

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

House Bill 500 (Delegate Cardin, *et al.*)
 Economic Matters

Cigarette Licenses - Disciplinary Authority - Grounds

This bill authorizes the Comptroller to deny a tobacco license to an applicant, reprimand a tobacco licensee, or revoke or suspend a tobacco license if the individual (1) is convicted for selling tobacco products to minors; or (2) is liable for a civil violation relating to the sale of tobacco products to minors.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to money paid in lieu of cigarette license revocation or suspension beginning in FY 2005 and beyond. General fund expenditure increase of \$45,100 in FY 2005 due to the hiring of an additional hearing officer and related expenses at the Comptroller’s Office. Future years reflect annualization and inflation.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	-	-	-	-	-
GF Expenditure	45,100	53,600	56,700	59,900	63,500
Net Effect	(\$45,100)	(\$53,600)	(\$56,700)	(\$59,900)	(\$63,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: The Comptroller may deny a license to sell cigarettes, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

- fraudulently or deceptively obtains or attempts to obtain a license for the applicant or another person;
- fraudulently or deceptively uses a license;
- fails to comply with the Maryland Cigarette Sales Below Cost Act or regulations adopted under that Act;
- fails to comply with State statute regarding cigarette sales of less than 20 per package;
- buys cigarettes for resale in violation of a license or from a person who is not a cigarette manufacturer, licensed subwholesaler, licensed vending machine operator, or licensed wholesaler;
- is convicted, under federal law or the laws of any other state, of a felony or a misdemeanor that is a crime of moral turpitude and directly related to the fitness and qualification of the applicant or licensee; or
- has not paid a tax due before October 1 of the year after the tax became due.

It is a misdemeanor to distribute a tobacco product to a minor. Except for a criminal violation for distributing a tobacco product to a minor, whenever a cigarette retailer's license is suspended or revoked by the Comptroller, the licensee may petition the Comptroller to pay a sum of money in lieu of serving the suspension or revocation. Money paid in lieu of license suspension or revocation must be paid into the State's general fund. The amount of money may not exceed \$2,000 for retail licensees, and not exceed \$50,000 for other licensees. The Comptroller may allow the payment if the public welfare and morals would not be impaired by allowing the licensee to operate during the suspension or revocation period, and the payment will achieve the desired disciplinary purposes.

The Comptroller also may deny a county license to sell cigarettes, reprimand a county licensee, or suspend or revoke a county licensee if the applicant or licensee fraudulently or deceptively obtains or attempts to obtain a license for the applicant or another person, fraudulently or deceptively uses a license, or fails to comply with the Maryland Cigarette Sales Below Cost Act and regulations adopted under the Act.

Background: In 2003, approximately 11% of cigarette retailers investigated by the Alcohol and Drug Abuse Administration of the Department of Health and Mental

Hygiene (DHMH) were found to be noncompliant with provisions regarding the sale of tobacco products to minors.

State Revenues: To the extent that a cigarette retailer whose license is suspended due to a criminal or civil law or under a county code restricting the sale of tobacco to minors opts to offer money in lieu of suspension or revocation, general fund revenues could increase minimally in fiscal 2005 and beyond.

State Expenditures: General fund expenditures could increase by an estimated \$45,073 in fiscal 2005, which accounts for the bill's October 1, 2004 effective date. This estimate reflects the cost of hiring one hearing officer to adjudicate the additional license and suspension revocation hearings due to the provisions of this bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- 696 citations for criminal and civil violations for selling a tobacco product to minors were issued in fiscal 2003; and
- the Comptroller will pursue disciplinary action against those convicted of these violations.

Salary and Fringe Benefits	\$36,983
Operating Expenses	<u>8,090</u>
Total FY 2005 State Expenditures	\$45,073

Future year expenditures reflect: (1) a full salary with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Small Business Effect: Minimal. Many cigarette retailers are small businesses. To the extent that this bill causes additional license suspension and revocations, these small businesses could potentially have decreased sales of tobacco products and general merchandise.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Health and Mental Hygiene, Department of Legislative Services

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