

BALLOT PROPOSITION #201

Smoke-Free Arizona Act

FISCAL ANALYSIS

Description

This proposition prohibits smoking in enclosed public places and places of employment with specified exceptions. The Department of Health Services (DHS) is given responsibility to implement and enforce the smoking ban and may impose civil penalties on anyone in violation of the law. Any bar owner who violates the provisions in this proposition is assessed a civil penalty. Any individual who smokes where prohibited is guilty of a petty offense and charged a fine.

The Smoke-Free Arizona Fund is also established and will consist of funds collected from an additional tax on cigarettes amounting to 2 cents per pack. The monies in the fund are to be used for the implementation and enforcement of the provisions in the proposition.

Estimated Impact

Proposition 201 increases the tax on cigarettes by 2 cents a pack and allocates the monies to the Department of Health Services for enforcement and education provisions. State and local governments may receive additional revenues in the form of civil penalties, fines and penalty assessments from violators of the provisions of the proposition. The total amount of these collections will depend on the level of compliance, which is difficult to predict in advance.

The tax increase is estimated to generate \$4.7 million in new revenue for the state in its first full year. Because some individuals may reduce their tobacco consumption when the price of tobacco increases, the state's existing tobacco tax collections may decrease. At 2 cents per pack, the impact of the tax on existing collections is projected to be minimal. The existing tobacco tax goes to health programs, prisons and the State General Fund.

DHS estimates a cost of \$325,000 and 3.5 FTE Positions to administer the provisions and \$1,900,000 to contract with the Department of Liquor Licenses and Control to provide the help-line, website, and enforcement provisions. Any monies remaining after all enforcement obligations have been met will be deposited into the Tobacco Products Tax Fund and used for tobacco-related education.

Analysis

There are places that the smoking ban would not apply, including private residences, hotel and motel rooms that are designated as smoking rooms, tobacco stores physically separated from other public places, veteran/fraternal clubs not open to the public, smoking associated with religious practices pursuant to the American Indian Religious Freedom Act, outdoor patios where smoke can not enter the area where smoking is prohibited, and a theatrical, film or television performance if smoking is part of the performance.

Any person in charge of a public place or place of employment that violates the provisions of this proposition would be required to pay a civil penalty of between \$100 and \$500 for each violation, which would be deposited into the General Fund. If non-compliance continues, a fine of up to \$5,000 may be imposed by the Superior Court. In addition, any person who smokes where smoking is prohibited will be guilty of a petty offense with a fine between \$50 and \$300. Misdemeanor fines are generally deposited with the local jurisdiction that prosecutes the offense. Criminal fines also receive a penalty assessment which is deposited in various state funds for criminal justice programs, medical services and campaign financing. As it is difficult to predict the level of compliance, total revenues from the civil penalties and fines cannot be determined in advance.

As of April 2006, 16 states have smoking bans in workplaces and/or restaurants and/or bars. There are also 2,216 municipalities in the U.S. that have local laws that restrict where smoking is allowed, 461 of which have implemented smoking bans in either workplaces, restaurants, or bars or a combination of the 3. Five municipalities in Arizona have implemented smoking bans in workplaces, restaurants, and bars: Flagstaff, Guadalupe, Prescott, Sedona, and Tempe.

There has been much research relating to the economic effects of smoking bans. There are studies that conclude that smoking bans do not have negative effects on bars and restaurants and other studies conclude there are negative effects. As a result, it is difficult to predict what effect a smoking ban will have on restaurant and bar revenues, and therefore state revenues.

A study titled "Review of the Quality of Studies on the Economic Effects of Smoke-free Policies on the Hospitality Industry" was published in Tobacco Control, a peer reviewed journal related to tobacco issues published by the British Medical Journal, and reviewed 97 different studies concerning the economic impact of smoking bans in various states, provinces, and municipalities. The study concluded that 35 of the 37 tobacco industry supported studies claimed a negative economic impact while all 60 of the studies funded through either the government, health related organizations, or independent market research organizations claimed that there is either no economic impact business or a positive impact as a result of smoking bans.

In the proposition, DHS is given the responsibility to implement and enforce the proposed law. Implementation will include designing the program, including the establishment of a website to educate the public concerning the provisions of the law, informing the persons in charge of the public place or place of employment of the requirement of this law and how to comply. DHS will also be required to set up communication lines (toll-free numbers and email addresses) for education concerning the law and the reporting of violations. Enforcement efforts include inspection whenever the department believes there may be a violation of the law. DHS is also required to issue an annual report analyzing its enforcement activities beginning on June 1, 2008. DHS may delegate to a state agency or political subdivision of the state any of the functions, powers, or duties given to them in this proposition.

The proposition increases tobacco taxes by 2 cents per pack and deposits these monies into the Smoke-Free Arizona Fund. The fund is estimated to collect \$4,700,000 of revenue per year from the 2-cents-per-pack tax. This is calculated by multiplying the average number of packs of cigarettes sold in Arizona per year (approximately 235,317,300) by the proposed 2 cents per pack tax. The administration costs would be financed by the newly created Smoke-Free Arizona Fund.

DHS estimates administration costs of \$325,000 for its agency and \$1,900,000 to contract with the Department of Liquor Licenses and Control to provide the help-line, website, and enforcement provisions. Any monies remaining in the fund after all enforcement obligations have been met will be deposited into the Tobacco Products Tax Fund and used only for tobacco related education.

Changes in the level of tobacco purchases could affect the state's current level of tobacco tax collections. The price elasticity of demand for cigarettes, which measures the responsiveness of demand for cigarettes to an increase in price (measured in the ratio of percent change in quantity demanded to the percent increase in price), in this analysis is estimated to be (0.4). That is, a 1% increase in price would result in a 0.4% decrease in quantity demanded. Because the tax imposed on cigarettes in this proposition is relatively small (approximately a 0.5% increase), the impact on the state's current level of tobacco tax revenues is projected to be minimal.

Of the current \$1.18 per pack tax on 1 pack of cigarettes, \$0.60 is deposited in the Tobacco Products Tax Fund, \$0.40 is deposited in the Tobacco Tax and Health Care Fund, \$0.16 is deposited to the General Fund and \$0.02 is deposited to the Corrections Fund.

Local Government Impact

Local governments may receive additional revenues in the form of civil penalties, fines and penalty assessments from violators of the provisions of the proposition. The total amount of these collections will depend on the level of compliance, which is difficult to predict in advance.

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This estimate was prepared by Matt Busby (602-926-5491).