

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 6539-01
Bill No.: SB 1067
Subject: Drugs and Controlled Substances; Law Enforcement Officers and Agencies;
 Revenue Department; Taxation and Revenue - General; Treasurer, State
Type: Original
Date: March 2, 2016

Bill Summary: This proposal imposes a tax on unauthorized controlled substances.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue Fund	Unknown to (\$153,900)	Unknown	Unknown
Total Estimated Net Effect on General Revenue	Unknown to (\$153,900)	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Drug Task Force Enforcement*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

* Revenues and transfers out net to zero.

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	Unknown to (More than \$1,000,000)	Unknown to (More than \$1,000,000)	Unknown to (More than \$1,000,000)

FISCAL ANALYSIS

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

Sections 195.620 to 195.625, RSMo. - Excise Tax on Unauthorized Substances:

Oversight notes this proposal would create an excise tax on certain unauthorized substances; the Department of Revenue would sell stamps to be affixed to those substances to indicate payment of the tax. Dealers would not be required to provide identifying information at the time of stamp purchases. Law enforcement organizations would be required to report the seizure of unauthorized substances, and the tax would be assessed against the dealer who was in possession of the substance or substances. Collection of such tax assessed would be made by the Department of Revenue in the same way as other tax collections.

The proposal would create a dedicated Drug Task Force Enforcement Fund and revenues collected under the proposed tax provisions would be deposited into that fund. The state treasurer shall be custodian of the fund.

The state treasurer shall first apply the unencumbered tax proceeds to pay the costs of storing and disposing of the assets seized in payment of the assessment under 195.620 to 195.625.

The state treasurer shall distribute the funds remaining funds as follows:

Department of Revenue-	20% for the cost of collection
County Task Force on Drugs	40% to fund law enforcement efforts
Local Sheriff's Department	40% where the drugs were captured

ASSUMPTION (continued)

Officials at the **Office of Administration's Division of Budget and Planning (B&P)** assume this proposal creates an excise tax on various unauthorized substances, including marijuana and cocaine. To the extent "dealers" purchase stamps from the Department of Revenue (DOR), General and Total State Revenues may increase by an unknown amount.

Officials at the **Department of Public Safety's Missouri Highway Patrol** assume there is no fiscal impact from this proposal.

Officials at the **Jackson County Board of Election Commission, Platte County Board of Election Commission** and the **St. Louis County Board of Election Commission** assume there is no fiscal impact from this proposal.

In response to a similar proposal (HB 2160) officials from the **Department of Revenue (DOR)** noted this proposal would impose an excise tax on controlled substances, and assume if substances are held in the state that would require these taxes, the proposed excise tax could increase Total State Revenue.

The proposal would impose an Excise Tax from forty cents (\$0.40) to \$350 per gram, dosage, or plant depending on the substance.

Sale of stamps:

DOR officials also noted the proposal would require the Department to sell stamps to indicate payment of tax. Law enforcement agencies would report to the Department within 48 hours after seizing an unauthorized substance or making an arrest of an individual in possession of an unauthorized substance that does not have a stamp affixed. The Department would prescribe the form for this purpose.

Administrative Impact

DOR officials assume the Department would develop a reporting form and provide the form to law enforcement agencies. The proposal would allow stamps to be purchased in person or by mail. Since tax assistance offices no longer exist, DOR officials assume the most practical way to make stamps available would be to make them available in Jefferson City only.

ASSUMPTION (continued)

DOR officials assume implementing this proposal would require one Revenue Processing Technician I (\$26,652) for sale of stamps.

Assessment of Tax on Seizure of Material

DOR officials noted the Department would be required to immediately assess tax, penalty, and interest when an unauthorized substance with no stamp attached has been seized from a dealer. The assessment would be in writing and the form would demand immediate payment. The Department would mail the assessment to the last known address, or serve the notice on the dealer in person. If the assessed amount is not paid immediately, DOR would collect the assessment under current provisions unless the dealer provides sufficient security.

Administrative Impact

DOR officials assume the major impact would be handling the assessments and the follow-up work required by the legislation. DOR staff would work with law enforcement agencies around the state, requiring large amounts of time and possibly travel. These personnel would also need to handle inquiries from law enforcement agencies as well as the public.

