina and the high tax areas of Tidewater.

At the state level, although the bootlegging problem has been caused by the discriminatory taxes levied by other states, the subcommittee believes that the penalties imposed on those attempting to evade Virginia's tobacco tax should be increased to deter the growth of organized crime.

At the present time arrests involving the movement of cigarettes not

stamped in Virginia and not having the proper bill of lading are treated in the courts as a civil matter. Any individual so apprehended pays the Virginia tax due, is normally not fined, is returned the contraband cigarettes and continues on his way. In very few cases is a penalty ever levied upon such individuals. The Virginia State Police testified that they view themselves as tax collectors because frequently the only penalty involved is the requirement that the proper tax be paid.

The subcommittee believes that the present criminal penalties do not reflect the seriousness of the crime nor do they provide a sufficient deterrent to bootlegging. The subcommittee has examined the enforcement provisions and cigarette tax penalties of a number of selected states. (See Appendix Tables I and J.) Virginia's criminal penalties are not in line with those of other states.

The subcommittee's staff also examined the statutes of other states and found that 41 states provide for the confiscation of contraband cigarettes while 35 states provide for the confiscation of any vehicles used for the transportation of such contraband. (See Appendix Table H for a summary of the individual state's treatment.) The subcommittee strongly feels, especially in light of the treatment in other states, that contraband cigarettes should be confiscated, as well as the vehicle(s) used in its transportation.

The enactment of these recommendations would increase the risks that bootleggers would have to take when operating in Virginia and serve notice that Virginia does not take this so-called "victim-less crime" lightly.

THE SUBCOMMITTEE RECOMMENDS THAT A LIASON BE ESTABLISHED AMONG VIRGINIA, NORTH CAROLINA, AND KENTUCKY TO STUDY THE BOOTLEGGING PROBLEM AS IT CONCERNS THESE STATES.

Virginia, North Carolina, and Kentucky are heavily dependent on the tobacco industry and the industry's growth has brought economic prosperity to these states. Therefore, any developments that affect tobacco will affect a large number of individuals as well as the region's economy. In appreciation for the prosperity brought to these states by the tobacco industry, they have in turn imposed relatively low tobacco taxes.

The low tax states have become the source for tobacco products for the bootlegger and organized crime. Although the subcommittee has recommended harsher penalties for bootleggers, it certainly does not believe that bootlegging will disappear. In the subcommittee's view, part of the problem with detecting bootleggers is that the interstate nature of the problem hampers State and local law-enforcement efforts.

In an effort to eliminate this barrier the subcommittee recommends that the Governor's office, legislature, and appropriate state police officials of the respective states form a working commission to explore methods of assisting each other in solving the bootlegging problem as it concerns these states.

Such a commission could speak and work cooperatively in tobacco tax matters that are of mutual interest. For example, there has been increasing activity in Congress concerning cigarette taxes and bootlegging of cigarettes. Much of that interest has centered on areas that directly affect the states; specifically, in the areas of state and local tobacco taxes and their tax administration and enforcement efforts. In the enforcement area, there have been a number of bills introduced that would make the illegal traffic in contraband cigarettes a federal crime. In the taxation area, there have been a number of bills introduced recently that would establish a substantially higher Federal Excise Tax on cigarettes, which would be rebated to the states under varying systems. States and subdivisions thereof would be effectively prohibited from levying cigarette taxes.

IN THE AREA OF TAX RATES, THE SUBCOMMITTEE RECOMMENDS THAT THERE BE NO CHANGES IN THE TOBACCO TAX. Although the subcommittee has studied the many issues involved and found many points of concern in the state and local taxation structure, which have been pointed out above, the subcommittee recommends no change.

THE SUBCOMMITTEE RECOMMENDS THAT AS A CONDITION FOR OBTAINING A LICENSE TO SELL TOBACCO PRODUCTS, VIRGINIA TOBACCO RETAILERS MUST HAVE AN ESTABLISHED PLACE OF BUSINESS IN VIRGINIA. In the course of examining the administration of the Virginia Tobacco Tax, the subcommittee became aware of the ease with which unscrupulous individuals with no retail establishment could obtain a tobacco tax license and purchase cigarettes from a wholesaler with the single purpose of sending these cigarettes into the bootlegging market. The subcommittee's recommendation would prevent this from occurring as a license could be issued only if the individual had an established place of business.

FINALLY, THE SUBCOMMITTEE RECOMMENDS THAT A JO S. RESOLUTION BE PASSED THAT WOULD MEMORIALIZE THE CONGRESS TO OPPOSE ANY INCREASE IN THE FEDERAL EXCISE TAX ON CIGARETTES OR ANY LAW THAT WOULD LIMIT THE SOVEREIGNTY OF THE STATES TO IMPOSE STATE CIGARETTE TAXES AT LEVELS WHICH EACH STATE DEEMS APPROPRIATE. The subcommittee notes with great concern the increasing number of bills introduced in Congress that would raise the federal excise tax on cigarettes to as high as 31 cents from the present 8 cents and require all states to eliminate their present taxes. Each state would then be rebated the tax collected from the increased federal tax. This would in effect require all states to levy a tax of 23 cents per pack. Although this uniform tax would presumably eliminate bootlegging it would also eliminate Virginia's ability to levy a tobacco tax at the rate it deems appropriate. Moreover, it would subject tobacco products to unreasonable and discriminatory taxation and interject the federal government into another area of state taxation. The subcommittee believes that the bootlegging problems have been caused by the indiscriminate taxation of cigarettes by a number of states. The subcommittee believes that the states that have caused the problem should be the states that take some action (i.e., lower their taxes) rather than expecting other states to cure the ills brought about by their excessive

taxation.

Your subcommittee suggests that the attached legislation (see Appendix K) be introduced in the 1978 Session of the General Assembly to implement their recommendations.

Respectively submitted,

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FOOTNOTES

1. See attached dissenting statement.
2. Dissenting in part (see attached statement).
3. See attached dissenting statement.

Dissenting Statement

The subcommittee has diligently explored the impact of the tobacco taxes in Virginia and identified the problems that these taxes create. These problems have been unanimously recognized by all the members of the subcommittee and are listed in the Findings and Conclusions sections of the report, unfortunately however, the subcommittee's recommendations do not fully address the resolution of these problems. The information we have collected demonstrates that these taxes are expensive to administer, cause bootlegging and generate false competition among merchants. These problems can be eliminated or diminished, but the recommendations of the subcommittee fall short of accomplishing this.

It costs the Department of Taxation in excess of \$12.00 per \$100.00 collected for the administration of the State cigarette tax. This is exceptionally high when compared to the 75 cents per \$100.00 it costs for the collection of all taxes by the Department of Taxation. Further unnecessary expense of administration is created by allowing 21 localities in Virginia to impose their own individual cigarette taxes which results in a duplication of effort.

The adoption of a reporting system in lieu of a stamping system for the administration of the statewide tax would eliminate the cost to the State relating to the stamping which amounts to approximately 98% to 99% of the total cost of State administration. Although there would be new administrative costs required as a result of the auditing involved in a reporting system, it would still be significantly less expensive to administer. The State Tax Commissioner testified that a reporting system would cost approximately \$100,000 annually to administer and would save the state \$2 million annually

in discounts that are presently paid to tobacco wholesalers. It would also eliminate significant expense now incurred by wholesale distributors. The states of Michigan, Hawaii and Alaska now use a reporting system with success. Virginia has successfully used such an approach with our beer tax, and the Northern Virginia Cigarette Tax Board uses a reporting system without difficulty.

