

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 473

PRINTER NO. 1052

AMOUNT

See Fiscal Impact

FUND

General Fund

DATE INTRODUCED

March 22, 2019

PRIME SPONSOR

Senator Scavello

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 473 amends Titles 18 (Crimes and Offenses) and 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes to increase the Commonwealth's minimum legal sales age for tobacco products from 18 years of age to 21 years of age.

This legislation amends the following in Title 18:

§ 6305 (relating to sale of tobacco products).

- Changes the definition of "Minor" to "an individual under 21 years of age; and
- Changes the definition of "Tobacco product" to include "any product containing, made or derived from tobacco or nicotine that is intended for human consumption..." and "any electronic device that delivers nicotine or another substance to a person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe and hookah."

§ 6306.1 (relating to use of tobacco products in schools prohibited).

- Adds to the offense definition to include a summary offense for any person other than a pupil that uses a tobacco product in a school building, school bus or other vehicle owned or leased by a school district or on school property owned or leased by a school district;
- Allows for school board directors to designate certain areas on property owned or leased by the school district where tobacco product use by persons other than pupils is permitted. The areas shall be no less than 50 feet from school buildings, stadiums or bleachers;
- Provides that the school board shall establish a policy to enforce the prohibition of tobacco product use and may further establish a policy relating to tobacco product use at school-sponsored events held off school premises;
- Provides that school board directors shall notify employees, pupils and parents of the policies by publishing the information in a student handbook and parent newsletter and on posters or other efficient means;
- Provides that this section supersedes any municipal ordinance or school board regulation to the contrary; and

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- Changes the definition of “Tobacco product” to include “any product containing, made or derived from tobacco or nicotine that is intended for human consumption...” and “any electronic device that delivers nicotine or another substance to a person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe and hookah.”

The act of April 27, 1927 (P.L. 465, No. 299), referred to as the Fire and Panic Act, is repealed, which is necessary to effectuate the above mentioned amendments.

This legislation shall take effective in 60 days.

FISCAL IMPACT:

Senate Bill 473 will result in the loss of tobacco taxes and sales tax for the Commonwealth and the City of Philadelphia. The legislation’s primary goal is to reduce or delay the use of tobacco and nicotine products by school-aged children and young adults. As a result, fewer sales of tobacco products will result in less tax collections being received from the sale of these products. Data from the federal Centers for Disease Control and Prevention (CDC) was utilized to determine the prevalence of tobacco use by Pennsylvania’s student-aged population, and CDC data related to Pennsylvania’s population of adults who use tobacco products was utilized for the 19 and 20 year old population that will be affected by raising the legal age to purchase and use tobacco products to 21 years of age and older.

The CDC released its *Vital Signs: Tobacco Product Use Among Middle and High School Students – United States, 2011-2018* report on February 15, 2019. The report contains data from the National Youth Tobacco Survey, which identifies separately the percentage of middle school and high school tobacco product users by product category, and further identifies the percentage of users that are defined as “frequent users”. The national data was applied to Pennsylvania school enrollment data and U.S. census population data for Pennsylvania to determine the number of minors who are frequent users of tobacco products.

The fiscal impact estimate utilizes the user data and makes certain assumptions regarding the amount of tobacco products used by middle school students, high school students and minors who are 19 and 20 years of age and how raising the minimum legal sales age from 18 to 21 might impact current and future use of tobacco by minors. The tax rates associated with various tobacco products (e.g. cigarettes, smokeless, e-cigarettes) are applied to the estimated reduced number of product units used by minors to arrive at the tax revenue lost due to the legislation. The estimate assumes that preventing tobacco use by minors results in decreased usage over time but that the prevalence of usage is not entirely eliminated. A 2005 study by the University of Miami examined increasing the legal smoking age to 21 and estimated the change would reduce the prevalence of adults who smoke from 22% of the population to 15% over 50 years.

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In analyzing the revenue loss to the Commonwealth and the City of Philadelphia over a three-year period, the following assumptions and data were utilized:

- Annual tobacco sales tax revenue data source is the Pennsylvania Department of Revenue;
- Estimated revenue for FY 2019-20 from the sale of tobacco is estimated at \$1,064,900,000 for the cigarette tax and \$134,200,000 for other tobacco products tax;
- Pennsylvania’s total population is 12,799,609, of which 1,439,774 are 12 to 20 years of age (11.2%). Data source is the U.S. Census Bureau, compared with school enrollment data; and
- Number of “youth” tobacco users and frequent users by age group data source is the Centers for Disease Control and Prevention (CDC).

Estimated % of Tobacco Users that continue to use.			
	Year 1	Year 2	Year 3
Middle School	25%	20%	15%
High School	50%	45%	40%
19 Years of Age	75%	70%	65%
20 Years of Age	90%	85%	80%

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Annual Revenue Losses Resulting from Increasing Legal Tobacco Age from 18 Years to 21 Years of Age

Age Cohort	Year 1	Year 2	Year 3
	Cigarette and OTP Taxes		
12 - 18	\$ 3,496,165	\$ 3,830,854	\$ 4,165,544
19	\$ 4,575,203	\$ 5,490,244	\$ 6,405,284
20	\$ 1,751,000	\$ 2,626,500	\$ 3,502,000
Subtotal:	\$ 9,822,368	\$ 11,947,598	\$ 14,072,828
	Sales and Use Tax		
12 - 18	\$ 815,383	\$ 893,440	\$ 971,497
19	\$ 945,631	\$ 1,134,758	\$ 1,323,884
20	\$ 361,908	\$ 542,861	\$ 723,815
Subtotal:	\$ 2,122,922	\$ 2,571,059	\$ 3,019,196
Total State:	\$ 11,945,289	\$ 14,518,656	\$ 17,092,023
	Philadelphia Impact - Local Cigarette Tax (\$2/Pack)		
12 - 18	\$ 178,449	\$ 179,992	\$ 181,535
19	\$ 370,843	\$ 445,012	\$ 519,180
20	\$ 141,927	\$ 212,891	\$ 283,855
Total Phila:	\$ 691,220	\$ 837,895	\$ 984,570