DOR officials assume excise Tax would require two additional Revenue Processing Technicians I (\$26.652) for every 400 assessments.

DOR officials noted the Department would require a system to keep records and track reports received by law enforcement agencies, and issue and track assessments.

The DOR estimate of cost to implement this proposal including three additional employees and the related benefits, equipment, and expense totaled \$130,809 for FY 2017, \$168,040 for FY 2018, and \$169,940 for FY 2019.

Oversight will assume, for fiscal note purposes, this proposal would likely result in a minimal number of actual revenue transactions, and assumes DOR could implement this proposal with existing resources. If this proposal results in an unanticipated increase in the DOR workload or if multiple proposals are implemented which result in a significant increase in the DOR workload, resources could be requested through the budget process

ASSUMPTION (continued)

DOR officials provided an estimate of the IT cost to implement this proposal of \$153,900 based on 2,052 hours of contract programming to make changes to DOR systems, at the standard \$75 state contract rate for IT services.

Oversight will include the DOR estimate of IT cost in this fiscal note.

Drug Task Force Enforcement Fund

DOR officials note this proposal would create a Drug Task Force Enforcement Fund and note the Department would credit proceeds of the tax to this fund until they are unencumbered. The State Treasurer would remit unencumbered funds quarterly or more frequently as the funds become unencumbered.

If the tax is paid voluntarily to the Department and not as part of the investigation or arrest by a law enforcement agency, that tax would be considered unencumbered and credited to General Revenue.

Oversight will include unknown additional revenue to the Drug Task Force Enforcement Fund and the General Revenue Fund for those proceeds, and will assume for fiscal note purposes that revenues deposited into the dedicated fund would be appropriated to the Department of Revenue, the County Task Force on Drugs, and the Local Sheriff Department as required by this proposal. Oversight assumes all money received by the Drug Task Force Enforcement Fund will be used in the year in which it is received.

Officials from the **St. Louis County Police Department**, in response to similar proposals assumed those proposals would, if passed, have a significant fiscal impact to their organization. Department officials stated the portion of the proposal which would require every law enforcement agency to submit a report to the Department of Revenue within 48 hours of seizing an unauthorized substance or arresting an individual in possession of an authorized substance would add a significant amount of work to their department.

ASSUMPTION (continued)

Currently, the St. Louis County Police Department averages approximately 4,800 drug cases a year, all of which would require a separate report be written and submitted to the Department of Revenue (DOR) within 48 hours. Department officials estimated it would take an officer approximately 30 minutes to complete one report, and the average salary rate for an officer is \$22 an hour. For 30 minutes of work per report, processing would cost \$11 per case. Therefore, the cost of those 4,800 reports per year would be $(4,800 \times \$11) = \$52,800$ a year in officer work time. The cost over three years would be \$158,400.

St. Louis County Police Department officials also stated the proposal would require a laboratory report identifying the unauthorized substance to be submitted to DOR within ten days. One of our average paced analysts completes approximately 700 drug cases per year. To complete 4,800 cases with a ten day turn-around-time would require at least an additional six analysts in the laboratory. An entry level salary for a Forensic Scientist I is \$40,539 (salary) + \$20,770 (benefits) equaling \$61,307. Multiplied by the need for 6 additional staff members would be a cost of \$367,842 per year. Along with this, continuing education and proficiency testing would be required to meet accreditation guidelines, with an estimated cost of \$20,000. This makes the cost for additional staff over three years \$1,123,526.

St. Louis County Police Department officials estimated the total fiscal impact to St. Louis County from this bill would be officer work time plus additional lab staff plus necessary training, totaling \$1,281,926 over three years.

