

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** John H. Chichester

3. **Committee** Senate Finance

4. **Title** State Cigarette Tax; Rates

2. **Bill Number** SB 465

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would increase the state cigarette tax rate from 2.5 to 35 cents per pack and impose an excise tax on other tobacco products at a rate of 10% of the wholesale price. The bill would authorize all counties to impose a local cigarette tax at a maximum per pack rate of 10 cents from July 1, 2005 through June 30, 2006; 20 cents from July 1, 2006 through June 30, 2007; 30 cents from July 1, 2007 through June 30, 2008; 40 cents from July 1, 2008 through June 30, 2009; and 55 cents thereafter. The bill would limit the maximum local cigarette tax rate in cities and towns to 55 cents per pack. Any city or town imposing the tax at a higher rate prior to January 1, 2004, would be allowed to continue to impose the tax at that rate but no higher.

This bill does not specify an effective date.

6. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

6a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2003-04	\$81,019	0	GF
2004-05	\$1,114,475	8	GF
2005-06	\$475,200	8	GF
2006-07	\$489,430	8	GF
2007-08	\$504,090	8	GF
2008-09	\$519,180	8	GF
2009-10	\$534,730	8	GF

6b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2003-04	\$5.7 million	GF
	\$0	Local
	\$0	TTF

2004-05	\$208.5 million	GF
	\$1.1 million	Local
	\$0.5 million	TTF
2005-06	\$226.1 million	GF
	\$1.3 million	Local
	\$0.7 million	TTF
2006-07	\$224.3 million	GF
	\$1.4 million	Local
	\$0.7 million	TTF
2007-08	\$225.2 million	GF
	\$1.4 million	Local
	\$0.7 million	TTF
2008-09	\$226.2 million	GF
	\$1.4 million	Local
	\$0.7 million	TTF
2009-10	\$227.4 million	GF
	\$1.4 million	Local
	\$0.7 million	TTF

7. Budget amendment necessary: Yes.

Item(s): Page 1, Revenue Estimates.
284 and 286, Department of Taxation

8. Fiscal implications:

Administrative Costs

Assuming the requested amendment is adopted, the Department would incur administrative costs of \$81,019 in FY 2004, \$1,114,475 in FY 2005, \$475,200 in FY 2006, \$489,430 in FY 2007, \$504,090 in FY 2008, \$519,180 in FY 2009, and \$534,730 in FY 2010 for systems modifications, forms revisions, the printing and distribution of updated forms and 8 additional FTE's for tobacco tax enforcement purposes.

Some of the administrative costs that the Department would incur as a result of this bill are similar to the costs for the cigarette tax changes in the Governor's tax reform plan that are assumed in the Executive Budget. The Executive Budget assumes costs of \$50,619 in FY 2004, \$803,354 in FY 2005, \$471,200 in FY 2006, \$471,200 in FY 2007, \$485,340 in FY 2008, \$499,900 in FY 2009, and \$514,900 in FY 2010 to implement the cigarette tax increase proposed in the Governor's tax reform proposal.

Revenue Impact

Compared to current law, this bill is estimated to increase state and local revenues by \$5.7 million in FY 2004, \$210.1 million in FY 2005, \$228.1 million in FY 2006, \$226.4 million in FY 2007, \$227.3 million in FY 2008, \$228.3 million in FY 2009 and \$229.5 million in FY 2010. The tobacco products tax portion of these revenues is \$1.6 million in FY 2005, \$19.9 million in FY 2006, \$20.8 million in FY 2007, \$21.7 million in FY 2008, \$22.7 million in FY 2009, and \$23.7 million in FY 2010. The tobacco products tax estimate assumes the requested amendment is adopted.

The Executive Budget assumes the passage of the Governor's tax reform proposal. The Governor's tax reform proposal contains provisions that would increase the state cigarette tax rate to 25 cents a pack. The following chart compares the state and local revenue effects of the cigarette tax increase contained in this bill on current law with the changes to the state and local revenue forecast, assumed in the Executive Budget, caused by the proposed cigarette tax increase in the Governor's tax reform proposal.

Fiscal Year	Effect of SB 465 on State and Local Revenue	State and Local Revenue Effects of Similar Provisions in the Governor's Tax Reform Proposal	Difference Between SB 465 and Similar Provisions in the Governor's Tax Reform Proposal
2004	\$5.7 million	\$4.0 million	\$1.7 million
2005	\$208.5 million	\$146.5 million	\$62.0 million
2006	\$207.5 million	\$145.8 million	\$61.7 million
2007	\$204.8 million	\$145.8 million	\$60.9 million
2008	\$204.7 million	\$143.8 million	\$60.9 million
2009	\$204.7 million	\$143.8 million	\$60.9 million
2010	\$204.7 million	\$143.8 million	\$60.9 million

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

The Department is unable to implement the tobacco products tax provisions of this bill by July 1, 2004. To allow the Department sufficient time to implement the tax on tobacco products, the following amendment is requested:

Page 4, Line 185, at the end of the line

Insert: 4. That the provisions of this act adding Article 2.1 to Chapter 10 of Title 58.1 shall be effective on July 1, 2005.

