


Colorado Legislative Council Staff Fiscal Note
FINAL
FISCAL NOTE

Drafting Number: LLS 11-0431
Prime Sponsor(s): Rep. Summers
 Sen. Boyd

Date: June 21, 2011
Bill Status: Signed into Law
Fiscal Analyst: Harry Zeid (303-866-4753)

TITLE: CONCERNING PROHIBITIONS AGAINST FURNISHING TOBACCO PRODUCTS TO MINORS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
Cash Funds		
Tobacco Use Prevention Cash Fund		\$3,910
Fines Collection Cash Fund	< \$5,000	< 5,000
State Expenditures		
General Fund		\$248,612
Cash Funds		
Tobacco Education Programs Fund		348,202
Other Cash Fund*		28,646
FTE Position Change		7.5 FTE
Effective Date: The bill was signed into law by the Governor and took effect on March 25, 2011.		
Appropriation Summary for FY 2011-2012: None required - see the State Appropriation section.		
Local Government Impact: None.		

**Reduced Cigarette Ignition Propensity Standards and Firefighter Protection Act Enforcement Fund*

Summary of Legislation

The bill accomplishes two goals related to the sale of tobacco products to minors:

- first, the bill expands the definition of "tobacco product" to mean any product that contains nicotine or tobacco, or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual, or any electronic device that can be used to deliver nicotine to the person inhaling from the device. This definition applies to statutes affecting the furnishing of cigarettes or tobacco products to minors; and
- second, under current law, statutes regulating tobacco sales to minors are set to repeal, effective July 1, 2011. The bill deletes all reference to a repeal date, thus extending the statute indefinitely.

Fiscal Impact of Programs Set to Expire. The bill continues a program in the Department of Revenue that is set to repeal, effective July 1, 2011. Under current law, state agencies may be appropriated funds to wind up the affairs of an expiring program for 12 months following the repeal date. To account for the wind-up period, the impact of extending the program beyond the current repeal date is shown as beginning in FY 2012-13, one year after the repeal date. There is no need for an appropriation in FY 2011-12 since the program's authorization has not yet expired, and ongoing funding for the program is included in the department's base budget request for FY 2011-12.

State Revenue

By extending the repeal date of the regulation of tobacco sales to minors, the continued regulation will increase state revenue beyond the amount that will occur if the program is repealed. However, no change from current collection levels is anticipated. Expanding the regulations to include additional products will not significantly increase state fine revenue.

Department of Revenue. Current law authorizes the Tobacco Enforcement Unit in the Department of Revenue's Liquor Enforcement Division to assess fines against tobacco retailers that violate the prohibition against selling cigarettes or tobacco products to minors. The fine varies from a written warning for a first violation up to a maximum of \$15,000 for a fifth or subsequent violation within a 24-month period. Between FY 2005-06 and FY 2009-10, an average of \$3,910 in fines was collected annually, and credited to the Tobacco Use Prevention Fund. It is assumed that a similar level of fines will be assessed and collected each year from tobacco retailers through FY 2015-16.

Judicial Branch. Any person who sells or offers to sell tobacco products to a minor commits a class 2 petty offense, which is punishable by a fine of \$200. Any person who is under 18 years of age who purchases or attempts to purchase any cigarettes or tobacco products commits a class 2 petty offence punishable by a fine of \$100 or by a requirement to participate in a tobacco education program. Additional fine revenue, if any, is expected to be minimal (less than \$5,000), and would be credited to the Fines Collection Cash Fund.

Department of Human Services. The department receives approximately \$28 million annually in federal funds through the Substance Abuse Prevention and Treatment Block Grant. Regulation of tobacco sales to minors is a requirement for the state to receive federal funding through the block grant. Eliminating the repeal date of the statutes relating to tobacco sales to minors will insure continued compliance with federal requirements necessary for these federal funds to continue to be received by the department.

State Expenditures

Continuing the regulation of tobacco sales to minors will increase state expenditures in the Department of Revenue beyond the amount anticipated under current law, although no change from current levels is anticipated. Expanding the regulations may affect the workload of the courts.

Department of Revenue. As shown in Table 1, the department was appropriated \$625,460 and 7.5 FTE for FY 2010-11 for the Tobacco Enforcement Program, including centrally appropriated overhead items. Assuming passage of the bill, expenditure levels in the Tobacco Enforcement Unit are expected to remain at current levels through FY 2015-16. Adding a prohibition against the sale of nicotine inhaler devices to minors will not affect expenditure levels for tobacco enforcement. The Liquor Enforcement Division will continue the Tobacco Enforcement Program with the current 7.5 FTE staff level, including: 5.5 FTE Criminal Investigator I; 1.0 Criminal Investigator II; and 1.0 FTE Administrative Assistant III.

Table 1. Tobacco Enforcement Program Appropriation for FY 2010-11*			
Cost Components	Total	General Fund	Cash Fund
Personal Services	\$548,076	\$195,406	\$352,670
FTE	7.5		
Operating Expenses and Capital Outlay	76,013	51,835	24,178
Legal Services	1,371	1,371	
TOTAL	\$625,460	\$248,612	\$376,848

**Includes centrally appropriated items for department overhead.*

Judicial Branch. The expansion of the definition of tobacco products may lead to new court filings. Six hundred new cases would have to be filed in a fiscal year before the impact requires additional judicial officer resources. Since the number of new cases resulting from the expanded definition of tobacco products is expected to be small, these additional cases can be accommodated within existing staff resources.

State Appropriations

Since an ongoing appropriation for the Tobacco Enforcement Program is included in the department's request as part of the annual Long Bill, no separate appropriation is required for FY 2011-12.

Departments Contacted

Revenue Health Judicial Education Human Services