

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Patrick A. Hope

3. **Committee** House Finance

4. **Title** Flavored Tobacco Products; Sale Prohibited,
Civil Penalty.

2. **Bill Number** HB 1119

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This fiscal impact statement is limited to the impact on taxes administered by the Department of Taxation ("the Department").

This bill would prohibit the sale or distribution of flavored tobacco products and impose a civil penalty not to exceed \$500 for the first violation, \$1000 for a second violation, \$1,500 for a third violation, and \$2,000 for the fourth or subsequent violation.

The bill also provides that, in addition to the civil penalties, a third violation is punishable by suspension of a permit as a stamping agent by the Department of Taxation ("the Department") for a period of 15 days, and a fourth or subsequent violation is punishable by revocation of a permit as a stamping agent and a prohibition on reapplication for a permit to act as a stamping agent for a period of three years.

If enacted during the Regular Session of the 2020 General Assembly, this bill would be effective July 1, 2020.

6. **Budget amendment necessary:** No

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

8. **Fiscal implications:**

Administrative Costs

The Department considers implementation of this bill as routine and does not require additional funding.

Revenue Impact

Revenue generated from this bill would depend on future violations of the prohibition and would result in a positive revenue impact to the Virginia Health Care Fund. Due to the lack of information about rates of future non-compliance, the impact is unknown.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No

11. Other comments:

Virginia Cigarette Tax

Under current law, Virginia imposes a state cigarette tax at the rate of 30 cents per pack. The cigarette tax is paid by dealers who have obtained a stamping agent permit from the Department through the purchase of stamps, which must be affixed to each container from which cigarettes are sold.

Virginia Tobacco Products Tax

Under current law, a tobacco products tax is imposed on cigars, smokeless tobacco, pipe tobacco, moist snuff, and loose leaf tobacco. Tobacco products generally are taxed at the rate of 10 percent of the "manufacturer's sales price," which is defined as the actual price for which a manufacturer, manufacturer's representative, or any other person sells tobacco products to an unaffiliated distributor. The tax is imposed on the first "distributor" who possesses the taxable product in Virginia.

Legislation passed during the 2019 General Assembly added definitions to the tobacco products tax for "alternative nicotine product," "heated tobacco product," "liquid nicotine," and "nicotine vapor product." These products, however, are not currently subject to the Tobacco Products Tax.

Proposal

This bill would prohibit the sale, distribution, offering for sale or distribution, or causing the sale or distribution of flavored tobacco products, as that term is defined in the bill, and impose a civil penalty not to exceed \$500 for the first violation, \$1000 for a second violation, \$1,500 for a third violation, and \$2,000 for the fourth or subsequent violation.

The bill also provides that, in addition to the civil penalties, a third violation is punishable by suspension of a permit as a stamping agent by the Department of Taxation for a period of 15 days, and a fourth or subsequent violation is punishable by revocation of a permit as a stamping agent and a prohibition on reapplication for a permit to act as a stamping agent for a period of three years.

If enacted during the Regular Session of the 2020 General Assembly, this bill would be effective July 1, 2020.

Similar Legislation

House Bill 93 would prohibit the sale or distribution of flavored tobacco products and impose civil penalties for violations of the prohibition.

House Bill 1120 would make multiple changes to the taxation of tobacco in the Commonwealth, including modifications to definitions, tax rates, funding, and penalties.

House Bill 1283 would prohibit any person from selling any tobacco product at retail without first obtaining a permit from the Department and prohibit any person from selling any tobacco product at a location within 1,000 feet of a youth-oriented facility.

House Bill 1372 would prohibit any person from selling any tobacco product at retail without first obtaining a permit from the Department.

Senate Bill 852 would make multiple changes to the taxation of tobacco in the Commonwealth, including modifications to definitions, tax rates, funding, and penalties.

Senate Bill 921 would permit any county to impose a cigarette tax without a rate limitation.

cc : Secretary of Finance

Date: 1/30/2020 SK
HB1119F161