

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO. 3838-05
BILL NO. HS for HCS for HB 1652 & 1433 with SCA 1, 2, 3, 4, 5 and 6
SUBJECT: Business and Commerce; Tobacco Products; Children and Minors
TYPE: Updated
DATE: May 5, 2000
 # To add assumptions regarding fine revenue.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue Fund	(\$811,119)	(\$673,386)	(\$690,668)
Total Estimated Net Effect on <u>All State Funds</u>*	(\$811,119)	(\$673,386)	(\$690,668)

* Does not include unknown savings for possible reduced foundation formula payments.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All Federal Funds</u>	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

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

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would impose new restrictions on the sale of tobacco products to minors and create new fines and penalties. Depending on the degree of enforcement, there could be an increase in the number of cases filed, but CTS would not expect a significant impact on the workload of the courts.

Officials from the **Office of State Public Defender (SPD)** assume an additional 1,000 indigent persons will require representation in cases where they have been charged for possession of fake or altered identification cards. SPD assumes it will require 2 FTE Assistant Public Defenders, .75 FTE Paralegal Investigator, .50 FTE Legal Secretary, and the related equipment and expense for each position, to represent the indigent accused. SPD assumes existing staff could provide representation for those 1-5 cases arising where indigent persons were charged with fraudulent tax stamp utilization.

Officials from the **Department of Public Safety - Division of Liquor Control (DPS)** assume the proposed legislation would result in revenues from registration fees which will be collected by the Department of Revenue. DPS further assumes it will require 1 FTE Tobacco Program Manager (\$48,120); 6 FTE Agents (\$34,992); 3 FTE Clerk IV (\$25,440); and the related equipment and expense for each position, to enforce and administer the tobacco provisions provided by this proposal.

Oversight assumes the original proposal included a subsection which would result in revenues from registration fees; however, this proposal does not include that \$25 registration fee.

Officials from the **Office of Attorney General** assume the costs of the proposed legislation could be absorbed with existing resources.

Officials from the **Department of Revenue (DOR)** assume the proposed legislation will tighten restrictions on sales of tobacco products to minors. It provides for a misdemeanor punishable by a \$1000 fine for having a false drivers or chauffeurs license. It requires DOR to place a block on the sales tax return for businesses to indicate that they sell tobacco products. DOR is to register all who sell tobacco products and charge them a \$25 annual registration fee. DOR is then to provide Liquor control and the Department of Mental Health on or before July 1 each year a list of all businesses selling tobacco products. If a business fails to register with DOR as a tobacco seller they can be guilty of a class A misdemeanor and subject to progressive fines and be banned from selling tobacco products.

ASSUMPTION (continued)

DOR assumes an entirely new sub-system would need to be developed within the sales tax system. Contract programming would be required to accomplish development of this system. It is projected that it will require approximately 5 contract programmers 10 months the first year to develop this system and the same programmers an additional 5 months the second year to fully test and implement this system. This totals 8400 hours the first year and 4200 hours the second year [168 hrs. per month x 5 x 10 = 8400] and [168 hrs. per month x 5 x 5 = 4200].

Contract programming costs average around \$110 per hour. In addition DOR estimates that 2 Tax Processing Technicians and 1 Clerk I would be required to determine who to register, process their payments, maintain the system of new registrants, delete those going out of business, pass monthly and annual information on these registrants to Liquor Control and Department of Mental Health, process correspondence and proper notifications to registrants, and properly bill and collect fines for violations. It is also projected that the data center will charge \$30,000 to test and implement a system of this magnitude.

Due to the amendments to this proposal, DOR further assumes that a recent meeting with tax administrators from other Midwest states indicated that all state departments of revenue should use "Due Diligance" in collecting the tobacco tax from members participating in the agreement and others not participating, or risk losing a portion of the settlement. DOR requests two additional Tax Processing Technicians. With these FTE, DOR will also undertake the pilot program.

Oversight assumes the changes to DOR's mainframe system to accommodate the provisions of this proposal will need to be complete by January 1, 2001. Therefore, five months of programming work (5 contract programmers x 168 hrs. per month x \$110 per hour = \$92,400) and \$30,000 in State Data Center charges have been included in the fiscal impact. Oversight has also allowed two FTE for the initial registrations in FY 2001. In addition, Oversight assumes the original proposal included a subsection which would result in revenues from registration fees; however, this proposal does not include that \$25 registration fee.

Officials from the **Department of Health, Department of Public Safety - Missouri Highway Patrol, Office of Prosecution Services,** and the **Department of Mental Health** assume the proposed legislation would have no fiscal impact on their agencies.

Oversight is unable to estimate the amount of revenue collected at the local government level as a result of imposing fines for violations of the provisions in this proposal. The revenue would be paid to school districts and would offset payments made by the state through the foundation formula. Oversight has shown unknown savings to the state General Revenue Fund. Local

ASSUMPTION (continued)

governments should realize revenue from fines and losses from reduced state aid payments which net to zero.

