



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5668 (Substitute H-5 as reported by the Committee of the Whole)

Sponsor: Representative Larry Julian
House Committee: Regulatory Reform
Senate Committee: Commerce and Labor

CONTENT

The bill would amend the Tobacco Products Tax Act to do the following:

- Increase the civil penalty on an unlicensed person for violating the Act, from 100% of the tax due to 500% of the tax due.
- Include violations involving counterfeit cigarettes in criminal penalties for the unlawful possession, acquisition, transportation, or sale of cigarettes or other tobacco products.
- Set the misdemeanor fine at the greater of \$1,000 (the current fine) or five times the retail value of the tobacco products involved, when no other penalty was established.
- Require sellers to obtain proof of a cigarette purchaser's age when making internet, telephone, or mail-order sales; and require deliverers to obtain proof of age.
- Require documents related to internet, telephone, or mail-order cigarette sales to contain certain information regarding taxes; and establish shipping requirements.
- Require the Department of Treasury to destroy all cigarettes forfeited to the State.
- Exempt from the Act's seizure and forfeiture provisions a vehicle owned or operated by a transportation company otherwise transporting tobacco products in compliance with the Act.

MCL 205.422 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would likely have a minimal effect on State revenue or expenditures. Its primary fiscal impact likely would reflect the increased penalties as well as the additional steps that cigarette retailers and consumers would have to take in order to avoid penalties. To the extent that the bill would discourage unlawful behavior, it could increase cigarette tax and sales tax revenue by increasing compliance with existing laws and aiding existing enforcement efforts, assuming that consumers would maintain their cigarette consumption. If the bill discouraged consumption by affected taxpayers, it would have less of an impact.

According to the Department of Corrections Statistical Report, in 2001 a total of 18 offenders were convicted of violating the Act, all of whom received probation. There are no data to indicate the number of additional offenders who would be convicted under the bill. If they also received probationary sentences, the State would incur additional felony probation costs at an average annual cost of \$1,800, while local units of government would incur any additional costs of misdemeanor probation, which vary by county. Any additional revenue raised by the proposed misdemeanor fine increase would benefit public libraries.

Date Completed: 12-7-04

Fiscal Analyst: Bethany Wicksall, David Zin

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Analysis available @ <http://www.michiganlegislature.org>

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