

Fiscal Estimate Narratives
DOR 4/18/2005

LRB Number 05-1126/1	Introduction Number AB-249	Estimate Type Original
Subject Direct marketing of cigarettes		

Assumptions Used in Arriving at Fiscal Estimate

Under current law, a person may not sell cigarettes in this state without a permit issued by the Department of Revenue (DOR). This bill prohibits a direct marketer from selling cigarettes or tobacco products to consumers in this state without the appropriate permit issued by DOR. The bill defines "direct marketer" as any person who solicits or sells cigarettes or tobacco products to consumers in this state who are not physically present at the premises of the seller at the time of sale. It would include persons selling cigarettes via news media, telephone, mail or the internet.

The bill establishes a permit fee schedule for direct marketers of cigarettes. The fee schedule would be based on the number of cigarettes sold annually to consumers in this state:

- \$1,000 for marketers selling no more than 30,000 cigarettes,
- \$5,000 for marketers selling more than 30,000 but not more than 600,000, and
- \$10,000 for marketers selling more than 600,000 cigarettes.

The fee for direct marketers of tobacco products to consumers in this state would be \$500. Permits issued to direct marketers expire each year on December 31.

The bill would also require each direct marketer to certify to DOR that all sales of cigarettes or tobacco products will be credit card or personal check transactions, and that invoices will bear the direct marketer's name, address, and permit number. In addition, the bill requires a direct marketer to provide to DOR any information that DOR considers necessary for cigarette and tobacco products law enforcement, tax, and permit purposes. Under the bill, cigarettes and tobacco products may not be shipped to a person who is under 18 years of age and may not be shipped to a post office box.

Under current law, a person may not sell cigarettes or tobacco products to consumers in this state unless the person obtains a license from each city, village, or town in which the person intends to sell cigarettes or tobacco products. The city, village, or town may charge not less than \$5 annually or more than \$100 annually for such a license. Under the bill, no city, village, or town may issue such a license to any person who has an arrest or conviction record related to selling cigarettes or tobacco products or who has not submitted proof to the city, village, or town that he or she holds a valid retailer's permit issued by DOR.

A fiscal estimate of the bill is not feasible. However, the Department does not expect a significant amount of fee revenues to be collected from direct marketers due to a recent decision by major credit card companies to deny service to online tobacconists combined with the minimum markup requirements of the bill. It will be very difficult for direct marketers to sell cigarettes over the internet without having a major credit card to secure the payment, and the minimum markup requirement will eliminate a competitive advantage of cigarette internet sales.

The Department would incur administrative costs which can be absorbed within the Department's budget.

Long-Range Fiscal Implications