

Counties could possibly gain close to \$600,000 or more annually statewide given LBO's estimate of the maximum likely number of citations that could be issued annually in Ohio. A negligible amount of annual fine revenue may also be generated from violations of this bill's distribution and identification prohibitions.

- At the local government level, law enforcement agencies may incur minimal annual costs in relation to policing the bill's tobacco product prohibitions.
- A potentially problematic feature of the bill is its silence on the matter of who pays for a juvenile to attend a smoking education program, assuming of course that one is available. LBO assumes at this time that any costs associated with a child's attendance in a youth smoking education program would be borne by either the child or the program provider, and not by the referring juvenile court.

Detailed Fiscal Analysis

The bill prohibits a child, unless accompanied by a parent, adult spouse or legal guardian, from consuming, purchasing, or possessing tobacco products or papers used to roll cigarettes. Currently this is not a crime in Ohio. A child is also prohibited from furnishing a false identification to obtain tobacco products. The bill further expands the crime of illegal distribution of cigarettes and other tobacco products to include papers used to roll cigarettes.

Children in violation of the bill's prohibition would be summoned to appear before a juvenile court. The child, accompanied by a parent or guardian, may sign a waiver of appearance before the clerk of a juvenile court and pay a \$100 fine. If the child opts for the court appearance, and is convicted, the court may impose a \$100 fine and/or require the child to attend a court approved youth smoking education program, if one is available. If the child disobeys the juvenile court order that imposes the penalty for violating the provisions of the bill, the court has further discretion to impose an increased fine, require the child to perform not more than 20 hours of community service, as well as suspend a child's driving privileges for 30 days. The court may impose any, all, or none of these additional penalties upon a child found to have disobeyed the order of the court.

Estimate of New Violations

Given a complete and faithful implementation of the bill, how many annual citations for new violations could reasonably be expected in Ohio? Since this would be a new crime, there is no data collected for past violations. The bill is very similar to a 1997 Florida law that prohibits the possession, purchase, and consumption of tobacco by minors. For a recent 12-month period, the State of Florida issued 6,921 citations for youth tobacco violations. Data from the US Census Bureau indicates that, in 1998, the youth cohort (ages 10 to 19) in Florida totaled about 1.9 million. The 6,921 citations issued to these youths represent about .0036% of the overall cohort.

The 1998 data for Ohio shows the youth cohort (ages 10 to 19) to be about 1.6 million. If Ohio puts forth the same enforcement effort as Florida, all things being equal, then a reasonable estimation for new citations issued in Ohio could be expressed as .0036% of 1.6 million in the Ohio youth cohort. From these permutations, an estimate can be made that, given full and faithful enforcement, Ohio could

realize approximately 5,893 new annual citations. From LBO's perspective, the cost of citing those children for violating the bill's tobacco products prohibitions will be no more burdensome than it is to issue citations for minor criminal offenses under current law. Producing a reliable estimate of the cost burden on juvenile courts for adjudicating these cases is problematic since offending children, accompanied to the clerk's office by a parent or guardian, will be able to sign a waiver of appearance and pay the \$100 fine.

Estimating the revenue stream from these initial offenses is also somewhat problematic, as we have no reliable basis from which to predict how juvenile court judges would prioritize the available sentencing options. Based on the above estimate for new Ohio violations, a maximum of approximately \$589,300 in fine revenue could be generated annually for counties statewide. This assumes that all children cited under the bill would waive their court appearance and pay the \$100 fine (5,893 violations x \$100). This figure could prove to be unrealistic if judges want to utilize this bill as an opportunity to channel children into youth smoking education programs. Should this occur, some children and their parents or guardians might opt for a court appearance in the hope of avoiding fines. Exact predictions are difficult given an unknown number of citations likely to be issued and how the child and parent or guardian would evaluate their options for resolving the case. No revenue would be generated from the reinstatement of suspended driver's privileges. Court suspensions lasting less than 90 days require no reinstatement fee.

Youth Smoking Education Programs

These programs would most likely be administered in conjunction with county health departments. According to the Ohio Department of Health, there are few (between 5 and 10) local tobacco/health education programs. They are of an ad hoc nature and generally do not utilize certified education programs proven to be effective in reducing rates of smoking. The bill will allow the juvenile court to approve of such existing programs before they become part of any sentencing continuum. Amended Substitute Senate Bill 192 of the 123rd General Assembly created the Tobacco Cessation and Control Foundation with funds from the tobacco settlement. This organization has the responsibility to reduce tobacco use in Ohio. They will very likely create new smoking education programs across the state, under the terms of Am. Sub. S.B. 192, which the juvenile courts may utilize in the sentencing under the bill. The creation of youth smoking education programs are not mandated by the bill since the court has other sentencing options if such programs are not available in certain counties.

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Distribution & Identification Offenses

The bill also expands existing law that criminalizes the illegal distribution of cigarettes and other tobacco products to include "papers used to roll cigarettes" to the items that are prohibited from being sold, distributed, or given away to children. This additional provision is not likely to generate many additional criminal cases, thus any annual increase in local costs related to their enforcement and adjudication, as well as any related annual gains in fine and court cost revenue would be negligible.

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