

**DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement**

1. **Patron** Timothy D. Hugo

2. **Bill Number** HB 1081

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

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

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would repeal the statute authorizing localities to enact ordinances that provide for administration and enforcement of the local cigarette tax.

Virginia Code § 58.1-3832 provides the local cigarette tax administrative and enforcement provisions that a locality may enact by ordinance. These include provisions for: i) registering persons selling, storing, possessing, or transporting cigarettes within the locality; ii) requiring stamps or meter impressions; iii) seizing and confiscating cigarettes, counterfeit stamps, and other contraband property; and iv) the forfeiture and sale of seized property. Localities may also 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.

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 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.

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Local cigarette taxes are typically administered and enforced at the local level. However, the Northern Virginia Cigarette Tax Board ("NVCTB") administers and enforces the local cigarette tax on behalf of 17 northern Virginia jurisdictions. The NVCTB currently requires the use of a dual stamp to evidence both the state cigarette tax as well as the local cigarette taxes in its jurisdiction. The Department purchases the stamps to sell to licensed wholesalers, and is reimbursed by NVTB. Currently, the NVCTB and the Department work cooperatively to ensure compliance of cigarette tax laws in Northern Virginia, including the sharing of audit and inspection leads. The elimination of the NVCTB could result in increased compliance costs for the Department.

Dillon Rule

Virginia follows the Dillon Rule of strict construction, which provides that "municipal corporations have only those powers expressly granted, those necessarily or fairly implied therefrom, and those that are essential and indispensable." Board of Supervisors v. Horne, 216 Va. 113 (1975). Additionally, the powers of local governments "are fixed by statute and are limited to those conferred expressly or by necessary implication." *Id.*

While the bill would not repeal the current authority for cities, towns, Arlington County, and Fairfax County to impose the local cigarette tax, it would repeal the current authority for the localities to provide for the administration and enforcement of the tax, including provisions delegating administrative and enforcement authority to an agency or authority. Current law does provide general provisions for the collection and enforcement of local taxes in general.

Proposal

This bill would repeal the statute authorizing localities to enact ordinances that provide for administration and enforcement of the local cigarette tax.

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 1079 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.

cc : Secretary of Finance
Date: 1/23/2012 AM
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