Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 651 (Substitute S-2 as reported)
Senate Bill 652 (as reported without amendment)
Sponsor: Senator Sam Singh
Committee: Regulatory Affairs

CONTENT

Senate Bill 651 (S-2) would amend the Youth Tobacco Act to establish licensure requirements for nicotine and tobacco retailers. A license would be required to sell nicotine or tobacco products. The bill would prescribe administrative fines, licensure sanctions, and misdemeanor penalties for specific violations of its licensure requirements and prohibitions. To obtain or renew a license, an establishment would have to apply to the Department of Licensing and Regulatory Affairs (LARA) and pay a $1,500 application fee. The Department would have to begin accepting license applications within 15 months after the bill’s effective date. The bill's application fees and administrative and civil fines would have to be deposited into the proposed Nicotine and Tobacco Regulation Fund, which LARA would have to use to administer and enforce compliance with the bill, such as for conducting unannounced compliance checks on each establishment regularly.

Senate Bill 652 would amend the Age of Majority Act to provide that the provisions of the Act would not supersede provisions of the Youth Tobacco Act, renamed the Nicotine and Tobacco Act by Senate Bill 651 (S-2), and the Michigan Regulation and Taxation of Marihuana Act.

Senate Bill 652 is tie-barred to Senate Bill 651.

BRIEF RATIONALE

According to testimony, Michigan is one of only 10 states that doesn’t require a retailer to have a license to sell tobacco, making the State an outlier in tobacco oversight. Testimony also indicates that the use of tobacco and vapor products among minors is a large and growing problem. Some believe the best, evidence-based deterrent of tobacco use among minors is not punishment of minors but of retailers that sell tobacco products to minors and so accordingly amending the purpose of the Youth Tobacco Act has been suggested.

MCL 722.641 et al. (S.B. 651)
722.52 & 722.53 (S.B. 652)

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have an indeterminate negative fiscal impact on LARA. The total cost to the Department would depend on the implementation costs minus the amount appropriated by the Legislature from the Nicotine and Tobacco Regulation Fund. Under the bill, LARA would need to administer and enforce licensure for an establishment to sell nicotine or tobacco products at retail. The total cost to LARA would depend on the number of additional full-time equivalents (FTEs) necessary to process applications and perform compliance checks, as well as the cost of any information technology programs and upgrades, which could be significant. The average annual staffing cost incurred by LARA would be approximately $138,900 per FTE, which includes salary and benefits.

These costs would be offset by fees collected upon submission of an application for a new license or the renewal of a license, which the bill specifies should be set at a level sufficient to cover the cost of administration and enforcement of licensure. These fees, along with other fees collected under the bill, would be deposited into the Nicotine and Tobacco Regulation Fund.

Money from the Nicotine and Tobacco Regulation Fund could only be spent upon appropriation by the Legislature, meaning that it is likely that there would be a lag between when the Department incurred costs to establish the licensing program under the bill and when the fees deposited into the Fund were available.

The bill could have an indeterminate negative fiscal impact and an indeterminate positive fiscal impact on the State and local government. New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails; however, it is unknown how many people would be prosecuted under provisions of the bill. Local jail costs vary by jurisdiction and thus costs for local governments would vary. Local revenue to local libraries could increase under the bill as any additional revenue from imposed fines would go to local libraries.

The bill would not have a significant fiscal impact on the Department of Treasury. The administrative fines as well as licensing fees imposed under the bill would be deposited into the newly-created Nicotine and Tobacco Regulation Fund administered by Treasury. The exact amount of revenue directed to the Fund is unknown and would depend on the magnitude and volume of fees and administrative fines collected under the bill.

The establishment of the Fund would result in minimal costs for the Department of Treasury, but it is likely that investment and management activities would not result in any significant increase in expenditures for the Department. The bill does not specify whether money in the Fund would remain in the Fund at the end of the fiscal year.

The bill would have a minor positive fiscal impact on the DHHS as responsibility for providing, free of charge, a sign to be displayed in a licensee's establishment would be moved to the Department of Licensing and Regulatory Affairs. This would result in a minor reduction in administrative and production costs.

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