

SB 185 A STAFF MEASURE SUMMARY**Carrier:** Sen. Gelser**Senate Committee On Judiciary****Action Date:** 01/23/19**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 7-0-0-0**Yeas:** 7 - Bentz, Fagan, Gelser, Linthicum, Manning Jr, Prozanski, Thatcher**Fiscal:** No fiscal impact**Revenue:** No revenue impact**Prepared By:** Channa Newell, Counsel**Meeting Dates:** 1/23**WHAT THE MEASURE DOES:**

Updates Oregon's statutory components of the tobacco Master Settlement Agreement. Prohibits a distributor from putting a stamp on cigarettes or roll-your-own tobacco unless the distributor certifies the purchase with the Attorney General. Allows tobacco product manufacturer to place funds in a qualified escrow account and to assign any interest from the funds to the state. Allows a financial institution that holds a qualifying escrow account to petition the court for an order authorizing transfer of the funds to the state. Specifies process for order and transfer.

ISSUES DISCUSSED:

- History of Master Settlement Agreement
- Legislative efforts to regulate manufacturers who were not party to Master Settlement Agreement
- Manufacturers may place funds in an escrow account, but no process exists for abandoned accounts or closed accounts when manufacturer ceases operating in state
- Updates to regulation of downstream sales of tobacco products

EFFECT OF AMENDMENT:

Allows a financial institution that holds a qualifying escrow account to petition the court for an order authorizing transfer of the funds to the state. Specifies process for order and transfer.

BACKGROUND:

In 1998, Oregon and 45 other states settled a long-running claim against the four largest tobacco manufacturers for smoking-related claims. Statutory items related to the settlement are found at ORS 323.800-806 and are referred to as the Master Settlement Agreement (MSA). Tobacco product manufacturers who were not one of the original four parties to MSA have two options if they are selling tobacco products in Oregon: 1) Become a "Participating Manufacturer" and perform the obligations associated with the MSA, or 2) Place a specific portion of each unit sold in Oregon in a qualifying escrow account. If a manufacturer decides to use the escrow account process, the funds may be removed in order to pay a judgment or settlement on any released claim. If the amount placed in the escrow account is more than what would have been required that year if the manufacturer had joined the MSA, then the excess reverts to the manufacturer. After 25 years, any unused funds in the escrow account revert to the manufacturer. The manufacturer receives any interest or dividend earned by the fund in the escrow account. Manufacturers are required to certify the amount placed in escrow to the Attorney General on an annual basis. The statutes are silent on how a manufacturer who decides to no longer do business in the state should close an account, or what processes are available for financial institutions when an escrow account is abandoned.

Senate Bill 185-A addresses the voluntary closing of an account by allowing a manufacturer to assign the interest earned by funds in an escrow account to the state. The measure requires that such assignments, if executed

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properly, are irrevocable and must be deposited into the Tobacco Settlement Fund Account. Additionally, it requires distributors of tobacco products to certify to the Attorney General that a distributor has purchased cigarettes or roll-your-own tobacco directly from the manufacturer or importer prior to affixing a stamp to packages of cigarettes or roll-your-own tobacco.