If, in addition, we prohibit the imposition of local taxes on cigarettes, this unnecessary duplication of administration would be eliminated. This prohibition would also eliminate false competition among merchants in adjoining jurisdictions with disparate cigarette taxes and would completely eliminate the incentive which now exists for intrastate bootlegging as well as the bootlegging of cigarettes from North Carolina into the high tax Tidewater localities.

In order to prohibit local cigarette taxes and at the same time be responsible to those localities which now depend upon the revenue from these taxes, additional revenues would have to be made available to these localities. This can be accomplished by an increase in the statewide cigarette tax to be shared with all Virginia localities to ensure that no revenue loss is experienced by any locality.

The 21 localities which do impose cigarette taxes do so at rates which range from 2 cents to 10 cents per pack. Statewide, with the local taxes weighted in, Virginia's effective tax rate is 5.6 cents per pack, but ranges from 2.5 cents to 12.5 cents per pack. It will not be necessary to reimburse the localities for their portion of their current revenue which is used to support their own

stamping system. In addition, the savings experienced by the State's use of a reporting system can be used to keep the statewide tax at its lowest possible level and still ensure no revenue loss to either the State or any of its localities.

This can be accomplished with a statewide tax in the range of 4 cents to 6 cents per pack. At 4 cents per pack, this would actually represent a 29% reduction in the statewide effective tax rate, and at 6 cents per pack would only represent a 7% increase.

A further benefit of using such a statewide tax in lieu of the State and local taxes would be the elimination of Virginia's contribution to the nationwide bootlegging of cigarettes. With a 4 to 6 cents tax rate the differential between Virginia's cigarette tax and that of our neighbors of North Carolina and Kentucky would be too small to encourage bootlegging from those states into Virginia. At the same time, it would be a large enough differential to discourage bootleggers from buying cigarettes in Virginia for transportation and sale into the northeastern states. This would effectively take Virginia out of the position of being the source of cigarettes which are a part of this lucrative trade of organized crime; however, it would take action by the northeastern states in reducing their tax rates to effect a nationwide elimination of this problem.

The tax on cigarettes has been criticized because it imposes a tax on an agricultural product; however, a similar course of action has been taken in every single state in the United States. In addition, Virginia taxes other natural resources, including forest products¹, oysters², peanuts³, hogs⁴, soybeans⁵, apples⁶, sweet potatoes⁷, coal⁸, poultry⁹, and beef cattle¹⁰. Thus, the question is

not whether we choose to tax cigarettes or not, but rather what is the most efficient and fair method of doing so. A method which significantly reduces the cost of administration, eliminates intrastate bootlegging and false competition among local merchants, eliminates Virginia's participation in nationwide bootlegging, and eliminates the wide disparity in cigarette taxation among the localities is one that is far preferable to the system we now have and which this subcommittee recommends be continued.

Bernard G. Barrow
Joseph A. Leafe
Robert E. Quinn
Erwin S. Solomon

1. § 58-838.5:2
2. § 28.1-87 and § 28.1-89
3. § 3.1-657
4. § 3.1-763.9
5. § 3.1-684.3

6. § 3.1-621
7. § 3.1-668
8. § 58-266.1:1
9. § 3.1-779
10. § 3.1-796.25



LEWIS W. PARKER, JR.

COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

TWENTY-NINTH DISTRICT
MECKLENBURG

COMMITTEE ASSIGNMENTS:

AGRICULTURE
CLAIMS

As you will note, I have granted my approval to this report and its recommendations. However, I wish to state that I have sincere concern and do not agree with that section of the report that relates to confiscation of vehicles and contraband.


Lewis W. Parker, Jr.

DISSENTING STATEMENT OF MARGARET JONES

The subcommittee has deligently explored the impact of the tobacco taxes in Virginia and identified the problems that these taxes create. These problems have been unanimously recognized by all the members of the subcommittee and are listed in the findings and conclusions sections of the report. Unfortunately, the subcommittee's recommendations do not fully address the resolution of these problems. The information we have collected demonstrates that state and local tobacco taxes are expensive to administer, cause bootlegging, and generate false competition among merchants. These problems can be eliminated or diminished, but the recommendations of the subcommittee fall short of accomplishing this.

If we prohibit the imposition of local taxes on cigarettts, we would eliminate false competition among merchants in adjoining jurisdictions with disparate cigarette taxes and would completely eliminate the incentive which now exists for intrastate bootlegging as well as to the bootlegging of cigarettes from North Carolina into the high tax Tidewater localities.

In order to prohibit local cigarette taxes and at the same time be responsible to those localities which now depend upon the revenue from these taxes, additional revenues would have to be made available to these localities. This can be accomplished by an increase in the statewide cigarette tax to be shared with all Virginia localities to ensure that no revenue loss is experience by any locality.

The 21 localities which do impose cigarette taxes do so at rates which range from 2 cents to 10 cents per pack. Statewide, with

the local taxes weighted in, Virginia's effective tax rate is 5.6 cents per pack, but ranges from 2.5 cents to 12.5 cents per pack. It will not be necessary to reimburse the localities for their portion of their current revenue which is used to support their own stamping system.

The above can be accomplished with a statewide tax of 4 cents per pack. This would actually represent a 29% reduction in the statewide effective tax rate.

A further benefit of using such a statewide tax in lieu of the State and local taxes would be the elimination of Virginia's contribution to the nationwide bootlegging of cigarettes. With a 4 cents tax rate the differential between Virginia's cigarette tax and that of our neighbors North Carolina and Kentucky would be too small to encourage bootlegging from those states into Virginia. At the same time, it would be a large enough differential to discourage bootleggers from buying cigarettes in Virginia for transportation and sale into the northeastern states. This would effectively take Virginia out of the position of being the source of cigarettes which are a part of this lucrative trade of organized crime; however, it would take action by the northeastern states in reducing their tax rates to effect a nationwide elimination of this problem.

The tax on cigarettes has been criticized because it imposes a tax on an agricultural product; however, a similar course of action has been taken in every single state in the United States. In addition, Virginia taxes other natural resources, including forest products, oysters, peanuts, hogs, soybeans, apples, sweet potatoes, coal, poultry, and beef cattle. Thus, the question is not whether

we choose to tax cigarettes or not, but rather what is the most efficient and fair method of doing so. A method which eliminates intrastate bootlegging and false competition among local merchants, eliminates Virginia's participation and eliminates the wide disparity in cigarette taxation among the localities, is one that is far preferable to the system we now have and which this subcommittee recommends be continued.

Finally, I would like to state that I support a number of the recommendations of the subcommittee, although I feel the subcommittee did not go far enough. I completely support the confiscation and seizure recommendations, the formation of a Virginia Tobacco Commission which would work with the states of North Carolina and Kentucky, and the increased requirements for obtaining a license to sell tobacco products in Virginia.

