

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 149 (Chairman, Ways and Means Committee)
(Departmental - Comptroller)

Ways and Means

Penalty for Possession of Unstamped or Improperly Stamped Cigarettes and Other Tobacco Products

This departmental bill alters the penalties imposed for offenses pertaining to unstamped or improperly stamped cigarettes and other tobacco products.

The bill takes effect July 1, 2000.

Fiscal Summary

State Effect: Minimal increase in general fund revenue associated with increased fine collections. Enforcement activities could be handled with the Comptroller's existing budgeted resources.

Local Effect: None.

Small Business Effect: The Comptroller of the Treasury has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill provides that a person who willfully possesses, sells, or attempts to sell unstamped or improperly stamped cigarettes is guilty of a misdemeanor. If the number of unstamped or improperly stamped cigarettes that a person possesses, sells, or attempts to sell is 30 cartons or less, the person is subject to a fine of up to \$500 and/or imprisonment of up to three months. If more than 30 cartons are involved, the person is subject to a fine of up to \$1,000 and/or imprisonment of up to one year.

The bill also provides that a person who willfully possesses, sells, or attempts to sell other tobacco products on which the tobacco tax has not been paid is guilty of a misdemeanor and is subject to a fine of up to \$500 and/or imprisonment of up to three months.

Current Law: The penalty for the possession of unstamped or improperly stamped cigarettes is a fine of up to \$1,000 and/or imprisonment of up to one year.

Background: The Comptroller advises that the tobacco tax increase enacted in 1999 will result in increased cigarette smuggling and, as a result, a loss of tax revenue. The bill reduces the fine (to \$500) for the possession or sale of smaller quantities of unstamped or improperly stamped cigarettes, while retaining the current penalty provisions for possession or sale of large quantities of unstamped or improperly stamped cigarettes. The bill also imposes the same fine for possession or sale of other unstamped or improperly stamped tobacco products that were not subject to the tobacco tax prior to the 1999 legislation.

In many instances, the Comptroller's Office issues a warning to persons found with a limited number of unstamped or improperly stamped cigarettes, rather than a \$1,000 fine. The bill allows law enforcement officers of the Comptroller's Office to issue Petty Offense Citations (\$500 fine) to persons found to have small quantities of unstamped or improperly stamped cigarettes or other tobacco products. The Comptroller's Office believes that this is a more effective law enforcement mechanism than that which currently exists and will result in fewer lost tobacco tax revenues.

In fiscal 1999, 39,257 packs of untaxed cigarettes were confiscated.

State Fiscal Effect: To the extent that persons are subjected to the new \$500 fine instead of being issued a warning, general fund revenues would increase. At this time, however, the extent of any increase cannot be reliably estimated, but is assumed to be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - January 31, 2000
bc/jr

Analysis by: Mike Sanelli

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510