

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0822-02
Bill No.: SB 222
Subject: Tobacco and Tobacco Products; Revenue Dept.; Crimes and Punishment;
Attorney General; Highway Patrol
Type: Original
Date: January 30, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$205,291)	(\$203,466)	(\$208,626)
Total Estimated Net Effect on <u>All</u> State Funds	(\$205,291)	(\$203,466)	(\$208,626)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Office of Administration, Budget and Planning (BAP), Department of Public Safety (DPS), Office of State Courts Administrator (CTS), Office of the State Public Defender (SPD), Office of Prosecution Services (OPS) and the Attorney General's Office (AGO)** state this proposal would have minimal or no fiscal impact to their agencies and any costs involved could be absorbed.

Officials from the **Department of Corrections (DOC)** assume this proposal would have zero to minimal fiscal impact to its agency. DOC states the need for additional capital improvements is not anticipated at this time. However the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

Currently, DOC 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 DOC due to the provisions of this legislation, DOC will incur a corresponding increase in operational cost either through incarceration (FY99 average of \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (FY99 average of \$2.47 per offender, per day).

The following factors contribute to DOC's minimal assumption: DOC assumes the narrow scope of the crime will not encompass a large number of offenders; the low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence; and the probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by 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 of the **Department of Revenue (DOR)** state this legislation, as written, would create a felony for the sale or distribution of gray market cigarettes.

DOR will be responsible for the revoking or suspension of the license of the wholesalers if they are violating the cigarette statutes.

ASSUMPTION (continued)

DOR has become aware that for a state to fully participate in the tobacco settlement agreement they must use due diligence to enforce the agreement and their tobacco laws. At present Missouri does no field enforcement of the tobacco law. DOR feels to ensure full participation (get fair share of the money), DOR will need to have a field enforcement presence as well as the ability to fully track all payments from both the participants and those who chose not to participate and to make payments to the escrow fund. DOR will also need to closely watch the grey market area of sales since it is quickly becoming a black market.

To properly enforce Missouri's tobacco laws with this agreement in place will require 4 field agents and 2 tax audit analysts. The field agents will be responsible for closely checking each retailer of tobacco products in this state, seize unlawful product, and require that all taxes that are due are paid. The two tax audit analysts would be responsible for coordination of field agent activity, and an audit process to be certain that both the participants and non-participants make proper payments.

Unknown, but a failure on Missouri's part to use due diligence to enforce the tobacco agreement could cause a loss of a portion of the settlement funds.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Costs - Department of Revenue</u>			
Personal Service (5 FTE)	(\$115,140)	(\$141,622)	(\$145,163)
Fringe Benefits	(\$38,376)	(\$47,203)	(\$48,383)
Expense and Equipment	(\$51,775)	(\$14,641)	(\$15,080)
Total <u>Costs</u> - DOR	<u>(\$205,291)</u>	<u>(\$203,466)</u>	<u>(\$208,626)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$205,291)</u>	<u>(\$203,466)</u>	<u>(\$208,626)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

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

DESCRIPTION

This act prohibits a tax stamp from being affixed to any package of cigarettes unless certain federal requirements are met. No stamp shall be affixed to any package that is labeled as not intended for sale inside the United States or has a label that has been altered. A violation is a Class D felony, and is also deemed a deceptive act or practice. The Department of Revenue may revoke a wholesale license of a person in violation of these provisions, and may seize the items involved.

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 Administration - Budget and Planning
Department of Public Safety
Office of State Courts Administrator
Office of the State Public Defender
Office of Prosecution Services
Office of the Attorney General
Department of Corrections
Department of Revenue



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Director

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