TABLE A -- STATE CIGARETTE TAX
RATES AS OF JULY 1, 1977

<u>State</u>	<u>Cents per Pack</u>	<u>State</u>	<u>Cents per Pack</u>
Alabama *	12	Missouri *	9
Alaska	8	Montana	12
Arizona	13	Nebraska	13
Arkansas	17.75	Nevada	10
California	10	New Hampshire	12
Colorado	15	New Jersey *	19
Connecticut	21	New Mexico	12
Delaware	14	New York	15
District of Columbia	13	North Carolina	2
Florida	21	North Dakota	11
Georgia	12	Ohio	15
Hawaii	11	Oklahoma	13
Idaho	9.1	Oregon	9
Illinois *	12	Pennsylvania	18
Indiana	10.5	Rhode Island	18
Iowa	13	South Carolina	7
Kansas	11	South Dakota	12
Kentucky	3	Tennessee *	13
Louisiana	11	Texas	18.5
Maine	16	Utah	8
Maryland	10	Vermont *	12
Massachusetts	21	Virginia	2.5
Michigan	11	Washington	16
Minnesota	18	West Virginia	12
Mississippi	11	Wisconsin	16
		Wyoming	8

SOURCE: Tobacco Tax Council, Inc., "Monthly State Cigaret Tax Report", July 1, 1977.

* Certain localities in this State levy a local cigarette tax.

TABLE B -- LOCAL CIGARETTE TAX RATES
IN VIRGINIA, JULY 1, 1976

<u>Locality</u>	<u>Cents per Pack</u>	<u>Gross Amount of Cigarette Tax for Fiscal Year 1975-76</u>
Alexandria	10¢	\$ 1,055,321
Arlington	5	1,090,656
Bristol	2	185,433
Chesapeake	10	718,169
Clifton	5	1,193
Clifton Forge	2	21,894
Fairfax City	7	357,889
Fairfax County	5	2,431,582
Falls Church	10 ¹	178,313
Franklin	5	42,047
Hampton	10	778,698
Herndon	5	47,466
Lynchburg	5	350,530
Newport News	10	911,132
Norfolk	10	2,324,715
Portsmouth	10	800,669
Pulaski	4	79,258
Roanoke City	2	261,621
Suffolk	5	275,325
Vienna	5	167,117
Virginia Beach	10	1,652,174
Total		\$13,731,202

¹/ Tax rate increased from 7¢ to 10¢ on July 1, 1976.

SOURCE: Tobacco Tax Council, Richmond, Virginia.

TABLE B-1
GROSS COUNTY AND CITY TOBACCO TAXES
FOR FISCAL YEAR 1976

	<u>Number of places taxing:</u>		<u>Gross taxes on:</u>		
	<u>Cigaretts</u>	<u>Other tobacco products</u>	<u>Cigaretts</u>	<u>Other tobacco products</u>	<u>Total</u>
Alabama					
Cities	225	17	\$ 4,277,609	\$ 65,336	\$ 4,342,945
Counties	12	5	5,418,647	71,673	5,490,320
Illinois					
Cities	2	0	18,138,817	0	18,138,817
Missouri					
Cities	99	0	10,977,797	0	10,977,797
Counties	2	0	8,910,277	0	8,910,277
New Jersey					
Cities			216,714	9,736	226,450
New York					
Cities		0	51,002,106	0	51,002,106
Tennessee					
Cities		0	915,900	0	915,900
Counties		0	56,526	0	56,526
Virginia					
Cities	19	1	10,208,964	4,556	10,213,520
Counties	2	0	3,522,238	0	3,522,238
Total					
Cities	348	19	\$ 95,737,907	\$ 79,628	\$ 95,817,535
Counties	17	5	\$ 17,907,688	\$ 71,673	\$ 17,979,361
Cities & Counties	365	24	\$113,645,595	\$151,301	\$113,796,896

TABLE C -- EFFECTIVE STATE AND LOCAL
TOBACCO TAX RATES WEIGHTED BY
TOTAL TAX COLLECTIONS, BY
STATE, FOR FISCAL YEAR
1975-1976

<u>State</u>	<u>Cents per Pack</u>	<u>State</u>	<u>Cents per Pack</u>
Alabama	14.3	Missouri	12.0
Alaska	.8	Montana	12
Arizona	13	Nebraska	13
Arkansas	17.75	Nevada	10
California	10	New Hampshire	11
Colorado	10	New Jersey	19.0
Connecticut	21	New Mexico	12
Delaware	14	New York	17.3
District of Columbia	6	North Carolina	2
Florida	17	North Dakota	11
Georgia	.12	Ohio	15
Hawaii	10	Oklahoma	13
Idaho	9.1	Oregon	9
Illinois	13.2	Pennsylvania	18
Indiana	6	Rhode Island	13
Iowa	13	South Carolina	6
Kansas	11	South Dakota	12
Kentucky	3	Tennessee	13.2
Louisiana	11	Texas	18.5
Maine	16	Utah	8
Maryland	6	Vermont	12
Massachusetts	16	Virginia	4.3
Michigan	11	Washington	16
Minnesota	18	West Virginia	12
Mississippi	11	Wisconsin	16
		Wyoming	8

Note: The above is calculated by adding total state and local cigarette taxes and dividing by the number of packs sold for those states that allow localities to levy a local tax.

Source: Tobacco Tax Council, Richmond, Virginia. For the states that allow local cigarette taxes, the table used data for the 1975-76 fiscal year while for other states the tax that is used is the State tax in effect on January 1, 1976.

TABLE C-1 -- EFFECTIVE STATE AND LOCAL
TOBACCO TAX RATES WEIGHTED BY
POPULATION, BY STATE, FOR
FISCAL YEAR 1975-76

<u>State</u>	<u>Cents per Pack</u>	<u>State</u>	<u>Cents per Pack</u>
Alabama	*	Missouri	12.8
Alaska	8	Montana	12
Arizona	13	Nebraska	13
Arkansas	17.75	Nevada	10
California	10	New Hampshire	11
Colorado	10	New Jersey	19.0
Connecticut	21	New Mexico	12
Delaware	14	New York	18.3
District of Columbia	6	North Carolina	2
Florida	17	North Dakota	11
Georgia	12	Ohio	15
Hawaii	10	Oklahoma	13
Idaho	9.1	Oregon	9
Illinois	13.4	Pennsylvania	18
Indiana	6	Rhode Island	13
Iowa	13	South Carolina	6
Kansas	11	South Dakota	12
Kentucky	3	Tennessee	13.2
Louisiana	11	Texas	18.5
Maine	16	Utah	8
Maryland	6	Vermont	12
Massachusetts	16	Virginia	5.6
Michigan	11	Washington	16
Minnesota	18	West Virginia	12
Mississippi	11	Wisconsin	16
		Wyoming	8

* The State and local rate for Alabama by population is unavailable due to police jurisdictions which extend beyond the municipal boundaries where one-half the local tax is imposed.

NOTE: The above is calculated by adding State and local taxes for each locality and weighting the total rate by that locality's portion of the total State population.

SOURCE: Tobacco Tax Council, Richmond, Virginia. For the states that allow local cigarette taxes, the table used data for the 1975-76 fiscal year while for other states, the tax that is used is the State tax in effect on January 1, 1976.

