

DEPARTMENT OF TAXATION

2017 Fiscal Impact Statement

1. **Patron** Jeffrey L. Campbell

3. **Committee** House Finance

4. **Title** Local Cigarette Tax; Counties

2. **Bill Number** HB 1925

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would authorize all counties to impose a local cigarette tax at a rate limited to 5 cents per pack or the amount levied under state law, whichever is greater.

All cities and towns with general taxing powers are already currently authorized to impose a cigarette tax with no rate limitations. Only two counties, Arlington and Fairfax, are authorized to impose a local cigarette tax, which is limited to the amount of the state cigarette tax rate. The state cigarette tax rate is currently 30 cents per pack of 20 cigarettes.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

This bill would have an unknown positive impact on tax revenues for counties. The amount of cigarette tax revenue is unknown because it is not known which counties would impose a local cigarette tax and the rate at which they would impose the tax. Arlington and Fairfax Counties are currently authorized to impose a local cigarette tax. If all of the remaining counties imposed the tax at the maximum rate, passage of this bill could result in \$81 million in local revenues each year. Because of the increased sales price of cigarettes if this bill is passed, it is likely that demand for cigarettes would decrease. Any decrease in demand for cigarettes would therefore decrease the amount of state cigarette and sales tax revenues by an unknown amount.

9. Specific agency or political subdivisions affected:

All counties.

10. Technical amendment necessary: No.

11. Other comments:

Local Cigarette Taxes

All cities and towns with general taxing powers are already currently authorized to impose a cigarette tax with no rate limitations. According to *Virginia Local Tax Rates, 2015*, published by the Weldon Cooper Center for Public Service, thirty cities and fifty-two towns currently report imposing a cigarette tax. Only two counties, Arlington and Fairfax, are authorized to impose a local cigarette tax, which is limited to the amount of the state cigarette tax rate, currently 30 cents per pack of 20 cigarettes. Both Arlington County and Fairfax County impose the local cigarette tax at the maximum allowed rate of 30 cents per pack of 20 cigarettes.

Under *Va. Code* § 58.1-3840, all cities and towns established with a charter granting general taxing powers to such locality may impose a cigarette excise tax. In contrast, *Va. Code* § 58.1-3830 provides that only counties, cities, and towns may impose a cigarette tax if such county, city, or town had imposed such a tax prior to January 1, 1977. Despite this conflict, the Attorney General ruled in a 1992 opinion, *Opinions of the Attorney General of Virginia*, 1992 at 172, that towns may impose a cigarette excise tax based on the language *Va. Code* § 58.1-3840. It should be noted, however, that *Va. Code* § 58.1-3830 was not discussed in the opinion.

Virginia Local Tax Rates, 2015, published by the Weldon Cooper Center for Public Service, lists the Counties of Arlington and Fairfax as the only counties reporting a local cigarette tax, it appears that no counties currently impose a local cigarette tax under *Va. Code* § 58.1-3830. Thus, this bill should not affect the authority of any county to impose a grandfathered local cigarette tax under *Va. Code* § 58.1-3830.

Proposal

This bill would authorize all counties to impose a local cigarette tax at a rate limited to 5 cents per pack or the amount levied under state law, whichever is greater.

As this bill would not repeal the current authority for cities and towns to impose a cigarette tax with no rate limitations, its effect on the cigarette taxing authority of cities and towns is not clear. A similar inconsistency exists in current law.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 1329 is substantially identical to this bill.

House Bill 1913 and **Senate Bill 1390** would require possession of a newly created Department-issued exemption certificate to purchase for resale cigarettes bearing Virginia revenue stamps exempt from Retail Sales and Use Tax beginning January 1, 2018.

House Bill 1950 would require localities that use stamps as evidence of payment of the local cigarette tax to provide a refund for any stamps that are returned to the locality.

House Bill 2056 would impose an excise tax on consumable vapor products at the rate of \$0.05 per fluid milliliter of consumable product and 10 percent of the sales price of non-consumable vapor products and devices. The bill would also authorize any locality with the authority to impose a local cigarette tax to impose an excise tax on vapor products at a rate based upon the per milliliter content of consumable product. Arlington County and Fairfax County would also be authorized to impose the tax on non-consumable vapor products at a rate based upon a percentage of the sales price.

cc : Secretary of Finance

Date: 1/22/2017 AM
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