

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 602**  
**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

DATED: AUGUST 11, 2014

**SUMMARY**

**Synopsis:** Raises minimum age for purchase and sale of tobacco products and electronic smoking devices from 19 to 21.

**Type of Impact:** A recurring State revenue reduction to the General Fund.  
An indeterminate net impact on municipal governments.

**Agencies Affected:** Department of the Treasury. Municipal governments.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2015*</u></b>	<b><u>Fiscal Year 2016</u></b>	<b><u>Fiscal Year 2017</u></b>
<b>Potential State</b>			
<b><u>Revenue Loss</u></b>	<b><u>\$9.6 million</u></b>	<b><u>\$18.8 million</u></b>	<b><u>\$18.5 million</u></b>
Cigarette Tax	\$7.7 million	\$15.0 million	\$14.5 million
Sales and Use Tax	\$1.6 million	\$3.2 million	\$3.3 million
Tobacco Products			
Wholesale Sales and Use Tax	\$0.3 million	\$0.6 million	\$0.6 million
<b>Net Local Cost</b>	Potential indeterminate impact – See comments below		

\*Assumes January 1, 2015 effective date.

- The Office of Legislative Services (OLS) estimates that prohibiting the sale of cigarettes and other tobacco products to individuals aged 19 and 20 would result in a State revenue reduction from related taxes of approximately \$19 million annually, which amount would gradually decline over time, primarily as a result of declining cigarette sales. Assuming an effective date of January 1, 2015, this would decrease State revenue by an estimated \$9.6 million in Fiscal Year 2015.
- The OLS estimate is based on data suggesting that individuals aged 19 and 20 currently purchase about 8.2 million packs of cigarettes per year in New Jersey, or about three percent of all taxable cigarette sales in the State. The estimate also assumes that 30 percent of individuals affected by the bill will continue to buy cigarettes and other tobacco products, either through stores or vending machines, or through older individuals not affected by the bill.

## **BILL DESCRIPTION**

Senate Bill No. 602 of 2014 raises the minimum age for purchasing tobacco and electronic smoking devices from 19 to 21 years, and raises the minimum age from 19 to 21 years of a person to whom a vendor may sell, offer for sale, distribute, give, or furnish such products in New Jersey. The bill also amends various related statutes concerning penalties, fines, signage requirements, non face-to-face transactions, and enforcement provisions to reflect the increased minimum age.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that prohibiting the sale of cigarettes and other tobacco products to individuals aged 19 and 20 would result in a State revenue reduction from related taxes of approximately \$19 million annually, which amount would gradually decline over time, primarily as a result of declining cigarette sales. Specifically, the OLS projects that the bill will result in a State revenue reduction of \$7.7 million from the State cigarette tax, \$1.6 million from the sales and use tax, and \$0.3 million from the tobacco products wholesale sales and use tax in the first six months of implementation, for a total reduction of \$9.6 million in Fiscal Year (FY) 2015, assuming a January 1, 2015 effective date. The OLS also projects annualized State revenue reductions of \$18.8 million and \$18.5 million when the bill is fully implemented in FY 2016 and FY 2017, respectively.

The OLS expects the revenue reductions to affect only the General Fund. Parts of the cigarette tax and the tobacco products wholesale sales and use tax are dedicated to the Health Care Subsidy Fund and to debt service on cigarette tax revenue securitization bonds, but statutory law shields these dedications from the effects of decreasing revenue. Consequently, the General Fund portion of the cigarette tax collections would absorb the entirety of the revenue loss from the anticipated decrease in sales.

### ***Cigarette Tax***

Data from the federal Centers for Disease Control and Prevention (CDC) indicate that the prevalence of smoking among New Jersey residents aged 18 to 24 is approximately 16.2 percent. Based on this estimate and current population data from the U.S. Census Bureau, as well as OLS and Executive revenue forecasts, the OLS estimates that individuals aged 19 and 20 currently purchase about 8.2 million packs of cigarettes per year in New Jersey, or about three percent of all taxable cigarette sales in the State. The OLS assumes that cigarette sales will decline by about three percent annually, consistent with current trends. Based on information from the Surgeon General and similar fiscal estimates conducted by other states, the OLS also assumes that 30 percent of the affected population would continue to purchase cigarettes and other tobacco products illegally and pay taxes on those purchases, which they may do by purchasing from stores or vending machines, or by purchasing through older individuals who are not affected by the bill. These assumptions yield an estimated reduction in cigarette tax revenue of

approximately \$15.5 million annually, trending downward with the long-term trend in consumption.

