

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1399
Economic Matters

(Delegate Valderrama, *et al.*)

Business Regulation - Tobacco Paraphernalia

This bill prohibits the sale of tobacco paraphernalia unless a retailer maintains a logbook with specified information about each tobacco paraphernalia sale and the customer who purchases the tobacco paraphernalia. A retailer must store tobacco paraphernalia so it is accessible only by a store employee. In order to sell tobacco paraphernalia, retailers must require that customers sign the logbook and show to the retailer government-issued photo identification. Retailers are also required to submit the information contained in the logbook to the Comptroller's Office. Any individual who provides false or misleading information or identification while purchasing tobacco paraphernalia is upon conviction guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000.

The Comptroller's Office is required to adopt regulations to implement the bill's requirements.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's civil and criminal penalties.

Local Effect: Potential minimal increase in local expenditures due to the bill's penalty provisions.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill prohibits the sale of tobacco paraphernalia unless conditions specified by the bill are met. Under the bill, tobacco paraphernalia includes all items classified as such under current law except cigarette rolling paper.

A tobacco paraphernalia retailer is required to:

- maintain a logbook for each tobacco paraphernalia sale that includes the name and quantity of the product sold; signature, name, and address of the purchaser; dollar amount of the purchase; and date of the purchase;
- require each customer sign the logbook and provide government-issued photo identification to the retailer;
- refuse sale of tobacco paraphernalia unless a customer provides information required by the bill or if the name provided by the customer does not match the individual's photo identification;
- display tobacco paraphernalia so it is accessible only to employees of the store;
- maintain the records required by the bill for two years after the date of the transaction;
- submit a copy of each retail transaction to the Comptroller's Office at intervals established by the Comptroller's Office; and
- allow an agent of the Comptroller to enter the retailer's place of business during business hours to inspect records required by the bill.

A retailer who violates these provisions is subject to the following civil penalties;

- \$300 for a first offense;
- \$500 for a second offense within two years of the first offense; and
- suspension or revocation of the business's retail license for any subsequent violation.

Any individual who provides false or misleading information or identification while purchasing tobacco paraphernalia is upon conviction guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000.

Current Law: Tobacco paraphernalia includes cigarette rolling paper; a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without screen, permanent screen, or punctured metal bowl; a water pipe; a carburetion tube or device; a smoking or carburetion mask; an object known as a roach clip used to hold burning material;

a chamber pipe; a carburetor pipe; an electric pipe; an air-driven pipe; a chillum; a bong; and an ice pipe or chiller.

Chapter 218 of 2007 prohibited the distribution of tobacco paraphernalia to a minor.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted under this new penalty provision is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: SB 362 (Senator Muse) – Finance.

Information Source(s): Comptroller's Office, Department of Legislative Services

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