

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3220-01
Bill No.: HB 1730
Subject: Tobacco Products; Business and Commerce; Children and Minors; Merchandising Practices
Type: Original
Date: January 5, 2020

Bill Summary: This proposal changes the law regarding tobacco products by raising the required age to purchase and possess from eighteen to twenty-one.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§407.925, 407.926, 407.927, 407.929, 407.930, 407.931, 407.933, 407.934 - Tobacco products

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS.

Oversight notes the **Attorney General's Office**, the **Department of Revenue**, the **Department of Public Safety - Alcohol and Tobacco Control**, the **Office of State Courts Administrator**, the **State Public Defender's Office**, and the **City of Springfield** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight notes, according to the Department of Public Safety - Alcohol and Tobacco Control's (ATC) website, on December 20, 2019, the President signed legislation to amend the Federal Food, Drug, and Cosmetic Act, and raise the federal minimum age of sale of tobacco products from 18 to 21. It is now illegal for a retailer to sell any tobacco product – including cigarettes, cigars and e-cigarettes – to anyone under 21. The FDA will provide additional details on this issue as they become available.

Additionally, on December 27, 2019, the FDA provided the following guidance to ATC:

The FDA will be providing state tobacco enforcement partners with additional information, updates, and training on the changes during the month of January. The FDA has not changed Missouri's existing program policies and procedures which are part of a contract that is in effect until September 2020.

Officials from the **City of Kansas City** state this bill could have a negative fiscal impact to the City of Kansas City, Missouri. If the statute is interpreted to preempt everything except a sales tax on tobacco sales, then the fear is that someone could argue that a gross receipts tax may be preempted as applied to tobacco sales. If tobacco sales were excluded from reported gross receipts, this could potentially reduce occupational and licensing fees. The City of Kansas City is unable to estimate the financial impact.

Oversight assumes language within §407.930 stating “this section shall not prohibit a county, municipality, or other political subdivision from taxing the sale of tobacco products, alternative nicotine products, or vapor products under other law” would result in no change in the current

ASSUMPTION (continued)

application of taxes of such products. Therefore, Oversight will not reflect a fiscal impact to local political subdivisions from this proposal.

As stated above, the U.S. Food and Drug Administration has officially changed the federal minimum age to purchase tobacco from 18 to 21. Oversight assumes this proposal would have no fiscal impact.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill changes the age of a minor for purposes of tobacco sales and possession from 18 to 21 years of age. A person cannot sell tobacco products, including vaping products, to a person who is under 21 and a person who is under 21 years of age cannot purchase or possess tobacco products, including vaping products.

The bill preempts the field of regulating the sale of tobacco products and state statute supercedes any local laws or ordinances, except for local taxes on the sale of tobacco products.


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

Attorney General's Office
Department of Revenue
Department of Public Safety -
 Alcohol and Tobacco Control
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
City of Kansas City
City of Springfield



Julie Morff
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January 5, 2020



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