The remaining 70 percent may quit smoking or using other tobacco products or electronic smoking devices, or may obtain them by a non-taxable method, such as by purchasing online or by crossing into another state with a lower minimum age of sale. This 30 percent estimate is highly speculative, as few other jurisdictions have raised the minimum age for tobacco sales to 21, and only imprecise data are available. (When New Jersey raised the minimum age for purchasing tobacco to 19 in 2006, the State also enacted its indoor smoking ban at the same time, making it difficult to determine whether any reduction in sales was a result of the age increase.)

#### Sales and Use Tax

By prohibiting certain sales, the bill may also lead to a reduction in revenue from the sales and use tax. With regard to cigarette sales, the estimate assumes the reduction in sales described above. It also assumes an average retail price of \$7.40 per pack of cigarettes in New Jersey, for an average sales tax per pack of \$0.48, based on June 2014 data published by the Campaign for Tobacco-Free Kids. This results in a reduction in revenue from the sales and use tax of approximately \$2.8 million per year from taxable cigarettes alone, trending downward with the anticipated decline in consumption.

Available information on total retail sales of non-cigarette tobacco products and electronic smoking devices lead the OLS to project much smaller reductions in sales and use tax revenue associated with these products. However, sales of these products and associated revenues are expected to grow over time, in contrast to cigarettes. As revenue from the tobacco wholesale sales and use tax has grown at an average annual rate of five percent in recent years, this estimate assumes the same rate of sales and use tax growth associated with non-cigarette tobacco products. No State-specific data on sales of electronic smoking devices are available, but some market research suggests that sales may grow by approximately 25 percent per year. The total reduction in revenue from the sales and use tax, including revenue from taxable cigarettes, non-cigarette tobacco products, and electronic smoking devices, is estimated at \$3.2 million annually.

These estimates do not account for any shifting of prohibited expenditures to other taxable goods. To the extent that individuals may shift from buying products that are prohibited under the bill to other taxable items, the reduction in sales and use tax revenue attributable to the bill may be lower than estimated above.

#### Tobacco Wholesale Sales and Use Tax

The estimate applies similar assumptions to non-cigarette tobacco wholesale sales that are applied to sales of other products affected by the bill. That is, the estimate assumes that 19- and 20-year-olds purchase approximately three percent of affected products, and that 30 percent will continue to purchase these products illegally, thereby continuing to generate tax revenue for the State. The estimate also assumes that base revenue from the tobacco products wholesale sales and use tax will grow by about five percent annually, consistent with current trends. These assumptions yield an estimated reduction in revenue of approximately \$0.6 million annually, trending slightly upward over time.

#### Other effects

It is also possible that the bill could also reduce payments from cigarette manufacturers made under the Tobacco Master Settlement Agreement (MSA), as cigarette sales are a major component in the formula that calculates MSA payments. Some of these payments are eventually received as State revenue from the Tobacco Settlement Fund. However, the State's allocable share of MSA payments is a fixed percentage (approximately 3.9 percent) of total MSA

payments made nationwide, and the resulting State revenue is not directly influenced by State-specific sales. Consequently, this estimate assumes that the bill's impact on the Tobacco Settlement Fund revenue would be negligible.

In addition to the impacts on State revenue discussed above, the OLS notes that the bill may have an indeterminate net fiscal impact on municipal governments, due to potentially increased municipal court costs offset by municipal revenue collected from penalties assessed under the bill. Although the OLS has insufficient information to estimate the number of additional court cases likely to occur under the bill, or resulting court costs and penalty revenue, the potential impact on any given municipality may be relatively minimal, given the relatively limited size of the affected population and the dispersion of applicable cases across the State. Further, the bill may not significantly increase local law enforcement costs, assuming that efforts to enforce the current restrictions applying to individuals under age 19 might be easily adapted to the new age range.

Finally, the OLS notes that, by limiting the access of young adults to cigarettes and other tobacco products (and by effectively creating additional barriers to individuals under age 19 who might obtain cigarettes and tobacco through young adults), it is possible that some individuals may be diverted from developing tobacco habits that would last for several decades, and may eventually lead to cancer, respiratory illnesses, or other health problems. Over time, reduced usage of cigarettes and other tobacco products may result in decreased State expenditures on health care, such as in Medicaid, health benefits for public employees, and charity care. However, such benefits would likely be minimal until several years or decades have passed, as such diseases typically take many years or decades to develop acute symptoms.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-6 et seq.).