TABLE D

ANALYSIS OF CIGARETTE SALES AND
TAXES FOR THE CITY OF ALEXANDRIA

<u>Fiscal Year</u>	<u>Tax Rate</u>	<u>Tax Revenue</u>	<u>Total Packs (mill.)</u>	<u>Packs Capita</u>	<u>Alexandria per Capita State per Capita</u>
1966-67					
1967-68					
1968-69					
1969-70	5 cents	\$626,216	12.5	197.1	86.28
1970-71	5	487,281	9.7	89.5	69.7
1971-72	7	814,012	11.6	106.5	77.7
1972-73	7	801,446	11.4	103.4	72.3
1973-74	7	788,293	11.3	103.4	69.1
1974-75	7	779,036	11.1	104.9	68.7
1975-76	10	1,055,321	10.5	98.8	62.5

Source: Tobacco Tax Council, Richmond, Va.

Table D (con't)

ANALYSIS OF CIGARETTE SALES AND TAXES
FOR THE CITY OF CHESAPEAKE

<u>FISCAL YEAR</u>	<u>Tax Rate</u>	<u>Tax Revenue</u>	<u>Total Packs (mill.)</u>	<u>Packs Capita</u>	<u>Chesapeake per Capita State per Capita</u>
1966-67	3 cents	\$225,075	7.5	84.9	70.28
1967-68	3	220,079	7.3	90.1	73.4
1968-69	3	214,216	7.1	87.9	70.9
1969-70	3	243,649	9.1	94.7	76.2
1970-71	10	651,049	6.5	72.2	56.2
1971-72	10	628,837	6.3	68.1	49.7
1972-73	10	649,123	6.5	69.0	48.2
1973-74	10	700,824	7.0	72.9	48.7
1974-75	10	737,983	7.4	77.3	50.6
1975-76	10	718,169	7.2	69.7	44.18

Note: In fiscal year 1969-70, a number of Tidewater localities increased their local cigarette tax rates.

Source: Tobacco Tax Council, Richmond, Va.

Table D (con')

ANALYSIS OF CIGARETTE SALES AND
TAXES FOR THE CITY OF HAMPTON

<u>Fiscal Year</u>	<u>Tax Rate</u>	<u>Tax Revenue</u>	<u>Total Packs (mill.)</u>	<u>Packs Capita...</u>	<u>Hampton Per Capita</u> ^a <u>State Per Capita</u>
1966-67	2¢	\$233,484	11.6	101.4	83.9
1967-68	2	241,924	12.1	103.5	84.3
1968-69	2	255,526	12.8	106.2	85.7
1969-70	5	574,903	11.5	93.6	75.3
1970-71	10	804,181	8.0	66.8	52.0
1971-72	10	714,894	7.1	58.5	42.7
1972-73	10	732,014	7.3	58.8	41.1
1973-74	10	798,999	8.0	62.5	41.8
1974-75	10	758,578	7.6	57.5	37.7
1975-76	10¢	778,698	7.9	60.7	38.4

SOURCE: TOBACCO TAX COUNCIL, RICHMOND, VIRGINIA

Table D (con't)

ANALYSIS OF CIGARETTE SALES AND TAXES
FOR THE CITY OF NORFOLK

<u>Fiscal Year</u>	<u>Tax</u>	<u>Tax Revenue</u>	<u>Total Packs (mill.)</u>	<u>Packs Capita</u>	<u>Norfolk per Capita State per Capita</u>
1966-67	3 cents	\$906,821	30.2	93.2	77.1%
1967-68	3	871,128	29.0	93.7	76.3
1968-69	3	843,265	28.1	93.0	75.1
1969-70	5	1,445,572	28.9	96.6	77.7
1970-71	10	2,402,074	24.0	76.9	59.9
1971-72	10	2,284,595	22.8	72.5	52.9
1972-73	10	2,262,331	22.6	72.9	50.9
1973-74	10	2,257,599	22.6	80.2	53.6
1974-75	10	2,322,046	23.2	81.8	53.6
1975-76	10	2,324,715	23.2	80.1	50.7

SOURCE: Tobacco Tax Council, Richmond, Va.

Table D (con't)

ANALYSIS OF CIGARETTE SALES AND TAXES
FOR THE CITY OF VIRGINIA BEACH

<u>FISCAL YEAR</u>	<u>Tax Rate</u>	<u>Tax Revenue</u>	<u>Total Packs (mill.)</u>	<u>Packs Capita</u>	<u>Va. Beach per Capita State per Capita</u>
1966-67	2 cents	\$229,505	11.5	78.8	65.2
1967-68	2.8	340,786	12.4	84.6	68.9
1968-69	3	377,247	12.6	81.2	65.5
1969-70	5	624,865	12.5	75.7	60.9
1970-71	10	1,128,934	11.3	65.2	50.8
1971-72	10	1,139,042	11.4	65.3	47.7
1972-73	10	1,291,390	12.9	71.9	50.2
1973-74	10	1,465,892	14.7	75.4	50.4
1974-75	10	1,559,601	15.6	74.0	48.5
1975-76	10	1,652,174	16.5	73.0	46.2

SOURCE: Tobacco Tax Council, Richmond, Va.

TABLE E

DISCOUNT RATE ON CIGARET TAX INDICIA

State	Rate (cents per pack)	Discount rate (%)	Discount in \$ per standard case of 12,000 cigarets
Alabama	12¢	7.5%	\$5.40
Alaska*	8	1.0	.48
Arizona	13	4.0 on 1st \$30,000 3.0 on 2nd \$30,000 2.0 on excess of \$60,000	5.12 2.34 1.56
Arkansas	17.75	3.8	4.05
California	10	.85	.51
Colorado	15	4.0	3.60
Connecticut	21	1.0	1.26
Delaware	14	2.14	1.80
Dist. of Columbia	13	2.0	1.56
Florida	21	2.07 on 1st \$2,000,000 1.43 on excess of \$2,000,000	2.61 1.80
Georgia	12	3.0	2.16
Hawaii**	11	-0-	-0-
Idaho	9.1	5.0	2.73
Illinois	12	1.66 on 1st \$700,000 1.33 on 2nd \$700,000 1.0 on 3rd \$700,000 0.66 on excess of \$2,100,000	1.20 .96 .72 .48
Indiana	10.5	4.0	2.52
Iowa	13	3.0	2.34
Kansas	11	3.25	2.15
Kentucky	3	5.66	1.02
Louisiana	11	6.0	3.96
Maine	16	2.5	2.40
Maryland	10	3.25	1.95
Massachusetts	21	1.27	1.60
Michigan*	11	1.0	.66
Minnesota	18	2.5 on 1st \$500,000 2.0 on 2nd \$500,000 1.5 on excess of \$1,000,000	2.70 2.16 1.62
Mississippi	11	8.0	5.28
Missouri	9	2.0	1.08
Montana	12	3.0	2.16

TABLE E (CON'T)

DISCOUNT RATE ON CIGARET TAX INDICIA

(continued)

State	Rate (cents per pack)	Discount rate (%)	Discount in \$ per standard case of 12,000 cigarettes
Nebraska	13¢	5.0%	\$3.90
Nevada	10	4.0	2.40
New Hampshire	12	2.75 on 1st \$500,000 2.375 on 2nd \$500,000 2.0 on excess of \$1,000,000	1.98 1.71 1.44
New Jersey	19	1.46	1.66
New Mexico	12	4.0 on 1st \$30,000 3.0 on 2nd \$30,000 2.0 on excess of \$60,000	2.88 2.16 1.44
New York	15	1.18*	1.06
North Carolina	2	14.58	1.75
North Dakota	11	3.0	1.98
Ohio	15	3.0	2.70
Oklahoma	13	4.0	3.12
Oregon	9	1.85	1.00
Pennsylvania	16	3.0	3.24
Rhode Island	18	1.5	1.62
South Carolina	7	5.0	2.10
South Dakota	12	3.5	2.52
Tennessee	13	2.75 on 1st \$234,000 2.50 on 2nd \$234,000 2.25 on 3rd \$234,000 1.75 on excess of \$702,000	2.15 1.95 1.76 1.37
Texas	18.5	2.75	3.05
Utah	8	4.0	1.92
Vermont	12	3.2	2.30
Virginia	2.5	10.0	1.50
Washington	16	1.156	1.11
West Virginia	12	4.0	2.88
Wisconsin	16	2.1	2.02
Wyoming	8	6.0	2.88

Tax collected on reporting basis. No stamps or meter impressions used.

