Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 238 (Delegate Tarrant, *et al.*)
Economic Matters

Cigars - Sales of Less Than Four Per Package - Prohibited

This bill prohibits a retailer from purchasing from a tobacco manufacturer or wholesaler – or selling or otherwise giving away to any person – a package of less than four cigars. The bill also prohibits a wholesaler from selling or otherwise giving away to any person a package of less than four cigars.

This prohibition does not apply to a retailer whose primary business is the retail sale of tobacco products other than cigarettes, with the sale of other products being incidental to that business. Nor does it apply to any cigar with a wholesale price of less than $2. The Comptroller's Office must adopt regulations to enforce the provisions of the bill.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: Potential minimal decrease in the other tobacco products (OTP) tax and sales tax assessed on cigars beginning in FY 2010. Enforcement of the bill can be handled within existing budgeted resources at the Comptroller's Office.

Local Effect: Potential minimal decrease in highway user revenues.

Small Business Effect: Minimal.

Analysis

Current Law: There is no prohibition against the sale of cigars in packages of less than four cigars. OTP, including cigars, are taxed at a rate equal to 15% of the wholesale price. In addition, the State sales tax of 6% is imposed on the final retail price of OTP.

Background: The OTP tax totaled $9.7 million in fiscal 2008. Of the monthly wholesaler reports filed with the Comptroller's Office, cigars accounted for approximately 58% of total OTP taxes, with the remaining amount from snuff, chewing tobacco, and pipe and other tobacco. OTP tax revenues are expected to total $11.2 million in fiscal 2010.

State Fiscal Effect: The bill prohibits the sale of a cigar with a wholesale price of more than $2 in packages of less than four by any store that is not considered a tobacco shop. Although the restriction may lead to a decrease in sales, any reduction is estimated to be minor due to the limited impact bundling would have on any potential sale and the limited scope of the bill. Most cigars with a wholesale price in excess of $2 are likely sold at stores not covered by the prohibition. Therefore, general fund revenues decrease minimally beginning in fiscal 2010 due to a decrease in OTP and sales taxes assessed on cigars. Likewise, Transportation Trust Fund revenues decrease minimally beginning in fiscal 2010 due to decreased sales tax revenues.

Additional Information

Prior Introductions: HB 609 of 2008 received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

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

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