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**SFA****BILL ANALYSIS**

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Senate Bill 101 (Substitute S-2 as reported by the Committee of the Whole)  
Sponsor: Senator Doug Carl  
Committee: Finance

### **CONTENT**

The bill would amend the Tobacco Products Tax Act to require that a tax stamp be affixed to all individual packages of cigarettes sold in Michigan; prescribe the system and procedures whereby tax stamps would be distributed and affixed to cigarette packages; raise from 1% to 1.5% the amount of tax due that a license may withhold for expenses incurred in administering the tobacco tax on cigarettes; and provide penalties for persons who possessed cigarettes that did not have a tax stamp, for persons who possessed, acquired, transported, or offered for sale cigarettes contrary to the bill's provisions, and for persons who misused a tax stamp or used a counterfeit stamp. The bill would take effect September 1, 1997.

The bill provides that beginning October 1, 1997, a wholesaler or unclassified acquirer (a person who imports or acquires a tobacco product from a source other than a wholesaler licensed under the Act) would have to place or cause to be placed on each package of cigarettes to be sold in Michigan a tax stamp, provided by the Department of Treasury, before delivery, sale, or transfer to another person. Beginning September 1, 1997, a wholesaler or unclassified acquirer could apply to the Department or a tax stamp sales agent (a financial institution or other person authorized by the Department to sell tax stamps and collect tax revenue) for tax stamps. The Department and the tax stamp sales agent would have to keep a record of all stamps disbursed. Beginning October 1, 1997, a licensee other than a wholesaler, unclassified acquirer, or a transporter could not acquire for resale unstamped cigarettes. Beginning January 1, 1998, a retailer or vending machine operator could not sell to the general public an individual package of cigarettes that did not have an affixed tax stamp.

A person other than a licensee who was in control or possession of an individual package of cigarettes without a tax stamp, in violation of the bill, would be personally liable for the tax imposed under the Act plus a penalty of 100% of the amount of tax due. A person who possessed, acquired, transported, or offered for sale, contrary to the Act, 3,000 or more cigarettes with an aggregate wholesale price of \$250 or more would be guilty of a felony, punishable by a fine of up to \$50,000, imprisonment for up to five years, or both. A person who violated these provisions with 1,200 to 2,999 cigarettes with an aggregate wholesale value of \$100 up to \$250, would be guilty of a misdemeanor punishable by a fine of up to \$5,000, imprisonment for up to one year, or both. A person who manufactured, possessed, or used a tax stamp or a counterfeit tax stamp without authorization by the Department, would be guilty of a felony punishable by imprisonment for at least one year but not more than 10 years and a fine of up to \$50,000.

MCL 205.422 et al.

Legislative Analyst: G. Towne

## **FISCAL IMPACT**

It is very difficult to estimate the additional revenue that a cigarette stamping program would generate. From FY 1992-93, when the cigarette tax was \$0.25 per pack, and FY 1994-95, the first full year that the tax was \$0.75 per pack, the number of packs of cigarettes that were taxed declined 15.2%, representing a loss in cigarette tax revenue of \$117 million. There are several factors that contributed to this decline in taxable cigarette purchases including, 1) the long-term downward trend in cigarette smoking due to health hazards, 2) an increase in tax-exempt sales at military bases, 3) the higher price for cigarettes due to the \$0.50 increase in the State tax, and 4) smuggling. Cigarette smuggling includes casual smuggling conducted by individuals for their own and their friends' personal use, and organized smuggling where relatively large shipments of cigarettes are illegally transported into Michigan. According to cigarette tax enforcement officials, cigarette stamps primarily help reduce organized smuggling and have much less of an effect on reducing casual smuggling. Taking all of these factors into consideration, it is estimated that about \$20 million of the loss in cigarette tax revenue from FY 1992-93 to FY 1994-95 was due to organized smuggling. It is estimated that cigarette stamping would help recover about \$15 million in cigarette tax revenue in FY 1997-98.

The bill also would increase the collection allowance given to cigarette wholesalers from 1% of the tax they collect to 1.5%. This would increase the portion of cigarette tax revenue that wholesalers are allowed to keep to cover the expenses they incur when collecting the tax, from an estimated \$5.6 million in FY 1997-98 to \$8.4 million, an increase of \$2.8 million. In FY 1992-93, before the tax rate was increased, the 1% collection allowance netted the wholesalers about \$2.5 million.

Therefore, it is estimated that this bill would result in a net increase in cigarette tax revenue of \$12.2 million in FY 1997-98, which would be distributed as follows: \$7.7 million (63.4%) to the School Aid Fund, \$3.1 million (25.3%) to the General Fund, \$0.5 million to the Health and Safety Fund, \$0.2 million (1.3%) to local health departments, and \$0.7 million (6.0%) to the Healthy Michigan Fund. Also, it is estimated that an additional \$1 million would be collected in sales tax revenue in FY 1997-98, of which about 73% goes to the School Aid Fund.

Date Completed: 2-12-97

Fiscal Analyst: J. Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.