** Tax collected on reporting basis. Tax rate is 40% of wholesale price.

Variable discount rate. Average rate is computed on recent months' experience.

TOBACCO TAX COUNCIL
P.O. BOX 8269
RICHMOND, VIRGINIA 23226

September 1977

TABLE F -- LOCAL TOBACCO TAX DEALER
DISCOUNTS, AS OF SEPTEMBER 1, 1977

<u>Locality</u>	<u>Discount</u> <u>Percent on Amount</u> <u>of Tax</u>	<u>Per Case</u>
Alexandria	1.5% - self-wholesaler 2.0% - wholesaler 3.5% - vendor	\$ 1.20*
Arlington	1.5% - self-wholesaler 2.0% - wholesaler 3.5% - vendor	0.60*
Bristol	8%	0.96
Chesapeake	8%	4.80
Clifton	1.5% - self-wholesaler 2.0% - wholesaler 3.5% - vendor	0.60
Clifton Forge	10%	1.20
Fairfax City	1.5% - self-wholesaler 2.0% - wholesaler 3.5% - vendor	0.84
Fairfax County	1.5% - self-wholesaler 2.0% - wholesaler 3.5% - vendor	0.60
Falls Church	1.5% - self-wholesaler 2.0% - wholesaler 3.5% - vendor	1.20
Franklin	8%	2.40
Hampton	5% - stamp 6% - meter	1.50 1.80
Herndon	1.5% - self-wholesaler 2.0% - wholesaler 3.5% - vendor	0.60
Lynchburg	10% - stamp 8% - meter	3.00 2.40
Newport News	4% - stamp 6% - meter	2.40 3.60
Norfolk	6%	3.60

TABLE F (CON'T)

<u>Locality</u>	<u>Discount Percent on Amount of Tax</u>	<u>Per Case</u>
Portsmouth	10%	6.00
Pulaski	.002 X # of stamps	1.20
Roanoke City	7% - stamp	.84
	8.5% - meter	1.02
Suffolk	8%	2.40
Vienna	1.5% - self-wholesaler	0.60*
	2.0% - wholesaler	
	3.5% - vendor	
Virginia Beach	8% - stamp	4.80
	10% - meter	6.00

* The per case discount is based on a 2% discount. These localities, which are part of the Northern Virginia Cigarette Tax Board, use a reporting system rather than a meter/stamp indicia system for evidence of the tax payment.

SOURCE: Calculated from data provided by the Tobacco Tax Council.

TABLE G -- COMPARISON OF U. S. TAX
PAID SALES OF TOBACCO PRODUCTS
AND VIRGINIA TAX PAID SALES OF
TOBACCO PRODUCTS, PACKS PER
CAPITA, FOR SELECTED YEARS

<u>Year</u>	<u>U. S.</u>	<u>Virginia</u>
1955	116.1	N.A.
1960	132.3	N.A.
1965	135.1	123.3
1970	126.7	124.3
1971	132.4	128.4
1972	131.6	137.0
1973	135.1	143.1
1974	141.7	149.6
1975	134.9	152.7
1976	145.3	158.1

SOURCE: Tobacco Tax Council, Richmond, Virginia

TABLE H

OTHER STATES' ALLOWANCES FOR CONFISCATION

<u>State</u>	<u>Allowance for Confiscation of Cigarettes</u>	<u>Allowance for Confiscation of Vehicles</u>	<u>Allowance for Confiscation of Other Contraband</u>
Alabama	yes	yes	
Alaska	no	no	
Arizona	yes	no	
Arkansas	yes	no	
California	yes	no	
Colorado	yes	no	
Connecticut	yes	yes	
Delaware	yes	yes	
Florida	yes	yes	
Georgia	yes	yes	
Hawaii	no	no	
Idaho	yes	yes	
Illinois	yes	no	vending devices
Indiana	yes		vending machines
Iowa	yes	yes	equipment also seized and sold
Kansas	yes	yes	vending machines also seized and sold
Kentucky	yes	yes	vending machines
Louisiana	yes	yes	
Maine	no	yes	
Maryland	yes	yes	
Massachusetts	yes	yes	
Michigan	yes	yes	
Minnesota	no	yes	
Mississippi	yes	yes	
Missouri	yes	yes	
Montana	yes	yes	
Nebraska	no	yes	
Nevada	no	yes	
New Hampshire	no	yes	
New Jersey	yes	yes	
New Mexico	no	yes	
New York	yes	yes	
North Carolina	yes	yes	
North Dakota	yes	yes	equipment also seized and sold
Ohio	yes	no	
Oklahoma	yes	yes	
Oregon	yes	yes	
Pennsylvania	yes	yes	Also confiscates vending machines and stamping devices

Table H (con't)

<u>State</u>	<u>Allowance for Confiscation of Cigarettes</u>	<u>Allowance for Confiscation of Vehicles</u>	<u>Allowance for Confiscation of Other Contraband</u>
Rhode Island	yes	no	
South Carolina	yes	yes	
South Dakota	yes	no	Also confiscates stamping machines
Tennessee	yes	yes	
Texas	yes	yes	
Utah	yes	no	
Vermont	yes	no	
Washington	yes	yes	
West Virginia	yes	yes	
Wisconsin	yes	yes	
Wyoming	yes	no	

TABLE I
ENFORCEMENT PROVISIONS - CIGARETTE TAX

<u>STATE</u>	<u>Authorized for Confiscation</u>	<u>Condition for Confiscation</u>	<u>Authorized to Seize</u>	<u>Disposal of Contraband</u>	<u>Legal Limit Possession of Unstamped Cigarettes</u>	<u>Miscellaneous</u>
North Carolina	1. Cigarettes. 2. Vehicle in which transported. 3. Paraphernalia or devices used in connection of unstamped cigarettes.	1. Transportation of unstamped cigarettes in violation of Article 2A, Chapter 105. (Proper bills of lading.)	Officer of the law.	1. Bond may be executed for return of vehicle until trial. Cigarettes are held. 2. Unless claimant can show the unstamped cigarettes were not transported in violation of act, contraband is sold at public auction. No fee or publication of taking of vehicle must be made for lienors.	600 (3 cartons)	
Tennessee	1. Tobacco products. 2. Vehicles. 3. Vending machines.	1. Unstamped tobacco products. 2. Transportation in violation of Chapter 3 - counterfeit or unstamped cigarettes in vending machine.	1. Commissioner of Revenue or agents thereof. 2. Peace officers.	Sold at public auction to highest bidder after due advertisement.	400 (2 cartons)	Procedure for confiscation similar to Virginia enforcement law.

