

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4584-01
Bill No.: SB 902
Subject: Attorney General; Revenue Department; Tobacco Products
Type: Original
Date: February 10, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 4 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Director's Office** and the **Division of Alcohol and Tobacco Control** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the State Courts Administrator** assume the proposal will not fiscally impact the courts.

Officials from the **Department of Revenue (DOR)** state this legislation requires every tobacco retailer who in good faith offers for sale, or sells cigarettes that do not comply with state law, not be subject to punishment. It provides the wholesaler 30 days to dispose of non-compliant inventory and 60 days for retailers to purchase and sell non-compliant products. It also requires the Attorney General and DOR to post non-compliant manufacturers on their websites.

DOR's Administrative Impact:

Excise Tax would require two FTE Tax Processing Technician Is (each at \$22,992 annually) to answer the additional phone calls and correspondence generated by the website, maintain the accounts, and update the website as needed.

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ASSUMPTION (continued)

IT- IT believes this legislation would require a new cigarette tax system. In order to create a new system, IT would require 2 contract programmers 10 months to complete, for a total cost of \$238,740 (3,460 hrs. @ \$69 per hr.).

In summary, DOR assumes a cost from this proposal of \$312,363 in FY 2007, \$75,451 in FY 2008, and \$77,367 in FY 2009.

In response to a nearly identical proposal from 2005 (SCS for SB 222), DOR anticipated being able to cover any costs resulting from this proposal through its core budget. Therefore, **Oversight** will assume no fiscal impact to DOR from this proposal.

Officials with the **Attorney General's Office (AGO)** assume this proposal would create new responsibilities for its agency. AGO assumes it would be required to make determinations concerning compliance, sue for purposes of discovery and enter into proceedings in foreign jurisdictions under these provisions. AGO assumes it would need 3 Assistant Attorneys General IV, 3 Investigators, and 1 Paralegal to enforce the provisions of this proposal in litigation. These employees would also investigate, monitor compliance, collect and maintain data. The AGO assumes a cost from the proposal of \$481,000 in FY 2007, \$524,000 in FY 2008 and \$538,000 in FY 2009.

Oversight assumes that any additional caseload at AGO resulting from this proposal could be absorbed by its existing enforcement infrastructure, including personnel and resources.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal relieves any person licensed or required to affix a tax stamp on cigarette packages or any retailer who in good faith sells cigarettes that do not comply with state law, from being subject to any administrative, civil or criminal penalties associated with such act. However it does not relieve a wholesaler or retailer from any penalty imposed by law if the tax stamp has not been lawfully applied.

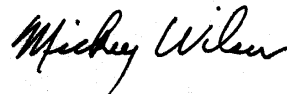
Declarations of non-compliant cigarettes must be posted on the website of both the Attorney General and the Department of Revenue. The director of the department of revenue must notify all wholesalers in writing via U.S. Mail of the manufacturers and cigarette brands that are no longer lawful to sell in the state. Within five days of such notification, the wholesaler must provide the director with a count of said manufacturers cigarette brands that the wholesaler is holding in inventory for sale in this state.

The cigarette manufacturer shall have the right to remedy any reason the director or attorney general gives for making it unlawful to sell such cigarette brands in this state and in the event said manufacturer provides such remedy, the director and Attorney General shall cease any impending action to make such manufacturers brands unlawful for sale. Any tobacco product manufacturer aggrieved by a declaration of non-compliance has a right to seek relief in a court of competent jurisdiction.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
Department of Revenue
Department of Public Safety
Office of the State Courts Administrator



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Director
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