

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 6999
BILL NUMBER: HB 1221

NOTE PREPARED: Feb 16, 2021
BILL AMENDED:

SUBJECT: Wholesale Pricing of Nonalcoholic Beverages.

FIRST AUTHOR: Rep. Soliday
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: With certain exceptions, this bill prohibits a supplier of nonalcoholic packaged beverages (supplier) from discriminating among retailers as to sales price, discounts, allowances, or service charges. It provides that the supplier's discrimination is an Unconscionable Act under the Deceptive Consumer Sales Law. It also provides that the Consumer Protection Division of the Office of the Attorney General may request a court to: (1) enjoin the Unconscionable Act on behalf of identified retailers; (2) award the state a civil penalty equal to twice the amount of the price difference between two retailers; and (3) award an identified retailer twice the amount of the price difference between two retailers plus the retailer's attorney's fees.

Effective Date: July 1, 2021.

Explanation of State Expenditures: *Office of the Attorney General (AG)* – This bill adds to the list of unconscionable acts, which are treated the same as deceptive acts under law. Deceptive acts are actionable by either the AG or the consumer. This may lead to a small workload increase for the AG. The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues: *Civil Penalties* – The bill allows the AG to recover a civil penalty from a supplier found in violation of this provision. The civil penalty would be equal to twice the difference between the higher price of the goods sold by the violating supplier to the retailer harmed by the violation and the lower price of the goods sold by the supplier to another retailer. Any additional revenue collected through this provision will likely be small. [This bill only applies to the sale of nonalcoholic beverage products enclosed in a container or wrapped in any manner in advance of the sale of the product at wholesale

or retail.]

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana, and proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue* – If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

The document storage fee (\$5) is deposited into the clerk record perpetuation fund.

A civil garnishee defendant service fee (\$10) is collected from the filing party for each defendant beyond the first three garnishee defendants cited in the lawsuit. Additionally, document fees (\$1 per page) are charged for preparing transcripts or copies of record or certificate under seal. Both are paid into the general fund of the county in which the court is located.

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: Indiana Trial Court Fee Manual.

Fiscal Analyst: Alexander Raggio, 317-234-9485.