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		
GENERAL REVENUE			
# <u>Savings</u>			
Reduced payments to school districts	Unknown	Unknown	Unknown
<u>Costs - Office of State Public Defender</u>			
Salaries	(\$79,769)	(\$98,156)	(\$100,609)
Fringe Benefits	(23,843)	(29,339)	(30,072)
Equipment and Expense	(31,734)	(12,804)	(13,188)
Total Costs	(\$135,346)	(\$140,299)	(\$143,869)
<u>Costs - Department of Public Safety</u>			
Salaries	(\$285,512)	(\$351,321)	(\$360,105)
Fringe Benefits	(85,340)	(105,010)	(107,635)
Equipment and Expense	(119,560)	(76,756)	(79,059)
Total Costs	(\$490,412)	(\$533,087)	(\$546,799)
<u>Costs - Department of Revenue</u>			
Salaries	(\$33,620)	0	0
Fringe Benefits	(10,338)	0	0
Equipment and Expense	(19,003)	0	0
Programming Costs	(122,400)	0	0
Total Costs	(\$185,361)	0	0
TOTAL ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*	<u>(\$811,119)</u>	<u>(\$673,386)</u>	<u>(\$690,668)</u>

* Does not include unknown savings for possible reduced foundation formula payments

<u>FISCAL IMPACT - Local Government</u>	FY 2001	FY 2002	FY 2003
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	(10 Mo.)			
# School Districts				
<u>Income</u> - from fines	Unknown	Unknown	Unknown	
<u>Loss</u> - reduction in state payments	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	\$0	\$0	\$0	

FISCAL IMPACT - Small Business

This proposal could impact sellers and distributors of tobacco products.

DESCRIPTION

- (1) The proposed legislation would make it illegal for a person under the age of 18 to purchase, attempt to purchase, or possess tobacco products. Persons under the age of 18 will have their tobacco products confiscated (Section 407.933);
- (2) Requires vendors of tobacco products to have a retail sales tax license and be registered to sell such products, and allows the Division of Liquor Control the authority to inspect stores for compliance with laws relating to the sale of tobacco products. Knowingly selling tobacco products to minors without registering is a class A misdemeanor (Section 407.934);
- (3) SCA #5 amends section 407.926 to deny the sale of tobacco products, by mail or through the Internet, to persons believed to be less than 18;
- (4) Makes individual packages of tobacco products inaccessible to all persons under 18(Section 407.928);
- (5) Requires vendors to post a sign stating that it is a violation of state law for tobacco products to be provided to persons under 18, and it is a violation for persons under 18 to possess or purchase tobacco products. Currently, a sign is required stating only that it is illegal to sell tobacco products to persons under 18 (Section 407.927);
- (6) Bans the sale of individual packages of tobacco products unless they are either sold through vending machines or displayed at a secure and inaccessible location. The proposal requires that vending machines be equipped with a device that disables them until unlocked by a sales person. Vending machines located in areas where patrons must be over the age of 18 are excepted from

DESCRIPTION (continued)

this requirement (Section 407.928, 407.931);

(7) Requires a person selling tobacco products or rolling papers or distributing tobacco product samples, to require proof of age from those persons under the age of 21 (Section 407.929);

(8) Imposes a fine of \$250 and 5-day suspension of a store's license to sell tobacco products for the fourth or subsequent violation of the statutes banning the sale or distribution of tobacco products to persons under the age of 18. In addition, the store will be fined in the same amount as the individual wrongfully selling the tobacco products (Section 407.931); and

(9) Imposes additional penalties on the owner or operator of the outlet selling tobacco products to persons under 18. For the first offense, the Division of Liquor Control will issue a reprimand; for a second offense, the division will prohibit the sale of tobacco products for one day; for a third offense, the division will prohibit the sale of tobacco products for 2 days; and for the fourth and subsequent offense, the division will prohibit the sale of tobacco products for 5 days. The penalties will not be imposed on the owner or operator if certain circumstances involving the training of employees in the sale of tobacco to minors can be shown (Section 407.931);

SCA #6 places five-year and ten-year time periods on first, second, and third offenses;

(10) Section 1 requires the department of revenue and tobacco wholesalers in this state to establish a pilot program to establish a more efficient method of stamping tobacco products and collecting taxes on tobacco products;

(11) Section 2, which restricts tobacco product manufacturers from selling smokeless tobacco in this state unless such manufacturer is a participating tobacco product manufacturer pursuant to the November 23, 1998 tobacco master settlement agreement or pays into the qualified escrow, is deleted from the proposal by SCA #3.

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

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Office of Attorney General
Office of State Courts Administrator
Department of Mental Health
Department of Public Safety
Missouri Highway Patrol
Division of Liquor Control
Department of Revenue
Office of Prosecution Services
Office of State Public Defender
Department of Health

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "Jarrett".

Jeanne Jarrett, CPA
Director
May 5, 2000