

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1146 (Committee Substitute)

SHORT TITLE: Flea Market Tax, Sales, Records

SPONSOR(S): Senator Sherron

FISCAL IMPACT: Expenditures: Increase () Decrease ()
No Impact ()
No Estimate Available (X)

Revenues: Increase (X) Decrease ()

FUND AFFECTED: General Fund () Highway Fund () Local Fund ()
Other Fund ()

BILL SUMMARY: Amends G.S. 105-53 to increase from \$100 to \$110 the privilege license tax for itinerant merchants and from \$200 to \$225 the privilege license tax for specialty market operators. Provides that a law enforcement agent may require a specialty market vendor or another itinerant merchant to provide evidence of the source of merchandise offered for sale, prohibits sale of over-the-counter drugs at a specialty market and makes it a misdemeanor to violate these requirements.

COMMITTEE SUBSTITUTE: (June 24, 1993) Senate committee substitute revises prohibition of sales of over-the-counter drugs so that the prohibition does not apply when the itinerant merchant has the written approval of the drug's manufacturer. Makes tax increases effective July 1, 1994; retains December 1, 1993, effective date for other provisions.

AMENDMENT: (June 28, 1993) Senate amendment retains July 1, 1994, as effective date for tax increases in bill, but advances effective date for all other provisions from December 1, 1993, to July 1, 1993.

PROPOSED AMENDMENT: (June 30, 1993) Senate Amendment would make it a "Class J felony for a person to fail to provide evidence of the source of nonlegend drugs where the value of those drugs is greater than \$100 when requested by a law enforcement..." It would also be a Class J felony to provide false information in response to the law enforcement request.

EFFECTIVE DATE: Tax increases would become effective July 1, 1994. The remainder of the Act becomes effective December 1, 1993.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Department of Revenue; Judicial Department; Department of Correction

FISCAL IMPACT

FY 93-94 FY 94-95 FY 95-96 FY 96-97 FY 97-98

EXPENDITURES No Estimate Available
RECURRING
NON-RECURRING

REVENUES/RECEIPTS	0	\$11,320	\$11,320	\$11,320	\$11,320
RECURRING	0	11,320	11,320	11,320	11,320
NON-RECURRING	0	0	0	0	0

POSITIONS:

ASSUMPTIONS AND METHODOLOGY:

Department of Revenue - The proposed legislation would increase the licensing tax paid by itinerant merchants from \$100 to \$110. Likewise, the bill would increase the licensing tax paid by specialty market operators from \$200 to \$225. Data provided by a representative of the Department of Revenue - Licensing Division indicates that there are about 72 itinerant merchant licenses and 424 specialty market operator license purchased per year. Based on a July 1, 1994 effective date, additional revenue totaling \$11,320 [(72 x 10) + (424 x 25) = 11,320] is estimated beginning FY 95-96.

Judicial Department/Department of Correction - Upon contacting numerous sources including the Administrative Office of the Courts, the Executive Director of the Merchants Association, and the Tax Research and Licensing Divisions within the Department of Revenue, it has been determined that there is insufficient data to estimate the number of persons who may be charged with an offense relating to the unlawful possession of over-the-counter drugs. Available data suggests that there are approximately 2,291 licensed peddlers, itinerant merchants, and specialty market operators. There is no data to suggest how many of these persons are involved with the sale of over-the-counter drugs or how many charges would be filed in violation of the proposed legislation.

In the event that fewer than 50 cases were filed per year, a representative of the Administrative Office of the Courts (AOC) notes that the additional workload could be absorbed within existing resources and there would not be a significant fiscal impact upon the Judicial Branch. There would, however, be additional expenditure required by the Department of Correction (DOC) assuming that the current prison cap were lifted and additional offenders could be incarcerated. **If the cap were not lifted and remained in place, there would be no fiscal impact upon the DOC.**

Assuming that the prison cap were lifted, impact of the proposed legislation, per convicted offender, would be calculated as follows. Data provided by the N.C. Sentencing and Policy Advisory Commission indicates that the average Class J felon completes approximately 5 months of incarceration before being paroled. A representative of the Division of Prisons states that such offenders would be

initially placed into medium custody confinement and then promoted to minimum custody after approximately three months. Based on this data, it is estimated that each offender who was convicted under the proposed legislation and received an active sentence would require an operating expenditure of \$8,019 as well as a one-time, non-recurring cost of between \$11,740 to \$23,787 depending on the type of new bed constructed (i.e., a minimum vs. medium security bed in new vs. expanded facility). [Note: All offenders convicted under the proposed legislation would not necessarily receive an active sentence as the court may choose to enter a suspended sentence and place the offender on probation.]

SOURCES OF DATA: Administrative Office of the Courts; Department of Correction, Division of Prisons; Department of Revenue, Tax and Research Division and Licensing Division; Merchants Association

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION

733-4910

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DATE: 07-JULY-93

[FRD#003]



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