

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5737S.01I
 Bill No.: SB 1158
 Subject: Children and Minors; Tobacco Products
 Type: Original
 Date: March 29, 2022

Bill Summary: This proposal modifies provisions relating to tobacco products.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Division of Alcohol and Tobacco Control Fund (0544)*	\$0 to (\$1,568,970)	\$0 to (\$1,179,153)	\$0 to (\$1,199,776)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (\$1,568,970)	\$0 to (\$1,179,153)	\$0 to (\$1,199,776)

*Depending upon the interpretation of §407.932, the Department of Public Safety - Division of Alcohol and Tobacco Control assume they may need an additional 10 FTE agents to enforce regulations regarding the sale of tobacco products.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Division of Alcohol and Tobacco Control Fund (0544)	0 to 10 FTE	0 to 10 FTE	0 to 10 FTE
Total Estimated Net Effect on FTE	0 to 10 FTE	0 to 10 FTE	0 to 10 FTE

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government*	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Depending upon the interpretation of §407.932, local political subdivisions may see a reduction in revenue.

FISCAL ANALYSIS

ASSUMPTION

§§407.925, 407.926, 407.927, 407.929, 407.931, 407.932, 407.933, and 407.934 – Tobacco products

Officials from the **Department of Public Safety - Division of Alcohol and Tobacco Control (ATC)** state §407.932 contains language that preempts the field of regulating the sale of tobacco products, alternative nicotine products, and vapor products to the state. If this preemption means that only the state (no local law enforcement agencies) can regulate the sale of tobacco products, then the ATC will need ten (10) additional Special Agents, two for each of the five tobacco territories. These Special Agents will be responsible for tobacco regulation and enforcement throughout the state of Missouri.

Oversight does not have any information contrary to that provided by ATC. Therefore, Oversight will range ATC's impact from \$0 (localities will still be able to regulate the sale of tobacco products) to the estimate provided by ATC (only the state can regulate the sale of tobacco products) to the Division of Alcohol and Tobacco Control Fund (0544) for fiscal note purposes.

Officials from the **Department of Revenue (DOR)** state §§407.925, 407.926, 407.927, 407.929, 407.931, and 407.933 change the tobacco laws to update the age at which tobacco products can be purchased. Currently, the statutes say 18 but federal law was changed that require a person to be at least 21 years of age to purchase tobacco products. These changes bring the state into compliance with federal law and are not expected to have a fiscal impact.

Additionally, §407.932 states that regulating the sale of tobacco products is to be exclusively with the state and any local order in conflict with §§407.924-407.934 are null and void.

Currently, St. Louis County and Jackson County are authorized to charge a tobacco tax. St. Louis County is authorized under §66.340 and Jackson County is authorized under §210.320. The provision added to this proposal only restricts the local political subdivisions from adopting laws regarding how tobacco is sold not their ability to tax. Therefore, DOR assumes this will not have a fiscal impact on the Department.

Oversight does not have any information contrary to that provided by DOR. Therefore, Oversight will reflect DOR's 'no impact' for fiscal note purposes.

Oversight notes, according to the Department of Public Safety - Alcohol and Tobacco Control's (ATC) website, on December 20, 2019, the President signed legislation to amend the Federal

Food, Drug, and Cosmetic Act, and raise the federal minimum age of sale of tobacco products from 18 to 21. It is now illegal for a retailer to sell any tobacco product – including cigarettes, cigars and e-cigarettes – to anyone under 21. The FDA will provide additional details on this issue as they become available.

Officials from the **City of Springfield** anticipate a negative fiscal impact of an undetermined amount from this bill if the preemption language preempts political subdivision from assessing a licensing tax on cigarette sales. A similar bill last year clearly stated the preemption did not apply to taxing.

In response to similar legislation from 2022 (HB 2463), officials from the **City of Kansas City** stated if tobacco sales were excluded from reported gross receipts, this could potentially reduce occupational and licensing fees. This could have a negative fiscal impact to the City of Kansas City in an indeterminate amount.

Oversight notes the fiscal impact for the City of Springfield and the City of Kansas City. Oversight is unable to project a statewide cost. Therefore, Oversight will reflect a potential \$0 or (Unknown) cost to local political subdivisions.

Officials from the **Office of Administration - Budget and Planning**, the **Department of Elementary and Secondary Education**, the **Department of Natural Resources**, the **Missouri Department of Conservation**, the **Missouri Office of Prosecution Services**, the **Office of the State Public Defender**, and the **City of O'Fallon** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Office of the State Courts Administrator** did not respond to **Oversight's** request for fiscal impact for this proposal.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
DIVISION OF ALCOHOL AND TOBACCO CONTROL FUND (0544)			
<u>Cost – ATC (§407.932)</u>	\$0 to...	\$0 to...	\$0 to...
Personal service	(\$448,333)	(\$548,760)	(\$559,735)
Fringe benefits	(\$273,590)	(\$331,914)	(\$335,593)
Equipment and expense	(\$847,047)	(\$298,479)	(\$304,448)
<u>Total cost - ATC</u>	<u>(\$1,568,970)</u>	<u>(\$1,179,153)</u>	<u>(\$1,199,776)</u>
FTE Change - ATC	0 to 10 FTE	0 to 10 FTE	0 to 10 FTE
ESTIMATED NET EFFECT TO THE DIVISION OF ALCOHOL AND TOBACCO CONTROL FUND	<u>\$0 to</u> <u>(\$1,568,970)</u>	<u>\$0 to</u> <u>(\$1,179,153)</u>	<u>\$0 to</u> <u>(\$1,199,776)</u>
Estimated Net FTE Change to the Division of Alcohol and Tobacco Control Fund	0 to 10 FTE	0 to 10 FTE	0 to 10 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
LOCAL POLITICAL SUBDIVISIONS			
<u>Loss – Cities – (§§407.925, 407.926, 407.927, 407.929, 407.931, 407.932, 407.933, and 407.934) Potential reduction of occupational and licensing fees p. 3</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>

FISCAL IMPACT – Small Business

Certain small businesses that sell tobacco products and/or vapor products could be impacted by this proposal.

FISCAL DESCRIPTION

This bill changes the age of a minor for purposes of tobacco sales and possession from 18 to 21 years of age. A person cannot sell tobacco products, including vaping products, to a person who is under 21 and a person who is under 21 years of age cannot purchase or possess tobacco products, including vaping products.

The bill preempts the field of regulating the sale of tobacco products, alternative nicotine products, and vapor products, and state statute shall supersede any local laws, ordinances, or orders enacted by a county, municipality, or other political subdivision that regulate the sale of tobacco products, alternative nicotine products, and vapor products.

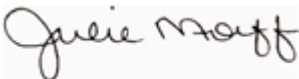
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION


Office of Administration - Budget and Planning
Department of Elementary and Secondary Education
Department of Natural Resources
Department of Revenue
Department of Public Safety - Division of Alcohol and Tobacco Control
Missouri Department of Conservation
Missouri Office of Prosecution Services
Office of the State Public Defender
City of Kansas City
City of O'Fallon
City of Springfield

NOT RESPONDING

Office of the State Courts Administrator



Julie Morff
Director
March 29, 2022



Ross Strope
Assistant Director
March 29, 2022