

Fiscal Estimate Narratives

DHFS 2/19/02

LRB Number	01-4805/2	Introduction Number	AB-805	Estimate Type	Original
Subject					
Selling cigarettes to minors; compliance checks; training; local authority					

Assumptions Used in Arriving at Fiscal Estimate

Current law authorizes the Department of Health and Family Services (DHFS) to conduct unannounced investigations of retail outlets to survey compliance with the prohibitions against selling cigarettes or tobacco products to minors. These investigations, in which teenagers under adult supervision attempt to buy tobacco products, must be conducted according to procedures established in statute. Current law authorizes certain other governmental regulatory authorities (local health departments, a state agency, or a state or local law enforcement agency) to conduct such investigations, but only if they are under contract with DHFS. This bill permits governmental authorities to conduct the compliance investigations without having to contract with DHFS and relieves the Department of conducting an annual evaluation of the investigation programs for each governmental regulatory authority. The governmental regulatory agency that conducts an investigation must comply with the current statutory requirements for investigations and any standards established by DHFS. This provision would have no fiscal effect on state government. Local governments would incur costs to the extent that they conduct compliance investigations. However, the bill would permit, but not require, local agencies to conduct the investigations.

The bill also requires the person who contracts to conduct investigations to agree to train all of the individuals conducting the investigations in accordance with DHFS standards and to suspend anyone who fails to meet those standards and requirements from conducting investigations for six months. Retailers are also required to provide new employees with training in compliance with the prohibitions against unlawfully selling cigarettes or tobacco products and the penalties for non-compliance. At the completion of the training, the retailer and the agent/employee, or independent contractor must sign a form provided by DHFS verifying that they received the training and retain that form in their personnel file. The Department is responsible for making available to or providing any retailer on request a training program developed or approved by the Department that fulfills the requirement. The requirement that the Department provide a training program to retailers may create costs for the Department. The cost of this provision will depend on whether DHFS can use an existing training program or will have to develop its own program. The fiscal effect is unknown until such a determination is made.

Current law allows local authorities to issue citations to the retailer if the retailer or an employee illegally sells tobacco products to a minor. Often, the authority will issue the citation through the mail based on information on the retailer's license. This bill would require authorities, in cases where they issue a citation to the retailer, to also issue a citation to the employee who sold the tobacco, if the employee had received the required training discussed above. The authorities will incur costs to identify whether the employee has been trained and to issue the second citation. Authorities will also receive additional revenue by issuing additional citations, which may be issued up to \$500 for the first violation in the last 12 months. However, because the number of additional citations that are issued is unknown, it is not possible to estimate the ongoing effect of this bill on costs and revenues to local human services, social services, or health departments.

It is important to note that under current federal law (referred to as the Synar regulation), as a condition of receiving the federal Substance Abuse Prevention and Treatment (SAPT) Block Grant, Wisconsin must: 1) prohibit manufacturers, retailers, or distributors of tobacco products from selling or distributing tobacco to minors, 2) must conduct random unannounced investigations of retail outlets where tobacco products are sold to measure compliance with such prohibitions, and 3) must report annually to the federal Department of Health and Human Services on these activities. The results of the compliance investigations are used to calculate the percentage of retailers that sell tobacco to minors in the state. If the percentage exceeds a target negotiated with the federal government, the federal government can reduce Wisconsin's SAPT block grant award by 40% or roughly \$10 million. The 2001 target non-compliance rate was 22%, but Wisconsin's Synar non-compliance rate for 2001 was 33.7% or 11% over the target. A principle reason why the non-compliance rate is above the target is that municipalities no longer conduct their own compliance investigations for enforcement purposes. They have ceased such investigations since enactment of the current law provision allowing them to conduct the investigations only under contract with DHFS. To the extent that this bill results in more local enforcement

efforts, it will enable Wisconsin to maintain current funding under the federal SAPT Block Grant.

Long-Range Fiscal Implications