

OFFICE OF FISCAL ANALYSIS

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sHB-7200

AN ACT PROHIBITING THE SALE OF CIGARETTES, TOBACCO PRODUCTS, ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS TO PERSONS UNDER AGE TWENTY-ONE.

As Amended by House "A" (LCO 8835)

House Calendar No.: 352

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Department of Revenue Services	GF - Revenue Loss	4.3 million	5.5 million
Department of Revenue Services	Various - Revenue Loss	600,000	800,000
Department of Revenue Services	GF - Revenue Gain	483,750	645,000
Consumer Protection, Dept.	GF - Revenue Gain	Up to 350,000	Up to 460,000
Resources of the General Fund	GF - Revenue Gain	Potential	Potential
Mental Health & Addiction Serv., Dept.	GF - Cost	161,826	165,781
Department of Revenue Services	GF - Cost	165,310	170,119
State Comptroller - Fringe Benefits ¹	GF - Cost	120,331	123,941

Note: GF=General Fund; Various=Various

Municipal Impact: None

Explanation

The bill, which increases the legal tobacco product purchasing age to 21 and increases various associated fees and penalties, results in the following impacts:

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.19% of payroll in FY 20 and FY 21.

Revenue Impact

The bill results in a General Fund revenue loss of \$4.3 million in FY 20 (partial year) and \$5.5 million in FY 21 from cigarette and tobacco products taxes, as well as a revenue loss to various funds² of \$600,000 in FY 20 (partial year) and \$800,000 in FY 21 from sales taxes due to the anticipated smoking cessation of individuals aged 18 to 20.

The bill modifies the electronic nicotine delivery system or vapor product dealer and manufacturer permits which results in a General Fund potential revenue gain of up to \$350,000 in FY 20 and up to \$460,000 in FY 21. The revenue impact is dependent on how many of these permittees hold additional dealer and manufacturer permits because the bill establishes different fees if this is the permittee's sole permit or an additional permit.

The bill also increases, from \$50 to \$200, the annual license fee for cigarette and tobacco products dealers, which results in a General Fund revenue gain of approximately \$483,750 in FY 20 and \$645,000 in FY 21.

Finally, there is a potential General Fund revenue gain by raising the maximum fines and penalties that may be imposed on someone who sells, gives, or delivers tobacco products or e-cigarettes to someone under the legal age. In FY 18, 124 violators were fined a total of \$13,460 for related offenses.

Cost Impact

The bill specifies that the Department of Mental Health and Addiction Services (DMHAS) conduct compliance checks and make referrals to the Department of Revenue Services (DRS) to hold hearings and impose penalties for e-cigarette sales to minors. The expanded compliance checks result in a cost to the DMHAS which is estimated to

² Current law requires a diversion of a portion of the sales tax generated into (1) the Special Transportation Fund and (2) the Municipal Revenue Sharing Account beginning in FY 22. The general sales and use tax rate, from which the diversion occurs, remains at 6.35%.

total \$216,125 in FY 20 and \$221,709 in FY 21.³ It is anticipated that the DRS would also incur costs for hearings of non-compliance referrals from the DMHAS at a cost of \$231,342 in FY 20 and \$238,132 in FY 21.⁴

House "A" alters the original bill by adjusting the fee and enforcement provisions.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, growth in the tobacco product and e-cigarette market, number of permits, and number of violations.

Sources: American Journal of Public Health "Retail Impact of Raising Tobacco Sales Age to 21 Years"
Hentry J. Kaiser Family Foundation "Percent of Adults Who Smoke"
Judicial Department Offenses and Revenue Database
United States Census Bureau

³ This consists of costs for two Special Investigators (annual salary of \$65,900 and fringe costs of \$27,150) and related operating expenses of approximately \$30,000.

⁴ This consists of costs for two Tax Hearing Officers (annual salary of \$80,155 and fringe costs of \$33,016) and related operating expenses of approximately \$5,000.