

# DEPARTMENT OF TAXATION

## 2012 Fiscal Impact Statement

1. **Patron** Timothy D. Hugo

3. **Committee** House Finance

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

2. **Bill Number** HB 1079

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would prohibit any locality, agency, or authority administering a local cigarette tax from restricting any person selling, storing, possessing, or transporting cigarettes from transferring stamped cigarettes he legally possesses between his business locations in the same county, city, or town. The bill would also prohibit the seizure of cigarettes based solely on such transfer.

Under current law, localities are authorized to delegate administrative and enforcement authority over the local cigarette tax to an agency or authority. The agency or authority may promulgate rules and regulations governing the local cigarette tax consistent with the powers granted by or necessarily implied from the statute authorizing the provisions for administering and enforcing the local cigarette tax a locality may enact by ordinance.

The effective date of this bill is not specified.

**6. Budget amendment necessary:** No.

**7. No Fiscal Impact.** (See Line 8.)

**8. Fiscal implications:**

This bill would have no impact on state or local revenues.

**9. Specific agency or political subdivisions affected:**

Northern Virginia Cigarette Tax Board  
All localities imposing a local cigarette tax

**10. Technical amendment necessary:** No.

## 11. Other comments:

### Local Cigarette Taxes

All cities and towns with general taxing powers are currently authorized to impose a cigarette tax with no rate limitations. Currently, the Department is aware of 90 jurisdictions reporting that they impose the local cigarette tax, including thirty-one cities and fifty-seven towns. 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. Local cigarette taxes are typically administered and enforced at the local level. *Virginia Code* § 58.1-3830 authorizes localities that impose a cigarette tax to use local cigarette tax stamps to evidence payment of the tax and *Va. Code* § 58.1-3832 authorizes joint enforcement agencies to issue their own tax stamp. Local government and joint enforcement agencies may enter into an arrangement with the Department to use a dual stamp to evidence the payment of both the state and local taxes.

The Northern Virginia Cigarette Tax Board (“NVCTB”) administers and enforces the local cigarette tax on behalf of 17 northern Virginia jurisdictions: the County of Fairfax; the Cities of Alexandria, Fairfax, Falls Church, and Manassas; and the Towns of Clifton, Dumfries, Haymarket, Hillsboro, Herndon, Leesburg, Middleburg, Purcellville, Round Hill, Vienna, and Warrenton. The tax rates in these localities vary from \$0.05 to \$0.85 per pack of 20 cigarettes. The NVCTB uses a dual stamp that represents both the state and local cigarette taxes. This dual stamp is sold by the Department for the state cigarette tax rate. Stamping agents remit the tax to the NVCTB via a monthly return that lists all retailers by jurisdiction. The NVCTB currently requires retail dealers to separately purchase cigarettes for each business location. The NVCTB combines resources from the 17 northern Virginia jurisdictions performs a significant number of audits of stamping agents to ensure that the local cigarette tax has been properly paid and retail inspections to prevent retailers from shifting stamped cigarettes from lower tax localities to high tax localities. The NVCTB has a staff of 6, including 4 auditors/investigators.

### Proposal

The bill would prohibit any locality, agency, or authority administering a local cigarette tax from restricting any person selling, storing, possessing, or transporting cigarettes from transferring stamped cigarettes he legally possesses between his business locations in the same county, city, or town. The bill would also prohibit the seizure of cigarettes based solely on such transfer.

The effective date of this bill is not specified.

### Similar Legislation

**House Bill 277** and **Senate Bill 394** would provide that any tax stamp or meter impression used to evidence the payment of a local cigarette tax must be of the same stamp technology that is used or required by the Commonwealth for the state cigarette tax stamp.

**House Bill 479** would impose criminal penalties for possessing and selling contraband and counterfeit cigarettes. The bill would also define contraband cigarettes and dedicate civil penalties collected for possession of counterfeit and contraband cigarettes to the newly established Cigarette Enforcement Fund. The bill would also require retail dealers to maintain certain records for transactions of more than five cartons of cigarettes.

**House Bill 1081** would repeal the statute authorizing the provisions for administering and enforcing the local cigarette tax a locality may enact by ordinance.

cc : Secretary of Finance  
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