

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 235 - B

79th Oregon Legislative Assembly – 2017 Regular Session
 Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Provides that person may not make retail sale of tobacco product or inhalant delivery system at or from premises located in this state unless person sells tobacco product or inhalant delivery system at or from premises for which license has been issued.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Department of Revenue(DOR), Oregon State Police (OSP), Oregon Liquor Control Commission (OLCC), Judicial Department (OJD)

Summary of Expenditures - Oregon Health Authority:

	2017-19 Biennium	2019-21 Biennium
Public Health		
Personal Services	\$680,741	\$707,974
Services and Supplies		
Staffing Related	\$232,787	\$189,176
Attorney General	\$70,000	\$70,000
Field Training	\$120,000	\$120,000
Startup Outreach & Communication	163,000	-
Ongoing Outreach & Communication	\$80,000	\$80,000
Oregon State Police Contract	\$600,000	\$600,000
Special Payments*	404,281	293,330
Total Other Funds	\$2,350,809	\$2,060,480
Positions	6	5
FTE	4.02	4.00
Office of Information Services *		
Personal Services	\$290,154	\$203,061
Services & Supplies	\$114,127	\$90,269
Total Other Funds	\$404,281	\$293,330
Positions	4	1
FTE	1.38	1.00
TOTAL OREGON HEALTH AUTHORITY		
Personal Services	\$970,895	\$911,035
Services & Supplies	\$1,379,914	\$1,149,445
Special Payments	\$404,281	\$293,330
Total Other Funds	\$2,755,090	\$2,353,810
Positions	10	6
FTE	5.40	5.00

*The Office of Information Services (OIS) is shared services, and these amounts reflect how the agency accounts for shared services.

Analysis:

Senate Bill 235 establishes a licensing program for retailers of tobacco products and inhalant delivery systems. The bill requires the Department of Revenue (DOR) to manage the licensing program, and provides the Oregon Health Authority (OHA) with regulatory authority. Retailers of tobacco and inhalant delivery products must obtain a license for the retail sale of tobacco products or inhalant delivery systems from the Department of Revenue (DOR) by January 1, 2018. Licenses must be renewed annually. Medical marijuana dispensaries and recreational marijuana retailers are exempt from the licensing requirement unless products sold contain nicotine.

The bill provides that fees and penalties collected from tobacco product and inhalant delivery system retailers for licensure would cover all costs of program administration, including inspections. The bill requires DOR to adopt rules establishing fees for license application, issuance, and renewal. The bill authorizes DOR to impose civil penalties for violation of provisions of this bill. In addition, OHA is authorized to adopt by rule fees necessary to pay the expenses relating to administering and enforcing the provisions of this bill. Pursuant to an agreement outlined in the bill, DOR would collect and transfer fee moneys to OHA.

OHA estimates that there are over 4,000 tobacco and inhalant delivery system retailers. With passage of this bill, DOR and OHA would work together to create an intergovernmental agreement for setting up an electronic database and web systems; data sharing and coordination; analyzing and aggregating data; creating reports; and transferring fee moneys. DOR would serve as the primary licensing organization. OHA would work with local health authorities to inspect licensed tobacco and inhalant delivery system wholesalers and retailers to ensure compliance with local, state, and federal ordinances, rules, laws and regulations; as well as oversee and coordinate the establishment, administration and enforcement of local public health authority programs for regulating the sale of tobacco products and inhalant delivery systems. OHA would contract with the Oregon State Police to implement the state sales to minors inspections.

Oregon Health Authority (OHA)

OHA estimates the cost of complying with the provisions with this bill to be \$2,755,090 Other Funds, 10 positions, and 5.40 FTE for the 2017-19 biennium. This estimate includes Personal Services and related Services and Supplies for the establishment of five permanent positions and, and one limited duration position:

- 0.5 FTE - Principal Executive/Manager D (Program Manager)
- 1.0 FTE - Program Analyst 2 (Training Coordinator)
- 0.5 FTE - Administrative Specialist 1 (Operations Support Staff)
- 1.0 FTE - Research Analyst 3 (Data Analyst)
- 1.0 FTE - Program Analyst 3 (Program Coordinator)
- 0.5 FTE - Program Analyst 3 (Communication Specialist, Limited Duration)

This staff will be responsible for coordinating the establishment, administration, and enforcement of local public health authority programs for regulating the sale of tobacco products and inhalant delivery systems, including informing retailers of rules; developing processes and procedures for local public health authorities; establishing a fee structure; overseeing the inspection program; managing, analyzing and aggregating data; inspecting and monitoring retailers for license suspension and/or revocation.

Included in the OHA estimate are information technology costs, as well as a contract with the Oregon State Police to implement the state sales to minors inspections, and special payments to local public health authorities. The bill requires local public health authorities to establish, administer and enforce a program regulating the retail sale of tobacco products and inhalant delivery systems. Local public health authorities are allowed to impose fees on businesses to cover expenses of establishing, administering, and enforcing this program. OHA is directed to oversee these programs.

The Department of Revenue (DOR)

Passage of this bill is anticipated to have minimal fiscal impact on the Department of Revenue for the 2017-19 biennium. DOR has completed the first three phases of a current four-phase systems replacement project. If this bill becomes law, DOR anticipates reprioritizing work of existing information technology staff to include the system requirements of establishing the retail licensure required by this bill as an implementation enhancement in the fourth phase of this project. If licensure work can be performed as a project enhancement, costs could be augmented as part of this project. However, note that this work requires an information technology contract amendment, and DOR may need to revise this cost estimate once the full scope and timing of this project is fully determined. In addition to the information technology component, DOR anticipates using existing licensing staff to perform the duties required to implement this bill.

Oregon State Police (OSP),

Passage of this bill is anticipated to have minimal fiscal impact on the Oregon State Police. The bill permits OHA to enter into an agreement with OSP to assist in carrying out its regulatory duties. The bill abolishes the current Tobacco Law Enforcement Fund and any moneys in the fund shall be transferred to the State Treasurer for deposit into the General Fund. The current balance in this fund is approximately \$140,000.

Oregon Liquor Control Commission (OLCC)

Passage of this bill is anticipated to have minimal fiscal impact on OLCC. The bill permits OHA to enter into an agreement with OLCC to assist in carrying out its regulatory duties.

Oregon Judicial Department (OJD)

The fiscal impact of this bill on OJD is anticipated to be minimal. With passage of this bill, any person affected by DOR or OHA rules related to the licensing of premises would have the right to appeal to the Oregon Court of Appeals, and possibly the Oregon Supreme Court. OJD predicts these cases will be few and can be absorbed within the agency's existing resources.

This bill requires budgetary action for the establishment of Other Funds limitation and position authority.