HB 1426

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1426 (Delegate Oaks)
Environmental Matters

Extinction of Cigarette Vending Machines Act

This bill prohibits the possession, maintenance, or operation of a vending machine that dispenses a tobacco product. A person who violates this provision is guilty of a misdemeanor and subject to a fine of $500. The Comptroller of the Treasury is required to establish a program to purchase tobacco product vending machines that dispensed tobacco products in the State prior to July 1, 1999, for $4,000 each. The Comptroller is required to "appropriate and use money from the Cigarette Restitution Fund to pay for the purchase of vending machines." In addition, the purchase of cigarette vending machines is added as one of the spending purposes for the Cigarette Restitution Fund. Finally, provisions of current law referring to cigarette vending machines are repealed.

The bill takes effect July 1, 2000.

Fiscal Summary

State Effect: Potentially significant decrease in general fund revenues as a result of reduced cigarette sales, and special fund revenues from lost cigarette licenses. Funding for the purchase of cigarette vending machines is not included in the FY 2001 budget. As a result, expenditures from the Cigarette Restitution Fund could increase by a maximum of $10.0 million in FY 2001 if all vending machines are purchased for $4,000 each.

Local Effect: Local government revenue decrease. No effect on expenditures.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Tobacco products may be sold from vending machines.

Background: In response to the 1998 tobacco settlement agreement, Chapters 172 and 173 of 1999 created the Cigarette Restitution Fund for settlement payments. All payments received by the State which are related to the tobacco settlement are to be placed into this nonlapsing fund. Monies in the fund can be spent only through appropriations in the annual State budget, and a minimum of $100 million, or 90% of the funds available, must be appropriated. In addition, 50% of the funds must be appropriated for the following specific purposes:

- reduction in tobacco use by youth;
- tobacco control programs in schools;
- smoking cessation programs;
- enforcement of tobacco sales restrictions;
- primary health care in rural areas;
- programs concerning cancer, heart disease, lung disease, and tobacco control;
- substance abuse treatment and prevention;
- Maryland Health Care Foundation; and
- crop conversion.

For each program receiving funds, statements of vision, mission, goals, and objectives, along with performance indicators, are to be included with the budget submission, and an annual report is required evaluating the effectiveness of the prior year's spending.

State Fiscal Effect:

General Fund Revenues

This bill would result in a general fund revenue loss due to decreased cigarette sales. It is estimated that vending machine sales currently represent about 1% to 2% of total cigarette sales, which is expected to result in $2.0 to $3.9 million in excise tax revenues and $451,000 to $901,000 in sales tax revenues in fiscal 2001. If vending machines are prohibited, it is assumed that most, but not all, sales would be transferred from vending machines to over-the-counter purchases. The loss in revenues depends upon the decline in total purchases resulting from the vending machine prohibition, which cannot be reliably estimated at this time.

For illustrative purposes only, each 1% decline in total sales would decrease excise tax revenues by about $2.0 million and sales tax revenues by about $451,000 on an annual basis. These losses would decrease approximately 4% per year.

General fund revenues could increase under the bill's monetary penalty provision, 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 15 State vending machine licenses ($500 per license) to those businesses which operated 40 or more vending machines, yielding about $7,500 in special fund revenues in fiscal 1999. One $750 wholesaler license was issued to a business which only operates vending machines. A $30 renewal fee is also assessed for these licenses. Special funds would therefore decline by $8,730 on an annual basis. These licenses are issued May 1 of each year. The Comptroller anticipates that refunds would need to be issued for licenses issued in fiscal 2000 for 7/12 of the license fee, since the licenses would only be effective for five months (May 1 to October 1). The fiscal 2001 loss would therefore be $13,823 (one year and seven months of license and renewal fees).

A $30 cigarette retail license is sold to those businesses that do not qualify for the State cigarette vending machine license. This license is issued by the clerks of the court. The proceeds are remitted to the State Comptroller. Any retailers who obtain the license only to sell cigarettes through vending machines would no longer need this retail license. In fiscal 1999 the clerks of the court remitted to the State Comptroller a total of $266,140; however, because the number of retailers affected by the bill cannot be determined, the loss in revenue cannot be accurately estimated.

Special Fund Expenditures

The Cigarette Restitution Act of 1999 outlined nine legislative spending priorities (mentioned above) for the Cigarette Restitution Fund addressing health- and tobacco- related issues. While the statute mandates that at least 50% of the spending should be focused on the nine priority areas, the Governor has considerable latitude in constructing a budget proposal for the use of the funds. The Governor's proposed fiscal 2001 budget (including Supplemental Budget No. 1) meets the statutory requirements, with $90.5 million, or 59% of the settlement funds, allocated to health- and tobacco-related programs. The total fiscal 2001 allowance for the Cigarette Restitution Fund is $153.5 million.

In addition to adding another purpose to be funded from the Cigarette Restitution Fund, the bill requires the Comptroller to "appropriate and use money from the Cigarette Restitution Fund to pay for the purchase vending machines" that were in operation prior to July 1, 1999 from their owners, for $4,000 per machine. It is estimated that there are approximately 2,500 vending machines in the State. If all vending machines were purchased in fiscal 2001 for $4,000, total expenditures would be $10.0 million. In addition, freight and storage costs as well as auction costs could also be incurred. These costs would be approximately $250,000.

Adding another purpose for the Cigarette Restitution Fund has no fiscal effect in that the statute does not require all spending priorities to be funded in a given year. Funds from the Cigarette Restitution Fund can only be appropriated through the budget process. However, the bill requires that the Comptroller use money from the fund for this specific purpose. No appropriation for this purpose is included in the fiscal 2001 budget. As a result, Cigarette Restitution Fund expenditures could increase by as much as $10.0 million in fiscal 2001.

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 in Cecil County where each license is issued for $50. Any retailers who obtain the license only to sell cigarettes through vending machines would no longer need this retail license. In fiscal 1999 the counties collected a total of $238,100 in license fees; however, because the number of retailers affected by the bill cannot be determined, the loss in revenue cannot be accurately estimated.

Small Business Effect: The prohibition of cigarette sales through vending machines would negatively affect small business vending machine operators through decreased sales. Any vending machine operator violating the provisions of this bill would also be subject to a $500 fine for each violation.

Additional Information

Prior Introductions: None.

Cross File: HB 1426 (Delegate Oaks - Environmental Matters) is listed as a cross file although it is different.

Information Source(s): Comptroller of the Treasury, Department of Legislative Services

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