Table I (con't)

<u>STATE</u>	<u>Authorized for Confiscation</u>	<u>Condition for Confiscation</u>	<u>Authorized to Seize</u>	<u>Disposal of Contraband</u>	<u>Legal Limit Possession of Unstamped Cigarettes</u>	<u>Miscellaneous</u>
Kentucky	<ol style="list-style-type: none"> 1. Cigarettes. 2. Vehicles. 3. Vending machines. 	<ol style="list-style-type: none"> 1. Possession unstamped cigarettes. 2. Vending machines dispensing unstamped cigarettes. 3. Transportation of unstamped cigarettes. 	<ol style="list-style-type: none"> 1. Peace officer. 2. Representative of Department of Revenue. 	<ol style="list-style-type: none"> 1. Cigarettes held for 20 days and sold at public auction. 2. Vending machines and vehicles. 3. Commissioner may remit forfeiture for good cause shown, or, if violation was willfully remit and require payment of penalty of 50% of value of the thin forfeited. 	<p>20 packs 1 carton</p>	<ol style="list-style-type: none"> 1. Department of Revenue in a prescribe rules for payment or tax without affixing evidence to individual packs. 2. Appeal may be made to Kentucky Board of Tax Appeal.
West Virginia	<ol style="list-style-type: none"> 1. Cigarettes. 2. Vending machines. 3. Vehicles. 	<ol style="list-style-type: none"> 1. Unstamped cigarettes. 2. Transportation of unstamped cigarettes without proper invoices. 	<p>Tax commissioner and agents. Department of Public Safety. Sheriffs and deputies.</p>	<p>Sold after public notice.</p>	<p>20 packs 1 carton</p>	<p>Tax commissioner may assess tax if proper reports are not filed.</p>
Maryland	<ol style="list-style-type: none"> 1. Cigarettes. 2. Vehicle. 	<ol style="list-style-type: none"> 1. Unstamped cigarettes. 2. Transportation of unstamped cigarettes without proper bills of lading. 	<ol style="list-style-type: none"> 1. Comptroller, agents and employees. 2. Peace officer. 	<ol style="list-style-type: none"> 1. Cigarettes sold to State institutions & nonprofit charitable institutions at price and in manner determined by Comptroller. 2. Vehicles sold at public auction. 	<p>1 carton (military) 2 cartons</p>	<ol style="list-style-type: none"> 1. Vending machines are sealed until violation has been corrected. (stamp must be visible.) 2. If upon examination of records of vendor by Comptroller, unstamped cigarettes are discovered, fine is tax imposed + 3/4% interest/month. 3. Sets forth appeal procedure.

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<u>STATE</u>	<u>Authorized for Confiscation</u>	<u>Condition for Confiscation</u>	<u>Authorized to Seize</u>	<u>Disposal of Contraband</u>	<u>Legal Limit Possession of Unstamped Cigarettes</u>	<u>Miscellaneous</u>
Pennsylvania	<ol style="list-style-type: none"> 1. Cigarettes. 2. Vending machines. 3. Vehicle unstamped. 	<ol style="list-style-type: none"> 1. Absence of proper invoices. 2. Transportation of unstamped cigarettes. 3. Vehicle must contain more than 5,000 unstamped cigarettes. 	<ol style="list-style-type: none"> 1. Department of Revenue agents. 2. Peace officers. 	<ol style="list-style-type: none"> 1. Sale by Division of Escheats. 2. Petition must be filed within 5 days of confiscation for invoices and vending machines and must be served personally on the owner if in the State. If not, by mail. The petition must be signed by the petitioner and his attorney or the D.A. or A. A. 3. Provisions for liens. 4. Vehicles not claimed after notice of 90 days may be disposed of - unclaimed property act. 	200	
New Jersey	<ol style="list-style-type: none"> 1. Cigarettes. 2. Vehicle. 3. Vending machines. 	<ol style="list-style-type: none"> 1. Unstamped cigarettes. 2. Transportation of cigarettes without proper invoices. 3. Vending machines without proper stamp or ID. 	<ol style="list-style-type: none"> 1. Special agent of Department of Treasury. 2. Director of I. 3. Peace Officer. 	According to law.		

Table I (con't)

STATE	Authorized for Confiscation	Condition for Confiscation	Authorized to Seize	Disposal of Contraband	Legal Limit Possession of Unstamped Cigarettes	Miscellaneous
New York	<ol style="list-style-type: none"> 1. Cigarettes. 2. Vending devices. 3. Vehicle. 	<ol style="list-style-type: none"> 1. Untax paid cigarettes. 2. Unstamped cigarettes. 3. Vehicle used to transport untaxed cigarettes. 	<ol style="list-style-type: none"> 1. Tax Commission. 2. Police Officer. 	<ol style="list-style-type: none"> 1. Tax Commission may sel with 5 days notice. 2. Tax Commission may allow person from whom cigarettes were seized to pay tax due + 50% penalty. 3 A. Notice of forfeiture of vehicle sent to owner and published in newspaper. B. Sale of vehicle after 5 days public notice. C. Any interested party may petition the justice of the supreme court for recovery. 	100 cigarettes. (1/2 carton)	<ol style="list-style-type: none"> 1. Warrant may be issued for sheriff to sell goods and chattles to collect unpaid taxes.
Michigan	<ol style="list-style-type: none"> 1. Cigarette s. 2. Vending machines. 3. Vehicles. 	Cigarettes, vending machines and vehicles containing cigarettes in violation of act.	Police officers authorized inspectors.	Public Sale.		Reward of 10% of sale not to exceed \$5,000 goes to informant.
Illinois	<ol style="list-style-type: none"> 1. Cigarettes. 2. Vending machines. 	Unstamped cigarettes and vending machines containing such.	Authorized employee of Department of Revenue. Peace Officer.	<ol style="list-style-type: none"> 1. Sold by D partment of Revenue unless valued at more than \$500 when it is sold by competitive bidding. 2. Cigarettes, at the discretion of the Director, may be given to any eleemosynary institution in the State. 		

Table I (con't)

<u>STATE</u>	<u>Authorized for Confiscation</u>	<u>Condition for Confiscation</u>	<u>Authorized to Seize</u>	<u>Disposal of Contraband</u>	<u>Legal Limit Possession of Unstamped Cigarettes</u>	<u>Miscellaneous</u>
Indiana	1. Cigarettes. 2. <u>Vending machines.</u>	Untaxed cigarettes.	Department of State Revenue.	Sold after public notification.		
Wisconsin	1. Cigarettes. 2. Personal property.	Cigarettes and personal property used in violation of act.	Secretary of Revenue. Peace Officer.	1. Untaxed cigarettes may be sold without notice. 2. Personal property sold after public notification. 3. Untaxed cigarettes may be given to charitable or penal institution if thought to deteriorate before sale.		
Ohio	1. Cigarettes.	Unstamped cigarettes.	Tax Commissioner.	Sale after public notice.		After confiscated cigarettes are sold, the due tax, a penalty of 100% and the cost of the proceedings are paid, the balance is paid to the person in whose possession the <u>cigarettes</u> were found.

