



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 476 (as enrolled)
Sponsor: Senator Wayne Schmidt
Senate Committee: Commerce
House Committee: Appropriations

Date Completed: 4-11-16

RATIONALE

The Tobacco Products Tax Act levies a tax on, and regulates, the sale and distribution of tobacco products. Public Act 164 of 2004 increased the tax on cigars, noncigarette smoking tobacco, and smokeless tobacco to 32.0% of the wholesale price. Public Act 325 of 2012 later limited the tax on cigars to a maximum of \$ 0.50 per cigar until October 31, 2016. Some have expressed concern that the sunset on the reduced tax on cigars will have a negative effect on Michigan-based companies that sell cigars at retail. Accordingly, it has been suggested that the \$0.50 maximum tax on cigars should be extended.

CONTENT

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

- **Delay to October 1, 2021, the sunset date on a provision limiting the maximum tax on a cigar to \$0.50.**
- **Require a retailer not licensed as an unclassified acquirer, retail importer of certain tobacco products, to post a sign relating to the payment of State taxes on cigars.**

The Act levies a tax on the sale of tobacco products sold in this State. For cigars, noncigarette smoking tobacco, and smokeless tobacco, the tax is 32.0% of the wholesale price. However, until October 1, 2016, the amount of tax levied on cigars may not exceed \$0.50 per individual cigar. The bill would delay the October 1, 2016, sunset date to October 31, 2021.

The Act also requires a retailer that is licensed as an unclassified acquirer, retail importer of tobacco products other than cigarettes, to post a sign visible to the public that informs purchasers of cigars through catalog or internet sales of their responsibility to pay all unpaid State taxes on those cigars. Under the bill, instead, retailers *not* licensed in this manner would have to post such a sign.

(The Act defines "unclassified acquirer" as a person, except a transportation company or a purchaser at retail from a retailer licensed under the General Sales Tax Act, who imports or acquires a tobacco product from a source other than a wholesaler or secondary wholesaler licensed under the Tobacco Products Tax Act for use, sale, or distribution.)

MCL 205.427 & 205.431

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The 32% tax on cigars, noncigarette smoking tobacco, and smokeless tobacco, combined with the enactment of a ban on indoor smoking in public places and restaurants, resulted in a decrease in the sale of premium cigars and other affected tobacco products in Michigan. Most of the sales that would have been made in this State instead were made online from states with no such tax. In 2012, legislation was enacted to limit the maximum tax on a cigar to \$0.50, subject to a sunset provision. Since then, according to the Michigan Premium Cigar and Pipe Retailers Association, cigar sales have increased more than 40%. Sales tax, payroll tax, and unemployment tax collections are also increasing because of the industry's performance. The delay of the sunset would be useful for business planning purposes. While some retailers have enjoyed growth because of the limited tax, uncertainty as to whether the State will return to a 32% tax is preventing some from planning and executing further expansion.

Opposing Argument

Tobacco use is believed to be responsible for one-third of all cancers. Cigars, specifically, are a leading cause of laryngeal and oral cancers and are a public health risk. According to the American Cancer Society Cancer Action Network, youths now use cigars almost as much as cigarettes. As cigar sales increase, it is likely that the incidence of cancer also will increase. Enacting a significant tax on all tobacco products might encourage some to quit using tobacco products; however, when some products are taxed at a lower rate, individuals are encouraged to buy those products because they are cheaper. Taxing all tobacco products at an equivalent rate would discourage tobacco consumption, reduce tax evasion, and generate more revenue.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would reduce State revenue by approximately \$2.5 million annually during the next five years. Under current law, the tobacco products tax on a cigar is 32% of the wholesale price, with a cap of not more than 50 cents per cigar in effect through October 31, 2016; thus, the tax on a cigar with a wholesale price of more than \$1.5625 (sometimes referred to as a "premium cigar") is limited to 50 cents. The delay of the sunset would maintain the cap on the tax at 50 cents per cigar through October 31, 2021. State revenue would be reduced for cigars sold at a wholesale price above \$1.5625. The amount of the reduction would depend on the volume and wholesale price of premium cigars sold beginning November 1, 2016. Assuming an average price on premium cigars subject to the cap of \$4 and premium cigar sales at levels similar to sales in the last two years, the estimated State revenue loss due to the bill is approximately \$2.3 million in FY 2016-17 and \$2.5 million annually for subsequent years. The revenue from the taxation of tobacco products other than cigarettes (which includes taxation of cigars, noncigarette smoking tobacco, and smokeless tobacco) is distributed 25% to the General Fund and 75% to the Medicaid Benefits Trust Fund. The bill is estimated to reduce General Fund revenue by approximately \$625,000 annually and the Medicaid Benefits Trust Fund by approximately \$1,875,000 annually. The consensus revenue estimate for revenue from taxation on tobacco products (excluding cigarettes) is \$80.8 million in FY 2015-16.

Fiscal Analyst: Elizabeth Pratt

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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.