

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0836-05
Bill No.: Perfected HCS for HB 205
Subject: Business and Commerce; Fire Protection; Revenue Department; Tobacco Products
Type: Original
Date: March 30, 2009

Bill Summary: This proposal establishes the Fire Safety Standard & Firefighter Protection Act prohibiting the sale of any cigarette that has not been tested, certified, and marked that it has met certain performance standards.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Cigarette Fire Safety Standard and Firefighter Protection Act Fund	\$0	\$84,535 to Unknown	(\$54,194) to Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$84,535 to Unknown	(\$54,194) to Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Cigarette Fire Safety Standard and Firefighter Protection Act Fund	0	1 FTE	1 FTE
Total Estimated Net Effect on FTE	0	1 FTE	1 FTE

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Fire Safety (DPS)** state this bill requires their Division to implement a new program to regulate the sale of reduced ignition propensity cigarettes in the State of Missouri. The program will include: a certification process for cigarette brand families, including recertification every three years; a detailed and monitored testing process; the approval of cigarette markings; the auditing of reports submitted by cigarette companies; the handling of funds for certification processing and penalty assessment; the management of a new fund - the Cigarette Fire Safety and Fire Fighter Protection Act Fund; and the overall enforcement of the provisions of this act.

In order to administer this program as prescribed in this bill, the Division would require an Accountant I (\$29,580 salary, and \$14,384 fringe) along with necessary expense and equipment funding (\$7,683) for a total of \$51,647.

DPS spoke with representatives from the Department of Revenue who indicated their current staff of criminal investigators could easily perform the task of verifying the approved compliance markings while they are checking for tax stamps on cigarette packs.

The Division was able to obtain information provided by other states who have enacted this legislation. For purposes of this fiscal note, the Division has estimated 140 brand families of cigarettes would apply for the Division's certification to be sold in our State. The certification fee is \$1,000 per cigarette, to be renewed every three years. This would generate \$140,000 every three years for the Cigarette Fire Safety and Fire Fighter Protection Act Fund. We estimate \$1,000 in fines from penalties coming in annually. Additionally, we estimate 10 brand families would apply for certification in the off years.

Thirty-eight other states currently have enacted similar legislation, and nineteen others have legislation pending

Officials from the **Department of Revenue, Department of Health and Senior Services, Office of the State Treasurer** and the **Department of Public Safety - 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 would not fiscally impact the courts.

ASSUMPTION (continued)

Officials from the **Office of the Attorney General (AGO)** assume that any potential costs arising from the proposal could be absorbed with existing resources, but if there is a significant increase in claims over time, the AGO may seek appropriation to adequately enforce the proposal.

Officials from the **Office of Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Civil penalties may be assessed against manufacturers, wholesale dealers, agents or other persons who violate the provisions of this act. The penalties may range from \$100 for each pack of cigarettes sold to \$250,000 for each false certification. The proceeds from these civil penalties are to be deposited into the newly created Cigarette Fire Safety Standard and Firefighter Protection Act Fund which is created in Section 320.371. **Oversight** will assume \$0 to an unknown amount of these civil penalties will be collected in any given year.

Unlike a similar proposal from 2008, this proposal does not create the 'Fire Safety Standard and Firefighter Protection Act Fund'; therefore, Oversight will assume certification fees, recertification fees, civil penalties, and expenses incurred by the Division of Fire Safety will all flow through the newly created Cigarette Fire Safety Standard and Firefighter Protection Act Fund.

The effective date of the proposal is January 1, 2011. Therefore, **Oversight** will assume no income or expense until FY 2011.

This proposal would increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
CIGARETTE FIRE SAFETY STANDARD AND FIREFIGHTER PROTECTION ACT FUND			
<u>Income</u> - Certifications and recertifications - \$1,000 fee for cigarette brand family every 3 years (Section 320.356)	\$0	\$140,000	\$0
<u>Income</u> - civil penalties assessed under (Sections 320.362)	\$0	\$0 to Unknown	\$0 to Unknown
<u>Costs</u> - Division of Fire Safety			
Personal Service (1 FTE)	\$0	(\$31,381)	(\$32,323)
Fringe Benefits	\$0	(\$15,261)	(\$15,719)
Expense and Equipment	<u>\$0</u>	<u>(\$8,823)</u>	<u>(\$6,152)</u>
<u>Total Costs</u> - DPS	<u>\$0</u>	<u>(\$55,465)</u>	<u>(\$54,194)</u>
FTE Change - Division of Fire Safety	0 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT TO THE CIGARETTE FIRE SAFETY STANDARD AND FIREFIGHTER PROTECTION ACT FUND	<u>\$0</u>	<u>\$84,535 to Unknown</u>	<u>(\$54,194) to Unknown</u>
Estimated Net FTE Change for Cigarette Fire Safety Standard and Firefighter Protection Act Fund	0 FTE	1 FTE	1 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2010 (10 Mo.)	 FY 2011	 FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses in the cigarette industry may be fiscally impacted from this proposal.

FISCAL DESCRIPTION

This bill establishes the Fire Safety Standard and Firefighter Protection Act which prohibits the sale of any cigarette in this state that has not been tested, certified, and marked that it has met certain performance standards. Any manufacturer, wholesale dealer, agent, or other person or entity who violates this requirement other than through retail sale may be fined up to \$100 per pack of cigarettes sold or offered for sale. No penalty against a manufacturer, wholesale dealer, or agent can exceed \$100,000 during any 30-day period, and no penalty against a retail dealer can exceed \$25,000 during any 30-day period. Any corporation, partnership, sole proprietorship, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification will be subject to a penalty of between \$75,000 and \$250,000.

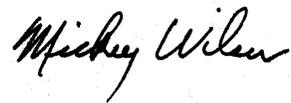
Performance standard tests will be conducted in accordance with the Standard Test Method for Measuring the Ignition Strength of Cigarettes of the American Society of Testing and Materials unless the State Fire Marshal determines that it is impossible for the cigarette manufacturer to use this test method. The Cigarette Fire Safety Standard and Firefighter Protection Act Fund is created and will be administered by the State Fire Marshal to support fire safety and prevention programs.

The bill becomes effective January 1, 2011

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

Department of Revenue
Office of the Attorney General
Department of Public Safety
Office of the State Courts Administrator
Office of the Secretary of State
Office of the State Treasurer
Department of Health and Senior Services



Mickey Wilson, CPA
Director
March 30, 2009