TABLE J

<u>STATE</u>	<u>CIGARETTE TAX ACT PENALTIES</u>	<u>PENALTY</u>
North Carolina	- Violation of Act (Misdemeanor)	fine and/or imprisonment
	- Forging or Counterfeiting stamps or having a device to do so (felony)	fine of no more than \$2,000 and/or imprisonment for no more than 5 years
Tennessee	- Unlawful transportation of cigarettes	fine of \$25/carton
	- Counterfeiting stamps (felony)	imprisonment for 1-10 years
	- failure to file reports	fine of \$5 for each late day
	- incorrect tax payment	fine of 6% of the deficiency plus 10% penalty
	- Fraudulent intent to evade tax	Up to 50% additional penalty
	- Engaging in business without a license	Penalty in the amount of 50% of the license fee for each month, not to exceed the cost of the license. The commissioner may also impose a fine of no more than \$250 per day
Kentucky	- Violation of Chapter	fine \$10-100 and/or imprisonment of 30 days to 1 year
	- Possession of more than 25 cartons of unstamped cigarettes (felony)	Imprisonment for 1-10 years
	- Violation of Chapter	fine of \$500 for each violation
	- Failure to keep proper records	fine of \$1,000 for each violation
West Virginia	- Conducting business without a license	fee of 20%
	- Failure to pay tax	6% interest per annum \$25 fine/month
	- Deficiency in tax payment	penalty of 5%/month up to 25%
	- Filing of false or fraudulent return	100% penalty
	- Selling unstamped cigarettes or failure to have proper invoices (misdemeanor)	fine \$300-5,000 and/or imprisonment for no more than 1 year
	- Counterfeiting stamps (felony)	fine \$5,000-10,000 and imprisonment for 1-5 years

Table J (con't)

<u>STATE</u>	<u>CIGARETTE TAX ACT PENALTIES</u>	<u>PENALTY</u>
Maryland	- Transporting cigarettes illegally (felony)	fine \$25/carton and/or imprisonment for no more than 1 year
	- Selling or possessing unstamped cigarettes (misdemeanor)	\$1,000 fine and/or imprisonment for no more than 1 year
Pennsylvania	- Sale of unstamped cigarettes	fine \$25-100 or imprisonment for no more than 60 days
	- Selling, distributing, etc. cigarettes without a license	fine \$25-100 or imprisonment for no more than 30 days
	- Tax evasion (felony)	fine of no more than \$5,000 and imprisonment for no more than 5 years
	- Possession of 200-5,000 unstamped cigarettes	fine of \$25/carton or imprisonment for no more than 60 days
	- Possession of more than 5,000 unstamped cigarettes	fine \$1,000-5,000 or imprisonment for no more than 90 days
	- Counterfeiting (felony)	fine of no more than \$10,000 and imprisonment for no more than 10 years
	- Tampering with tax meter (felony)	fine of \$5,000 and imprisonment for no more than 5 years
	- Failure to keep proper records	fine \$500 and/or imprisonment for no more than 1 year
	- Willful refusal to cooperate with examination	fine \$500 and/or imprisonment for no more than 1 year
	- Violations with no specific penalty	fine of no more than \$500 or imprisonment for 30 days
New Jersey	- Failure to file reports	2% of tax due
	- Conducting business without a license	fine of no more than \$250
	- Violation of act or nonpayment of tax	fine of \$25/carton
	- Hindrance of administration	fine of no more than \$250 for each offense
	- Refusal or failure to produce 3 year records	fine of no more than \$250 for each offense
	- Selling unstamped cigarettes	fine of no more than \$1,000 and/or imprisonment for no more than 1 year

Table J (con't)

<u>STATE</u>	<u>OFFENSE</u>	<u>PENALTY</u>
New Jersey (con't)	- Counterfeiting (felony)	fine of no more than \$2,000 and/or no more than 7 years imprisonment with or without hard labor
New York	- Unpaid taxes	penalty of 50% taxes due plus 1% interest/month
	Possession of unstamped cigarettes	fine of no more than \$100/carton in excess of 10 cartons
	- Selling unstamped cigarettes, violation of act, evasion of taxes (misdemeanor)	First offense-fine of no more than \$2,000 and/or imprisonment for no more than 1 year. Second offense-fine \$500-5,000 and imprisonment 6 months to 1 year. After the second offense, this becomes a felony.
	- Violation of rules and regulations by agent or dealer (misdemeanor)	First offense-fine of no more than \$500 and/or imprisonment for no more than 60 days. Subsequent offense-fine \$500-1,000 and/or imprisonment for no more than 6 months
	- Counterfeiting	felony Felony fines are levied if a person has profited from the commission of a crime in an amount up to double the profit. Imprisonment for Class E felony ranges from a minimum of 1-2/3 years to a maximum of 3-7 years.
Ohio	- General penalty	fine of \$100-500 and/or imprisonment for no more than 90 days
	- Possession of unstamped cigarettes or falsifying records	First offense-fine \$100-1,000 and/or imprisonment for no more than 1 year. Subsequent offenses-fine \$500-2,500 and/or imprisonment 1-2 years
	- Counterfeiting stamps	Imprisonment 1-10 years
	- Failure to post license	First offense-fine \$100-300 Subsequent offenses-fine \$300-500

Table J (con't)

<u>STATE</u>	<u>OFFENSE</u>	<u>PENALTY</u>
Ohio (con't)	- Selling cigarettes with deleterious substances	Fine \$100-500
Massachusetts	- Selling cigarettes without license	Fine of no more than \$50
	- Unqualified acquirer	Fine \$500-1,000 and/or imprisonment of up to 1 year
	- Purchase or possession of illegal cigarettes	Fine \$50-1,000
	- Possession of cigarettes in improperly marked container	Fine \$25-100
	- Sale of cigarettes to person under 18	Fine no more than \$50
	- Filing of false return or violation of chapter	Fine of not more than \$1,000 and/or imprisonment for no more than 1 year
	- Selling of cigarettes at less than cost to injure competition	Fine not to exceed \$500
	- Selling unstamped cigarettes	Fine not to exceed \$1,000 and/or imprisonment for no more than 1 year
	- Possession or transport of unstamped cigarettes	Fine not to exceed 1,000 and/or imprisonment for no more than 1 year
	- Counterfeiting	Fine not to exceed \$2,000 and/or imprisonment for no more than 5 years
	- Manufacture of counterfeit stamp machine	Fine not to exceed \$2,000 and/or imprisonment for no more than 5 years
	- Unauthorized use of stamp machine	Fine not to exceed \$2,000 and/or imprisonment for no more than 5 years

To create the Virginia Tobacco Commission.

