

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 411 (2nd Edition)

SHORT TITLE: Prohibit Certain Cigarette Sales Tax

SPONSOR(S): Rep. Nelson Cole

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

FY 1999-00 FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04

REVENUES

* See Assumptions and Methodology *

EXPENDITURES

* See Assumptions and Methodology *

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Attorney General's Office, Department of Revenue, Administrative Office of the Courts.

EFFECTIVE DATE: The act becomes effective December 1, 1999 and applies to offenses committed on or after that date.

BILL SUMMARY: The legislation prohibits the sale of cigarettes that met any of the following criteria; does not meet the requirements of the Federal Cigarette Labeling and Advertising Act, was imported into the United States after January 1, 2000 in violation of 26 U.S.C. 5754, violates federal trademark or copyright laws, is labeled as "for export only" or "U.S. Tax exempt" or has similar language, or was altered in some way to delete "for export only" wording or hide the package's violation of the Federal Cigarette Labeling and Advertising Act. The bill also makes the sale of the above cigarettes a Class 1 misdemeanor. It authorizes the Attorney General to seize, destroy, or sell to the manufacturer (for export only) any seized cigarettes. It also authorizes the Secretary of Revenue to revoke any cigarette sales license a violator may hold.

ASSUMPTIONS AND METHODOLOGY: The cigarettes mentioned in the bill are "gray market" products. They are cigarettes that were manufactured for export, but have been diverted back to the United States. Some are overstocks from a particular export market, while others were simply transported across the three-mile limit into international waters, and returned to the United States. Under North Carolina law these cigarettes are not allowed to return to the state.

Therefore, there is no legal source for these cigarettes. Because whatever “gray market” cigarettes exist in North Carolina have been smuggled in illegally, the Department of Revenue believes no North Carolina tax has been paid on these items. As a result, making the sale of these cigarettes illegal will not impact cigarette tax revenue.

The bill could potentially increase the workload of the Department of Revenue, the Attorney General’s Office, the Courts, and the Department of Corrections. Under the bill the Department of Revenue is given authority to revoke the sales or distribution licenses of any violator. The Department does not anticipate this will be a significant strain on their resources. The introduction of a misdemeanor charge (class 1) and the acknowledgement that selling these cigarettes is an unfair trade practice could increase the workload of the judicial system. However, Fiscal Research believes these responsibilities can be handled with existing staff and resources. The misdemeanor charge could potentially increase the demand for prison space. Because of the limited magnitude of the offense, and relatively few number of violators expected, the costs can be absorbed within the Department of Correction’s existing prison bed space.

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Monday, May 03, 1999



Signed Copy Located in the NCGA Principal Clerk's Offices