Oversight will include a cost of more than \$1,000,000 per year in this fiscal note for compliance costs which would be required of local governments.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE FUND			
<u>Transfer In</u> - from Drug Task Force Enforcement Fund - voluntary excise tax payments	Unknown	Unknown	Unknown
<u>Cost</u> - DOR IT cost	(\$153,900)	\$0	\$0
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	Unknown to <u>(\$153,900)</u>	<u>Unknown</u>	<u>Unknown</u>
DRUG TASK FORCE ENFORCEMENT FUND			
<u>Additional Revenue</u> Excise tax on illicit substances	Unknown	Unknown	Unknown
<u>Transfer Out</u> - DOR (20%)	(Unknown)	(Unknown)	(Unknown)
<u>Transfer Out</u> -County Task Force on Drugs (40%)	(Unknown)	(Unknown)	(Unknown)
<u>Transfer Out</u> - Local Sheriff (40%)	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON DRUG TASK FORCE ENFORCEMENT FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
LOCAL GOVERNMENTS			
<u>Transfer In</u> - to County Task Force on Drugs	Unknown	Unknown	Unknown
<u>Transfer In</u> - Local Sheriff Departments	Unknown	Unknown	Unknown
<u>Cost</u> - County Task Force on Drugs expenses	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Sheriff Department compliance costs - analysis, tracking and reporting on drug seizures	(More than <u>\$1,000,000</u>)	(More than <u>\$1,000,000</u>)	(More than <u>\$1,000,000</u>)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	Unknown to (More than <u>\$1,000,000</u>)	Unknown to (More than <u>\$1,000,000</u>)	Unknown to (More than <u>\$1,000,000</u>)

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act imposes an excise tax on specified controlled substances possessed, transported, transferred, sold, or offered to be sold in violation of Missouri law by dealers. A "controlled substance" is defined as any drug, substance, or immediate precursor placed in Schedules I through IV, as specified in the act, but not any drug, substance, or immediate precursor possessed by any individual with a prescription from an authorized practitioner.

The tax shall be paid by any "dealer," defined as any person who actually or constructively possesses more than 35 grams of marijuana or one or more marijuana plants, one or more grams of any other unauthorized substance that is sold by weight, or one or more dosage units of any other unauthorized substance that is not sold by weight.

The tax rates for each controlled substance and the criteria for measuring weight or dose is specified in the act.

FISCAL DESCRIPTION (continued)

The tax does not apply to a substance in the possession of a dealer who is authorized by law to possess the substance. This exemption only applies during the time the dealer's possession of the substance is authorized by law.

The Director of the Department of Revenue shall issue stamps to affix to unauthorized substances to indicate payment of the tax. Upon payment of the tax, the director shall issue stamps in an amount equal to the amount of the tax paid. Taxes shall be paid and stamps issued either by mail or in person.

Every law enforcement agency shall report to the department within 48 hours after seizing an unauthorized substance or making an arrest of an individual in possession of an unauthorized substance that does not have a stamp affixed.

A notice of assessment and demand for payment shall be either mailed to the dealer at the dealer's last known address or served on the dealer in person. The Drug Task Force Enforcement Fund is created and shall consist of funds collected by the tax. The department director shall credit the proceeds of the tax levied to the fund until the tax proceeds are unencumbered. The State Treasurer shall remit the unencumbered tax proceeds on a quarterly or more frequent basis as specified in these provisions.

The State Treasurer shall first apply the unencumbered tax proceeds to the costs of storing and disposing of the assets seized in payment of the assessment. The treasurer shall remit the remaining unencumbered tax proceeds that are collected by assessment to the Department of Revenue, and the county drug task force and local sheriff's department where the drugs were seized. The percentages for each department and specific uses of the proceeds are provided in the act.

If the tax levied is voluntarily paid to the Department of Revenue, without an investigation or arrest, the tax shall be considered unencumbered and the director shall credit the entire tax proceeds to the General Revenue Fund.

The provisions of the act shall not be construed to confer any immunity from criminal prosecution or conviction for a violation of these provisions or the controlled substances laws of this state, upon any individual who voluntarily pays the tax or who otherwise complies with the provisions of the act.

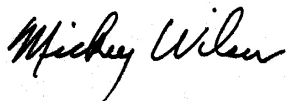
FISCAL DESCRIPTION (continued)

The Unauthorized Substance Tax Commission is established to review the rates of the tax levied and to make recommendations concerning increases in the rate of the tax to the General Assembly.

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 Public Safety
Missouri Highway Patrol
Jackson County Board of Election Commission
Office of Administration
Division of Budget and Planning
Platte County Board of Election Commission
St. Louis County Board of Election Commission
St. Louis County Police Department



Mickey Wilson, CPA
Director
March 2, 2016

Ross Strope
Assistant Director
March 2, 2016