

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- If all current permitted vendors were to take the \$300 credit for only one scanning device, the maximum impact would decrease local government funds (LGF, LGRAF, LLGSF) revenues by approximately \$1 million. The credit would be available in the year of purchase or first year of lease. The significance of the revenue impact is contingent on the decisions to purchase the scanning device, how many scanning devices are purchased per establishment, year of purchase(s), and number of claims filed for the credit in the tax year.

Detailed Fiscal Analysis

It is illegal to give, sell or distribute tobacco or certain alcohol products to any person under the age of 21. Transaction scanning devices may be used by sellers when an individual is attempting to purchase tobacco, liquor, beer and low-alcohol products to support that these individuals are above the legal age required to purchase these goods.

An individual's driver license, commercial driver's license or identification card can be scanned by transaction scanning devices that makes readable the information encoded in a bar code or magnetic stripe. The goal is to confirm that the information picked up by the device matches the information printed on the document:

- Currently, the driver's license magnetic stripe is encoded with the following: name, address, license number, birth date, expiration date, issue date, sex, height, weight, hair color, eye color, endorsements, license type, restrictions and organ donor information. The digitized photo and social security number are excluded.
- The bar code is encoded solely with the driver's license number.

If inconsistencies are noted between the information printed on the driver license or identification card, the requested tobacco or liquor product the seller is prohibited from selling or distributing the product to the person presenting the license or card.

It was noted by the Department of Public Safety that the agency cannot guarantee the integrity of the data stored in the magnetic stripe or the bar code. The technology used to create and encode licenses and identification cards is available for purchase by the public and may be used to create fraudulent information.

ADMINISTRATIVE RULE REQUIREMENTS:

The Registrar of Motor Vehicles is responsible for adopting rules related to:

- (1) Information derived from a transaction scan may not be retained electronically or mechanically except: name/date of birth/expiration date/identification number.
- (2) Information shall not be scanned except for the stated purpose of confirming that the information on the face of the card and the encoded information are the same.
- (3) Scanned information may not be shared except in response to a court order or related to the claim of an affirmative defense.

The Registrar of Motor Vehicles, with the approval of the Liquor Control Commission, is responsible for adopting, amending or rescinding rules related to:

- (1) Recording and maintaining the following information: name and date of birth of card holder, the expiration date and identification number of the license or ID card.
- (2) Ensuring quality control in the use of the transaction scan devices.
- (3) Prohibiting unauthorized uses of the information captured by the transaction scans.
- (4) Prohibiting the sale of information captured by the transaction scans.

The Department of Public Safety estimates additional enforcement activities related to the scanning devices will be incorporated into current enforcement procedures. However, LBO estimates that if additional enforcement activities are warranted, additional staff may be required in the future.

PENALTY:

Whoever violates these provisions stated above may be subject to a court imposed \$1,000 civil penalty, which shall be deposited into the county treasury. At this time the potential revenue impacts associated with this are unknown.

AFFIRMATIVE DEFENSE:

An Affirmative Defense is created and may be raised to substantiate why a permit holder or an agent or employee of a permit holder may not be found guilty of violating a provision of this bill. To do this, all of the following must occur:

- A person must have presented a driver license or ID card.
- A transaction scan must have indicated that the license or ID card was valid.
- The sale or distribution was made based upon the information presented by the transaction scan.

In any criminal action in which an Affirmative Defense is raised, the Registrar of Motor Vehicles or a deputy registrar may be required to provide information related to an identification card and may submit certified copies of records in lieu of sending staff to testify.

TAX CREDIT IMPACTS:

Taxpayers who purchase or lease a transaction scan device are eligible for a nonrefundable per device tax credit against corporation franchise or personal income tax liability. The credit equals the amount paid by the taxpayer during calendar year 2000 (and subsequent years). The tax commissioner may require the taxpayer to furnish any information necessary to support the claim for the credit.

The Department of Commerce Division of Liquor Control controls the manufacture, distribution, licensing, regulation, and merchandising of beer, wine, mixed beverages and spirituous liquor within the State of Ohio through various permits. The permits are broken down into the following classifications:

Permit Classes

- M Manufacturer
- W Manufacturer's Warehouse
- D Distributor
- C Retail Store Carryout
- D Restaurant, Private Club, Night Club, Hotel and Motel, Enclosed Shopping Mall, River Boats, Marinas, National Sports Museum, Fine Arts Museum, Community Entertainment District, Sunday Sales, Other.

In 1999, there were 9,736 Class C permits and 15,700 Class D permits, for a total of 25,436 Class C and D permits, that would be eligible to receive the nonrefundable tax credit. Also, in 1999, there were 402 privately owned stores and shops where liquor is sold (former state liquor stores), along with beer, wine and mixed beverage products.

For tobacco purchases, there were 18,500 tobacco permit holders (licensed by county auditors and including tobacco vending machines) in the state in 1993. Assuming that approximately 4,000 of these permitted tobacco establishments are not Class C or D permitted by the Division of Liquor Control, LBO estimates that approximately 30,000 “brick and mortar” alcohol and/or tobacco product sellers may be eligible for the nonrefundable tax credit. If only one scanner were to be purchased for each of these establishments (it is more likely the larger stores would decide to purchase more than one), then the maximum corporate franchise tax loss would be \$9 million, of which \$8.055 million is designated for state GRF and \$0.945 million is designated for local government funds. The significance of the revenue impact at the state and local level will be determined contingent on the decision to purchase the scanning device, how many scanning devices are purchased per establishment, year of purchase(s), and number of claims filed for the credit in the tax year.

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