11. Other comments:Virginia Cigarette Tax

Virginia first imposed a state cigarette tax in 1960, at a rate of three cents per pack. A similar tax was also imposed on cigars. The tax rate on cigarettes remained at three

cents per pack until 1966, when Virginia imposed a sales and use tax and simultaneously lowered the cigarette tax to 2.5 cents per pack, where it remains today. The tax on cigars was repealed in 1966 and Virginia currently taxes no other tobacco product other than cigarettes. Virginia's cigarette tax is currently the lowest state cigarette tax in the nation.

The cigarette tax is paid by wholesale dealers through the purchase of stamps, which must be affixed to each container from which cigarettes are sold. A discount equal to 2.5 cents for a ten-pack carton of cigarettes is available to wholesalers that stamp cigarettes. Wholesalers file a monthly report with the Department of Taxation showing the quantities of cigarettes purchased and stamped.

Taxation of Cigarettes in Other States

All 50 states and the District of Columbia impose a tax on cigarettes. Six states, including Virginia, allow local governments to impose a tax on cigarettes in addition to the state cigarette tax. Current state cigarette tax rates range from a high of \$2.05 per pack in New Jersey to a low of 2.5 cents per pack in Virginia. The median state cigarette tax in the U.S. is 60 cents per pack. The table below shows the cigarette tax rates in states bordering Virginia.

State	Per Pack
District of Columbia	\$1.00
Kentucky	\$0.03
Maryland	\$1.00
North Carolina	\$0.05
Tennessee	\$0.20
West Virginia	\$0.55

Recent Trends in the State Taxation of Cigarettes

Eighteen states increased cigarette tax rates during 2002, and seventeen states have increased cigarette tax rates during 2003. Massachusetts enacted the largest per pack increase of 75 cents. Tennessee enacted the smallest per pack increase at 7 cents.

State Taxation of Tobacco Products Other Than Cigarettes

Forty-seven states tax tobacco products other than cigarettes. Other tobacco products taxed by states include cigars, smokeless tobacco, pipe tobacco, roll-your-own tobacco, snuff and chewing tobacco. The most common approach taken by states that tax tobacco products other than cigarettes is to impose a tax on the wholesale price of the tobacco product. Of the 47 states that tax other tobacco products, 35 of these states use the wholesale price of the product as the base of the tax. The table below shows the tax rates on other tobacco products in states bordering Virginia.

State	Rate
District of Columbia	Do not tax other tobacco products
Kentucky	Do not tax other tobacco products
Maryland	15% of wholesale price
North Carolina	2% of wholesale price
Tennessee	6.6% of wholesale price
West Virginia	7% of wholesale price

Proposal

This bill would increase the state cigarette tax rate from 2.5 to 35 cents per pack and impose an excise tax on other tobacco products at a rate of 10% of the wholesale price. All revenues from the state cigarette and tobacco products taxes would be appropriated solely for the provision of services pursuant to Virginia's Medicaid program.

This bill would authorize all counties to impose a local cigarette tax at a maximum per pack rate of 10 cents from July 1, 2005 through June 30, 2006; 20 cents from July 1, 2006 through June 30, 2007; 30 cents from July 1, 2007 through June 30, 2008; 40 cents from July 1, 2008 through June 30, 2009; and 55 cents thereafter. The bill would limit the maximum local cigarette tax rate in cities and towns to 55 cents per pack. Any city or town imposing the tax at a higher rate prior to January 1, 2004, would be allowed to continue to impose the tax at that rate but no higher.

The bill would define "tobacco products" to mean cigars, smokeless tobacco, pipe tobacco and roll-your-own tobacco, as those terms are defined in § 5702 of the Internal Revenue Code.

Other Legislation

Senate Bill 467 would increase the state cigarette tax rate to 25 cents per pack and, when fully phased in, would authorize all localities to impose a local cigarette tax at a rate not to exceed 50 cents a pack.

Senate Bill 74 would increase the state cigarette tax rate to 65 cents per pack and, when fully phased in, would authorize all localities to impose a local cigarette tax at a rate not to exceed 50 cents a pack.

Senate Bill 269 would increase the state cigarette tax to \$1 per pack and limit all local cigarette tax rates to the rate imposed on January 1, 2004.

Senate Bill 455 would increase the state cigarette tax rate from 2.5 cents per pack to 75 cents per pack and impose an excise tax on other tobacco products at a rate of 3% of the dealer's cost price.

Senate Bill 530 would increase the state cigarette tax rate to 30 cents per pack, distribute all state cigarette tax revenues to local governments, and repeal all local cigarette taxes.

REVISED

cc : Secretary of Finance
Date: 2/12/2004 CBF