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SFA BILL ANALYSIS

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House Bill 5088 (Substitute H-1 as reported without amendment)
Sponsor: Representative Charles LaSata
House Committee: Appropriations
Senate Committee: Appropriations

CONTENT

House Bill 5088 (H-1) would create a new act to implement one of the provisions included in the master settlement agreement reached on November 23, 1998, between 46 states and the five major United States tobacco companies. This master settlement agreement placed limitations on the marketing of tobacco products and imposed financial penalties on the participating tobacco manufacturers. The master settlement agreement included a provision requiring states to adopt model legislation that would impose similar financial penalties on tobacco manufacturers who sell tobacco products in the states and were not part of the master settlement agreement. The provisions of House Bill 5088 (H-1) are designed to ensure that the nonparticipating manufacturers do not hold a competitive price advantage over the participating manufacturers.

The bill would require the State of Michigan to identify nonparticipating manufacturers who are selling tobacco products in Michigan, and would require these companies to comply with one of two remedies. The first option is that these nonparticipating manufacturers could conform with the financial penalties being imposed on the participating manufacturers. The second option is that the nonparticipating manufacturers could pay fees into a State-run escrow account based on the volume of cigarettes sold in the State. These fees would equal 18.8 cents per pack of cigarettes sold in 1999, 20.9 cents per pack of cigarettes sold in 2000, 27.2 cents per pack of cigarettes sold in 2001 and 2002, 33.5 cents per pack of cigarettes sold in the period 2003 through 2006, and 37.7 cents per pack of cigarettes sold in 2007 and years thereafter.

The revenues generated from these fees levied on the nonparticipating manufacturers would be deposited into an escrow account established by the State. The nonparticipating manufacturers would receive the interest earned on funds that they deposited into the escrow account. Funds could be withdrawn from the escrow account to pay a judgment or settlement against one of the nonparticipating manufacturers. This litigation would have to be initiated by the State or an affected party within the State.

FISCAL IMPACT

As part of the master settlement agreement between the states and the participating tobacco manufacturers, if the states enact model legislation similar to that contained in House Bill 5088 (H-1), the states will be assured that these scheduled payments from the participating manufacturers are not reduced due to sales losses to nonparticipating manufacturers. Therefore, the passage of House Bill 5088 (H-1) would provide a source of protection from the erosion of scheduled payments to the State of Michigan from the participating manufacturers.

Date Completed: 12-1-99 Fiscal Analyst: G. Olson