




Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5052 (Substitute H-1 as reported by the Committee of the Whole)

Sponsor: Representative Jacob Hoogendyk, Jr.

House Committee: Judiciary

Senate Committee: Judiciary

CONTENT

The bill would amend the Tobacco Products Tax Act to extend criminal penalties to possessing, acquiring, transporting, or offering for sale counterfeit cigarette papers, gray market cigarettes, or gray market cigarette papers, and falsifying a manufacturer's label on gray market cigarette papers or counterfeit cigarette papers. "Counterfeit cigarette paper" would mean a cigarette paper with a false manufacturing label or that has not been printed, manufactured, or made by authority of the trademark owner. "Gray market cigarette" and "gray market cigarette paper" would refer to a cigarette or cigarette paper whose package indicated that the manufacturer did not intend the cigarette or paper to be sold, distributed, or used in the United States.

Possessing, acquiring, transporting, or offering for sale, contrary to the Act, 3,000 or more cigarettes or counterfeit cigarettes, or other tobacco products with an aggregate wholesale price of \$250 or more, is a felony punishable by up to five years' imprisonment and/or a maximum fine of \$50,000. If the number is between 1,200 and 2,999, or the value is between \$100 and \$249, the violation is a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$5,000. The bill would include in those provisions possessing, acquiring, transporting, or offering for sale the same number of counterfeit cigarette papers, gray market cigarettes, or gray market cigarette papers. A licensee who falsifies a manufacturer's label on cigarettes or counterfeit cigarettes is guilty of a felony punishable by imprisonment for not less than one year or more than 10 years and a maximum fine of \$50,000. The bill would extend the penalty to a licensee who falsified a manufacturer's label on gray market cigarette papers or counterfeit cigarette papers.

MCL 205.422 & 205.428

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of possessing, acquiring, transporting, or offering to sell counterfeit cigarette papers, gray market cigarette papers, or gray market cigarettes. Local governments would incur the cost of incarceration in local facilities, which varies by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Between 1998 and 2003, 100 people have been convicted under MCL 205.428 (the section the bill would amend). Of those offenders, three were sentenced to prison, five were sentenced to jail, and 88 were sentenced to probation. Additionally, the Department of Treasury would incur enforcement and administrative costs. Public libraries would benefit from any additional penal fine revenue raised.

Date Completed: 11-3-05 Fiscal Analyst: Bill Bowerman, Lindsay Hollander, Stephanie Yu