

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3797-01
Bill No.: HB 2257
Subject: Fire Protection; Tobacco Products; Crimes and Punishment
Type: Original
Date: April 18, 2008

Bill Summary: This proposal enacts the Fire Safety Standard and Firefighter Protection Act which regulate the sale of reduced ignition propensity cigarettes.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Fire Safety Standard and Firefighter Protection Act Enforcement Fund	\$0	\$88,031	(\$40,593)
Cigarette Fire Safety Standard and Firefighter Protection Act Fund	\$0	\$0 to Unknown	\$0 to Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$88,031 to Unknown	(\$40,593) to Unknown

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Fire Safety Standard and Firefighter Protection Act Enforcement Fund	0 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	0 FTE	1 FTE	1 FTE

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Division of Fire Safety (DPS)** state the bill requires them to implement a new program to regulate the sale of reduced ignition propensity cigarettes in the State of Missouri. The program will include: a certification process for cigarette brand families, including recertification every three years; a detailed and monitored testing process; the approval of cigarette markings; the auditing of reports submitted by cigarette companies; the handling of funds for certification processing and penalty assessment; the management of two new funds - the Fire Safety Standards and Fire Fighter Protection Act Enforcement Fund, and the Cigarette Fire Safety and Fire Fighter Protection Act Fund; and the overall enforcement of the provisions of this act.

In order to administer this program as prescribed in this bill, the Division would require an Accountant I (\$28,200 salary; \$10,703 fringe) along with necessary expense and equipment funding (total of \$42,591).

The Division of Fire Safety spoke with representatives from the Department of Revenue who indicated their current staff of criminal investigators could easily perform the task of verifying the approved compliance markings while they are checking for tax stamps on cigarette packs.

A representative from the Attorney General's Office indicated they currently had record of approximately 280 brand families of cigarettes sold in Missouri. They also indicated that it would be unlikely all of the current brand families would apply for certification as low propensity in the State of Missouri due to cost associated with production and testing. For purposes of this fiscal note, the Division has estimated 140 brand families of cigarettes would apply for the Division's certification to be sold in our State. The certification fee is \$1,000 per brand family, to be renewed every three years. This would generate \$140,000 every three years for the Fire Safety Standards and Fire Fighter Protection Act Enforcement Fund. DPS also assumed \$10,000 of income into this fund in the other two years.

Twenty-five other states currently have enacted similar legislation, and nineteen others have legislation pending.

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

ASSUMPTION (continued)

Officials from the **Office of the Attorney General** assume that any potential costs arising from the proposal could be absorbed with existing resources.

Officials from the **Department of Revenue, Department of Health and Senior Services, Department of Public Safety - Alcohol and Tobacco Control** and the **Office of the State Treasurer** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Civil penalties may be assessed against manufacturers, wholesale dealers, agents or other persons who violate the provisions of this act. The penalties may range from \$100 to \$250,000. The proceeds from these civil penalties are to be deposited into the newly created Cigarette Fire Safety Standard and Firefighter Protection Act Fund which is created in Section 320.371.

Oversight will assume \$0 to an unknown amount of these civil penalties will be collected in any given year.

The effective date of the proposal is July 31, 2009. Therefore, **Oversight** will assume no income or expense until FY 2010.

This proposal would increase Total State Revenues.

FISCAL IMPACT - State Government

FY 2009
(10 Mo.)

FY 2010

FY 2011

**FIRE SAFETY STANDARD AND
 FIREFIGHTER PROTECTION ACT
 ENFORCEMENT FUND**

Income - Certifications and

recertifications - \$1,000 fee for each
 brand family of cigarettes every 3 years
 (Section 320.356)

\$0

\$140,000

\$10,000

Costs - Division of Fire Safety

Personal Service (1 FTE)

\$0

(\$29,917)

(\$30,815)

Fringe Benefits

\$0

(\$13,229)

(\$13,626)

Expense and Equipment

\$0

(\$8,823)

(\$6,152)

Total Costs - DPS

\$0

(\$51,969)

(\$50,593)

FTE Change - Division of Fire Safety

0 FTE

1 FTE

1 FTE

**ESTIMATED NET EFFECT TO THE
 FIRE SAFETY STANDARD AND
 FIREFIGHTER PROTECTION ACT
 ENFORCEMENT FUND**

\$0

\$88,031

(\$40,593)

Estimated Net FTE Change for Fire
 Safety Standard and Firefighter Protection
 Act Enforcement Fund

0 FTE

1 FTE

1 FTE

**CIGARETTE FIRE SAFETY
 STANDARD AND FIREFIGHTER
 PROTECTION ACT FUND**

Income - civil penalties assessed in
 Section 320.362

\$0

\$0 to Unknown

\$0 to Unknown

**ESTIMATED NET EFFECT TO THE
 CIGARETTE FIRE SAFETY
 STANDARD AND FIREFIGHTER
 PROTECTION ACT FUND**

\$0

\$0 to
 UNKNOWN

\$0 to
 UNKNOWN

FISCAL IMPACT - Local Government

FY 2009
(10 Mo.)

FY 2010

FY 2011

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Small businesses in the cigarette industry may be fiscally impacted from this proposal.

FISCAL DESCRIPTION

This proposal establishes the Fire Safety Standard and Firefighter Protection Act which prohibits the sale of any cigarette in this state that has not been tested, certified, and marked that it has met certain performance standards. Any manufacturer, wholesale dealer, retail dealer, agent, or other person or entity who violates this requirement may be fined up to \$100 per pack of cigarettes sold or offered for sale. No penalty against a manufacturer, wholesale dealer, or agent can exceed \$100,000, and no penalty against a retail dealer can exceed \$25,000. Any corporation, partnership, sole proprietorship, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification will be subject to a penalty of between \$75,000 and \$250,000.

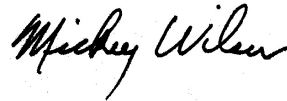
Performance standard tests will be conducted in accordance with the Standard Test Method for Measuring the Ignition Strength of Cigarettes of the American Society of Testing and Materials unless the State Fire Marshal determines that it is impossible for the cigarette manufacturer to use this test method. Each manufacturer must pay a \$1,000 fee for each brand family of cigarettes listed in the certification to be deposited into the Fire Safety Standard and Firefighter Protection Act Enforcement Fund. The fund will be administered by the State Fire Marshal and used solely to support processing, testing, enforcement, and oversight activities involved with the implementation of the provisions of the bill.

The bill becomes effective July 31, 2009.

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 Revenue
Department of Health and Senior Services
Department of Public Safety
Office of the Attorney General
Office of the State Treasurer
Office of the State Courts Administrator
Office of the Secretary of State

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 18, 2008