

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 452

(Senator Middleton, *et al.*)

Finance and Budget and Taxation

Economic Matters

**Other Tobacco Products - Restrictions on Sale, Distribution, and Shipment -
Exemptions**

This bill specifies that provisions of law relating to the regulation of other tobacco products (OTPs) do not apply to an out-of-state seller that sells, holds for sale, ships, or delivers premium cigars or pipe tobacco to consumers in Maryland. The bill further specifies that provisions regulating the sale and distribution of OTPs do not apply to the order, purchase, sale, or shipment of premium cigars or pipe tobacco by a licensed OTP retailer or licensed tobacconist.

In addition, the bill requires the Comptroller to, by November 1, 2012, submit to the General Assembly a specified report on the viability and efficacy of instituting a policy of permitting direct shipment of premium cigars and pipe tobacco to consumers in the State.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: To the extent that fewer OTPs are purchased from in-state sellers, the bill's exemption for out-of-state sellers may result in decreased general fund revenues due to a decrease in sales tax collected. However, the bill may also result in an increase in general fund revenues to the extent that an out-of-state seller voluntarily remits the tax on sales that otherwise would not have occurred. Any effect on general fund revenues is expected to be minimal. The Comptroller's Office advises that it can use existing resources to submit the required report.

Local Effect: Potential minimal decrease in revenues and expenditures due to the bill's repeal of applicability of penalty provisions to certain orders, purchases, sales, and shipments of specified OTPs.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: OTPs are cigars or any rolled tobacco (other than a cigarette) that is intended for consumption either by smoking, chewing, or as snuff. “Premium cigars” are cigars that (1) have hand-rolled wrappers made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco and may include adhesives or other materials used to maintain size, texture, or flavor; or (2) are designated as premium cigars in regulation by the Comptroller. “Pipe Tobacco” is any tobacco that – because of its appearance, type, packaging, or labeling – is suitable for use (and likely to be offered to, or purchased by, consumers) as tobacco to smoke in a pipe.

Chapter 388 of 2010 established licensure requirements for OTP wholesalers, manufacturers, storage warehouses, and retailers; specified responsibilities of license holders; and outlined disciplinary action and judicial processes. Under the bill, these provisions do not apply to an out-of-state seller that sells, holds for sale, ships, or delivers premium cigars or pipe tobacco to consumers in Maryland.

Chapter 388 also specified that persons in the business of selling or distributing OTPs may not sell or ship any OTP that is ordered or purchased by mail or over the telephone, Internet, or other electronic network to unlicensed recipients – except that a licensed OTP retailer or licensed tobacconist may deliver up to two packages of OTPs directly to a consumer if the delivery is made by the retailer or tobacconist (or the retailer or tobacconist’s employee). A person that sells or distributes OTPs in violation of these limitations is guilty of a felony and may be fined up to \$50 per package and/or imprisoned for up to two years (and, if the person is a licensee, be subject to discipline by the Comptroller). Under the bill, these limitations do not apply to the order, purchase, sale, or shipment of premium cigars or pipe tobacco by a licensed OTP retailer or licensed tobacconist.

Additional Information

Prior Introductions: None.

Cross File: HB 570 (Delegate Davis, *et al.*) - Economic Matters.

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

Fiscal Note History: First Reader - February 20, 2012
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