SB 322

Department of Legislative Services

Maryland General Assembly
1999 Session

FISCAL NOTE

Senate Bill 322 (Senator Harris, *et al.*)
Judicial Proceedings

Tobacco Products - Sale by Vending Machines - Distribution of Tokens or Any Other Single Use Nonmonetary Mechanism to Minors

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This bill prohibits the sale of tobacco products through vending machines or any other mechanical device unless the machine only accepts tokens or any other single use nonmonetary mechanism. The costs of converting existing vending machines will be funded by revenues received by the State from the "Master Settlement Agreement" with the tobacco manufacturers.

Persons who violate this provision are guilty of a misdemeanor and are subject to a fine of $500. Any persons found distributing tokens or any other nonmonetary mechanism to minors for purchasing tobacco products will be subject to certain fines.

Fiscal Summary

State Effect: Potential minimal decrease in general fund and special fund revenues. Indeterminate increase in general fund expenditures.

Local Effect: Potential minimal decrease in revenues. Expenditures would not be affected.

Small Business Effect: Potential meaningful decrease in revenues. Potential minimal increase in expenditures.

Fiscal Analysis

Background: On November 23, 1998 the Attorneys General and other representatives of 46 states, Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands, Guam, and the District of Columbia signed an agreement with the 5 largest tobacco manufacturers (Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Phillip Morris Incorporated, R.J. Reynolds Tobacco Company, and Liggett & Myers), ending a 4-year legal battle between the states and the industry that began in 1994 when Mississippi became the first state to file a civil suit against the tobacco companies. Four states (Florida, Minnesota, Mississippi, and Texas) had previously settled with tobacco manufacturers.

The agreement settles all antitrust, consumer protection, common law negligence, statutory, common law and equitable claims for monetary, restitutionary, equitable and injunctive relief alleged by any of the settling states with respect to the year of payment or earlier years and cannot be modified in any way unless all the parties agree to the modification.

Over the next 25 years, states will receive over $206 billion from the settlement. Maryland is expected to receive $4.6 billion of the settlement funds. Maryland expects to receive $175.0 million in fiscal 2000, of which $54.3 million has been included in the proposed fiscal 2000 budget as designated funds in the State Reserve Fund.

Future year revenues from the tobacco settlement are in the budget forecast at $224 million in fiscal 2001; $142 million in fiscal 2002; and $138 million in fiscal 2003. The budget forecast assumes that one-half of subsequent tobacco settlement revenues will be available as general fund revenues. The other 1/2 is assumed to be available for new programs, or will not be available due to federal recoupment. Under the bill, 1/3 of the general fund revenues would go to the Maryland Tobacco Control Foundation.

State Revenues:

General Fund Revenues

The bill requires any operators of tobacco vending machines to alter their machines to accept tokens or any other single use nonmonetary mechanism. If vending machines accept only these nonmonetary mechanisms, some sales may be transferred from vending machines to over-the-counter purchases due to the extra inconvenience in purchasing from the machines. Any loss in tobacco tax revenues depend upon the decline in total purchases resulting from this alteration, and is assumed to be minimal.
General fund revenues could increase under the bill's monetary penalty provisions, depending upon the number of convictions and fines imposed.

Special Fund Revenues

Special fund licensing revenues, which are used for enforcement of the Cigarette Sales

Below Cost Act, could decline. The Comptroller issued 16 State vending machine licenses ($500 per license) to those businesses which operated 40 or more vending machines, yielding about $8,000 in special fund revenues in fiscal 1999. One wholesaler license of $750 was issued to a business which only operates vending machines. A $30 renewal fee is also assessed for these licenses. Therefore, to the extent that cigarette vending machine operators choose not to modify their cigarette vending machines, special fund revenues would decrease. However, the decrease cannot be reliably estimated at this time, but is assumed to be minimal.

State Expenditures: The cost of converting existing vending machines for use with tokens or any other single use nonmonetary mechanism will be paid for by revenues received by the State from the "Master Settlement Agreement" with the tobacco manufacturers. The loss of settlement payments due to these expenses cannot be estimated at this time, but is assumed to be minimal.

In addition, there is no mechanism in the bill for compensating the vendors for the cost of converting their vending machines to only accept single use nonmonetary mechanisms. Currently, the Comptroller does not keep any record of how many vending machines there are in the State and where they are located. Under the provisions of this bill, the Comptroller may be required to keep records of the location of each vending machine and the cost of converting each of them for audit administration purposes which could require additional resources. However, these expenditures cannot be reliably estimated at this time.

Local Revenues: Twenty-two counties and Baltimore City also issue a license for conducting retail sales, including sales conducted through vending machines. These retail licenses are issued for $25 per license, except for in Cecil County where the cost is $50. Any retailers who decide not to alter their vending machines to accept only tokens would no longer need this retail license. In fiscal 1998 the counties collected a total of $255,300 in license fees; however, because the number of retailers affected by the bill cannot be determined, the loss in revenue cannot be accurately estimated, but is assumed to be minimal.

Small Business Effect: Converting cigarette vending machines to only operate on tokens or any other single use nonmonetary mechanism would negatively affect small business vending machine operators through decreased sales. In addition, small businesses with vending machines on the premises, such as bars and restaurants, may have an increase in costs associated with converting currency to tokens for their customers.

Information Source(s): Comptroller of the Treasury (Alcohol and Tobacco Division), Department of Health and Mental Hygiene (Community and Public Health Administration)

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