

Legislative Analysis



SALES OF CIGARETTE SEPARATE FROM PACKAGE

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5455

Sponsor: Rep. Harvey Santana

Committee: Regulatory Reform

Complete to 9-8-14

A SUMMARY OF HOUSE BILL 5455 AS INTRODUCED 4-17-14

House Bill 5455 would prohibit both the sale and purchase of a cigarette separately from an individual package of cigarettes that has a tobacco tax stamp affixed. The bill also would increase fines for those who sell a single cigarette separate from its package and allocate revenue from fines, and would add a fine for such purchases.

The bill would amend Section 2a of the Youth Tobacco Act. Currently, that section says only that a tobacco retailer shall not sell a cigarette separately from its package. The bill also would eliminate current language in subsection 2 that exempts those who sell tobacco products in a tobacco specialty retail store from the current prohibition.

Sales

Under current law, an individual who sells tobacco products at retail and sells a cigarette separately from its package is guilty of a misdemeanor and is fined \$500 per offense. House Bill 5455 would make the violation subject to a civil fine instead and increase the fines for those violations as follows:

- Not more than \$1,000 for a first violation within a three year period.
- Not more than \$5,000 for a second violation within a three year period.
- Not more than \$10,000 for a third, and each subsequent, violation within a three year period.

Fine revenue would be distributed as follows:

- 60% to the local police agency that issued the citation.
- 20% to the Department of Treasury tobacco tax unit.
- 20% to the court that collected the fine.

The bill also would specify that civil violations for illegal sales could be prosecuted by the prosecutor of the county in which the violation took place or the attorney general.

Purchases

Purchasing a cigarette separately from an individual package of cigarettes that has a tobacco tax stamp affixed from a tobacco retailer would be a misdemeanor punishable by a fine of not more than \$500. The act currently does not address such a purchase.

FISCAL IMPACT:

As written, the bill could increase state and local revenues by an unknown, but likely small, amount. The increased fines could have their intended effect and deter the buying and selling of individual cigarettes, thus reducing the number of fines overall, and keeping the revenue from these fines closer to current levels. By distributing the fines to local law enforcement, courts, and the tobacco tax unit at the Department of Treasury, the cost of administering these fines could also be mitigated. The fines from the new misdemeanor would benefit public libraries.

Legislative Analyst: Josh Roesner
Fiscal Analyst: Adam Desrosiers

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