

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: SB1230S1

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Reeves

3. Committee: Senate Finance

4. Title: Regulation of the distribution and sale of cigarettes and other tobacco products by the ABC Board

5. Summary: Transfers the regulation of the distribution of cigarettes and other tobacco products from the Department of Taxation to the Alcoholic Beverage Control Board. The bill also creates a new retail dealer's license for the sale of cigarettes and other tobacco products to be granted and otherwise regulated by the Alcoholic Beverage Control Board. The bill sets out the licensing requirements for distributors and retail dealers, sets out recordkeeping requirements, and provides penalties for violation. The bill contains technical amendments and is a recommendation of the State Crime Commission.

6. Budget Amendment Necessary: Yes, Item 378

7. Fiscal Impact Estimates: Preliminary (see Item #8)

8. Fiscal Implications: This bill requires the Alcoholic Beverage Control Board (ABC) to license retail dealers selling cigarettes and other tobacco products. In addition, the bill would transfer the licensing of tobacco product distributors from the Department of Taxation (TAX) to ABC along with the administration of stamping agent permits.

ABC estimates 12,000 retail tobacco licenses will be added as a result of this bill with 6,000 of the licensees currently possessing at least one existing ABC license. No additional license fee would be required for any applicant holding a valid license granted by ABC. As a result, ABC will need to incorporate approximately 6,000 new licensees into its existing systems. Accordingly, the number of new licensees coupled with additional responsibilities outlined in the bill will require additional personnel. According to ABC, the agency will have to modify its licensing system, adjust long-standing processes, and hire approximately 32 new positions.

Positions Needed	Quantity	Cost
Special Agents	20	\$1,530,000
Enforcement support personnel	4	\$ 172,000
Licensing Technician	4	\$ 205,600
Hearing Officer	1	\$ 80,250

Hearing Assistant	1	\$ 47,000
Court Reporter	1	\$ 56,200
Education and Prevention Coordinator	1	\$ 67,000

ABC estimates the personnel cost to be \$2.8 million in the first year and \$2.2 million thereafter. The first year cost includes one-time equipment purchases to outfit each new enforcement officer. Due to the office space constraints of its current headquarters building, the agency will likely have to rent additional space to accommodate the new personnel.

The bill establishes the initial license fee for a tobacco products distributor's license at \$700 and the license fee for a tobacco products retail dealer license at \$100. Any person licensed as a tobacco products distributor or retail dealer would qualify as a stamping agent. Current estimates indicate there are 200-300 tobacco product distributors, 12,000 tobacco product retailers, and 24-28 manufacturers. Manufacturers would be able to apply for a 3 year stamping agent permit for a fee of \$750. ABC would conduct background investigations, including a criminal history search, on all applicants for distributor licenses, retail dealer licenses, and stamping agent permits. ABC also would have the power to suspend or revoke a license or permit for any violation of the licensing provisions or the Cigarette Tax and Tobacco Products Tax provisions.

The bill also would provide criminal and civil penalties for purchasing cigarettes using a forged business license or a forged or invalid Virginia sales and use tax exemption certificate. The civil penalties would be assessed and collected by TAX as other taxes are collected. The bill provides that any licenses issued by TAX prior to July 1, 2015, remain in full force and effect until the expiration of such license. Additionally, any rules or guidelines issued by TAX in effect as of July 1, 2015, relating to the licensing of tobacco products distributors and stamping agent permits would remain in full force and effect until altered, amended, or rescinded by ABC. It requires TAX and ABC to conduct a review of the taxes imposed on cigarettes and other tobacco products to determine which additional administrative responsibilities may be transferred to ABC and jointly prepare any legislation necessary to provide for such transfer prior to the beginning of the 2016 General Assembly Session.

ABC estimates revenues from tobacco licensing will be \$1.8 million in the first year and \$1.5 million in the second year. After the second year, revenues are expected to increase marginally each year. Based upon this estimate, the agency will not collect sufficient revenues to support the 32 personnel outlined above and would have to adjust expenditures (hire fewer personnel). While it is possible the agency could receive additional revenue from fines and penalties, however, the amount is expected to be small and not quantifiable.

According to TAX, the bill would result in general fund savings of \$361,000 a year for 3.75 full time positions. It is also possible the licensing and penalties proposed in this bill could decrease evasion of the Cigarette Tax, Other Tobacco Products Tax and Retail Sales and Use Tax resulting in an indeterminate increase in state revenues.

According to the Virginia Criminal Sentencing Commission's fiscal impact statement for the legislation, there is a minimum fiscal impact of \$50,000 on state-responsible (prison) bed space. Chapter 3 of the 2014 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill if the estimated amount of the necessary appropriation cannot be determined.

9. Specific Agency or Political Subdivisions Affected: Department of Alcoholic Beverage Control, Department of Taxation

10. Technical Amendment Necessary: No

11. Other Comments: None