

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0909-01
Bill No.: HB 263
Subject: State Attorney General; Business and Commerce; Tobacco Products; Department of Revenue
Type: Original
Date: February 10, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Tobacco Control Special Fund*	Unknown	Unknown	Unknown
Total Estimated Net Effect on Other State Funds	UNKNOWN	UNKNOWN	UNKNOWN

*Costs of \$200,036 for FY04, \$227,661 for FY05 and \$233,573 for FY06 are expected to be paid with collection of disgorgements, penalties and fees to be deposited to the fund.

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Liquor Control and Missouri State Highway Patrol, Office of Prosecution Services, Office of the State Treasurer, Office of the State Public Defender** and the **Office of the State Courts Administrator** each state this proposal would not fiscally impact their respective agencies.

Officials from the **Department of Revenue (DOR)** assume this legislation would add new language to current legislation regarding the enforcement of the Missouri Master Settlement Agreement (MSA). DOR assumes that most of the new responsibilities, including maintaining a directory of manufacturers and brands sold that are in compliance with the MSA would be the responsibility of the Attorney General's Office. DOR would work with the Attorney General. The legislation also provides the authorization to share information between the Attorney General's Office and the Department of Revenue. The additional work created by this legislation will be completed by existing personnel.

Officials from the **Office of the Attorney General (AGO)** assume, based on discussions with DOR, that the primary administrative duties, as well as the enforcement provisions, rests with the AGO's office.

ASSUMPTION (continued)

AGO assumes it would need 1 - ASST. ATTORNEY GENERAL 4, 2 - INVESTIGATORS and 1 - PARALEGAL to enforce the provisions of this bill in court. These employees would also investigate, monitor compliance, collect and maintain data and promulgate rules. AGO assumes these positions could be funded from the "Tobacco Control Special Fund" created in the bill. AGO believes that after start up, these positions would be self-sustaining through collection of disgorgements, penalties and fees to be deposited to the fund.

Officials from the **Department of Corrections (DOC)** assume this bill, if passed into law, enacts enforcement provisions to the 1998 Tobacco Master Settlement Agreement and includes an emergency clause. Penalty provisions for violations, the component of the bill to have potential fiscal impact for DOC, is for a class A misdemeanor.

DOC states that currently, they cannot predict the number of new commitments which may result from the creation of the offenses outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY02 average of \$3.10 per offender, per day or an annual cost of \$1,132 per offender).

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Secretary of State (SOS)** assume there would be costs due to additional publishing duties related to the Office of the Attorney General's authority to promulgate rules, regulations, and forms. SOS estimates the division could require approximately 10 new pages of regulations in the Code of State Regulations at a cost of \$27.00 per page, and 15 new pages in the Missouri Register at a cost of \$23.00 per page. Costs due to this proposal are estimated to be \$615, however, the actual fiscal impact would be dependent upon the actual rule-making authority and may be more or less. Financial impact in subsequent fiscal years would depend entirely on the number, length, and frequency of the rules filed, amended, rescinded, or withdrawn. SOS does not anticipate the need for additional staff as a result of this proposal; however, the enactment of more than one similar proposal may, in the aggregate, necessitate additional staff.

ASSUMPTION (continued)

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
TOBACCO CONTROL SPECIAL FUND			
<u>Income</u> - collection of disgorgements, penalties and fees	Unknown	Unknown	Unknown
<u>Cost - Attorney General</u>			
Personal Service (4 FTE)	(\$106,250)	(\$130,688)	(\$133,955)
Fringe Benefits	(\$42,999)	(\$52,889)	(\$54,211)
Expense and Equipment	<u>(\$50,787)</u>	<u>(\$44,084)</u>	<u>(\$45,407)</u>
Total costs - AGO	<u>(\$200,036)</u>	<u>(\$227,661)</u>	<u>(\$233,573)</u>

ESTIMATED NET EFFECT ON THE TOBACCO CONTROL SPECIAL FUND*

UNKNOWN UNKNOWN UNKNOWN

*The income from disgorgements, penalties and fees is expected to exceed the AGO costs.

<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal may impact small businesses that sell tobacco products.

DESCRIPTION

This proposal establishes certain requirements for participating tobacco manufacturers and for nonparticipating tobacco manufacturers relating to the 1998 Master Settlement Agreement between various tobacco companies and the State of Missouri, 45 other states, the District of Columbia, and five U. S. territories.

The bill requires all tobacco manufacturers whose cigarettes are sold in Missouri to report and certify to the Department of Revenue and the Attorney General's Office by April 13 each year that they are in compliance with the Tobacco Settlement Model Statute currently in Missouri law. In addition to the certification, participating manufacturers must also provide a list of "brand families" of cigarette types. Nonparticipating manufacturers must submit their brand families, the number of units sold at any time during the year for each family, the name and address of any other manufacturer of their brand families in the preceding or current calendar year, and other information to verify compliance with the Model Statute.

Each nonresident or foreign nonparticipating manufacturer must maintain an agent within the state for purposes of service of process relating to the enforcement of the bill. The bill also requires that by January 1, 2004, the Office of the Attorney General must publish on its web site for public inspection a list of all tobacco product manufacturers that have provided the certification requirements established in the bill. Stamping agents (persons authorized to affix cigarette tax stamps to cigarette packages) are required to submit to the Attorney General an e-mail address for receipt of notifications as required by the bill and to submit various reports and documents as required by the Attorney General.

Various penalties and actions for failure to comply with the requirements of the bill are included.

The bill contains an emergency clause.

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
Liquor Control
Department of Revenue
Office of the State Courts Administrator

SOURCES OF INFORMATION (continued)

Office of the State Public Defender
Secretary of State
Department of Corrections
Office of Prosecution Services
Office of the Attorney General
State Treasurer



Mickey Wilson, CPA
Director
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