WHEREAS, tobacco farming and the numerous component industries that are necessary for the manufacturing, packaging, distribution, transportation, and eventual sale of tobacco products comprise the largest single industry in the Commonwealth; and

WHEREAS, the tobacco industry is primarily located in the states of Virginia, North Carolina, and Kentucky and plays a significant role in the economy of each of these States; and

WHEREAS, the interstate smuggling of contraband cigarettes has been identified as a rapidly growing and significant problem which allows the evasion of tax laws, causes state governments to lose approximately \$400 million of tax revenue annually, and allows organized crime to make quick profits, all to the detriment of the tobacco industry; and

WHEREAS, the interstate smuggling of contraband cigarettes affects Virginia, North Carolina, and Kentucky because of their relatively low cigarette taxes and thereby causes these states to be a prime source for the purchase of cigarettes; and

WHEREAS, the presence of organized crime, and the unsavory elements associated with it, undoubtedly lead to other illegal activities in Virginia, North Carolina, and Kentucky; and

WHEREAS, organized crime and bootlegging are growing partly because the interstate nature of the problem hampers state and local law enforcement efforts; and

WHEREAS, Virginia, North Carolina, and Kentucky have a vital interest in eliminating organized crime and ensuring the prosperity and growth of the tobacco industry; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a Virginia Tobacco Commission be established and is hereby directed to work with similar commissions in North Carolina and Kentucky to study the cigarette bootlegging problem as it concerns these states and to recommend approaches that would eliminate the problem through mutual cooperation; and

RESOLVED FURTHER, That the Governor use the influence of his office to encourage North Carolina and Kentucky to establish similar commissions.

The Virginia Tobacco Commission shall be composed of eight members who shall be appointed in the following manner: two members to be appointed by the Governor from the executive branch, two members appointed by the chairman of the House Finance Committee from the membership of that committee, two members appointed by the chairman of the Senate Finance Committee from the membership of that committee, the

State Tax Commissioner, and one member of the Virginia State Police to be appointed by the Superintendent of the Virginia State Police. The Commission shall elect one of its gubernatorial appointees to serve as its chairman.

The legislative members of the Commission shall receive such compensation as is authorized by law for members of the General Assembly and be reimbursed for their expenses incurred for the work of the Commission. The Division of Legislative Services shall serve as staff to the Commission. The officials and employees of all State agencies shall cooperate fully with the Commission.

The Commission shall make a report of its findings, deliberations and recommendations to the Governor and the General Assembly not later than December thirty-one, nineteen hundred eighty, at which time such Commission shall expire.

Copies of this resolution shall be sent to the Governor and chairmen of the Finance Committees of the legislatures of North Carolina and Kentucky.

A BILL to amend and reenact § 58-757.17 of the Code of Virginia, relating to the taxation of cigarettes, generally; penalties.

Be it enacted by the General Assembly of Virginia:

1. That § 58-757.17 of the Code of Virginia is amended and reenacted as follows:

§ 58-757.17. Sale, purchase, possession, transportation, etc., of cigarettes for purpose of evading tax; cigarettes subject to forfeiture.— *A. It shall be unlawful for any person, firm or corporation, except as otherwise provided by law, to sell, purchase, transport, receive or possess any of the articles taxed under the provisions of this article, unless the same has been stamped in the manner required by law, for the purpose of evading the payment of the taxes on such products. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be confined in jail for not less than thirty days nor more than twelve months and fined not less than twenty five fifty dollars nor more than five hundred dollars , to which a jail sentence of not less than thirty nor more than sixty days may be added either or both*

B. If a person, firm or corporation ; who is not a regularly licensed dealer in tobacco products, shall have in his possession within the State more than thirty packages of unstamped cigarettes or more than one box of unstamped eigers , such cigarettes shall be deemed contraband and possession thereof shall be presumed to be for the purpose of evading the payment of the taxes due thereon. The provisions of this subsection shall not be applicable to a person, firm or corporation who is a regularly licensed dealer in tobacco products or to a common carrier possessing a proper bill of lading indicating the name and address of the consignor or seller, the consignee or purchaser and the brands and quantity of cigarettes so transported.

C. All contraband cigarettes within the meaning of subsection B. which are found upon or in the possession of any person shall be forfeited to the Commonwealth. Proceedings for enforcing such forfeitures shall be in accordance with the provisions of Chapter 22 of Title 19.2 (§§ 19.2-369 et seq.); provided, however, that any such cigarettes so forfeited shall not be sold in accordance with § 19.2-381, but shall be destroyed.

D. Any motor vehicle, in or upon which is found in excess of twelve thousand contraband cigarettes, shall be forfeited to the Commonwealth. Proeedings for enforcing such forfeitures shall be in accordance with the provisions of Chapter 22 of Title 19.2 (§§ 19.2-369 et seq.).

Memorializing Congress to refrain from enacting legislation to increase the federal tobacco tax and from prohibiting State or local taxation of tobacco products.

WHEREAS, the Special Joint Subcommittee of the House of Delegates and the Senate Finance Committees of the Virginia General Assembly has made a thorough study of all phases of the tobacco industry including bootlegging and the taxation of tobacco products; and

WHEREAS, that Subcommittee concluded that the movement and sale of tobacco products from the low tax states of the south to the high tax states of the north has made the practice of bootlegging extremely profitable, and that organized crime has become rooted in this activity; and

WHEREAS, the Subcommittee further concludes that, since tobacco industry plays such an important role in the economy of Virginia and many other southern states, further taxation of this industry would not be within the best interest of these states; and

WHEREAS, the northern states have in essence caused this problem by levying an unreasonable amount of tax upon cigarettes and the simple solution to the problem is for the northern states to decrease their taxes to more reasonable levels; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Congress of the United States is hereby memorialized to refrain from enacting legislation to increase the federal taxes on tobacco products and in no way to prohibit states and political subdivisions thereof from taxing this commodity as they deem proper, but instead Congress should encourage those states having exorbitantly high taxes to restructure their rates at more reasonable levels; and be it

RESOLVED FURTHER That the Clerk of the House of Delegates is directed to send copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate and the members of the Virginia delegation to the Congress of the United States in order that they may be apprised of the sense of this body.

A BILL to amend and reenact § 58-402 of the Code of Virginia, relating to the licensing of certain tobacco dealers.

Be it enacted by the General Assembly of Virginia:

1. That § 58-402 of the Code of Virginia is amended and reenacted as follows:

§ 58-402. Tobacco dealers.—No person, not a producer, shall be allowed to sell by retail, tobacco, snuff, and cigars without having obtained a specific license to do so. *Before any such license shall be issued, a tobacco retailer shall maintain an established place of business located within the Commonwealth from which tobacco products are or will be regularly sold at retail.* The sums to be paid by the retailers of tobacco, snuff, and cigars shall be for such privilege a specific tax of five dollars, which shall be assessed and collected as other license taxes, but shall not be in lieu of merchants' licenses on sales, but a licensed hotel keeper or a keeper of a lodging house or a restaurant whose sales of tobacco, snuff and cigars are in any year less than five hundred dollars may under the license to retail tobacco sell such tobacco, snuff and cigars in a duly licensed hotel, lodging house or restaurant without taking out a merchant's license, provided he does not conduct a mercantile business in connection with the business of hotel keeper or keeper of a lodging house or restaurant in which case he shall for such business be licensed as a merchant and require to return with his other sales his sales of tobacco, snuff and cigars.

No person, including a peddler, not a producer, shall be allowed to sell by wholesale tobacco, snuff and cigars without having obtained a specific license to do so. The sums to be paid by wholesalers of tobacco, snuff and cigars shall be for such privilege a specific tax of fifty dollars, which shall be assessed and collected as other license taxes, but shall not be in lieu of merchants' licenses on purchases.

