

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 348 (Third Edition)

SHORT TITLE: Tobacco Escrow Compliance

SPONSOR(S):

FISCAL IMPACT					
	Yes ()	No (X)	No Estimate Available ()		
	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>
REVENUES					
Special Funds					See Assumptions and Methodology
EXPENDITURES					
General Fund					No Fiscal Impact
POSITIONS:					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					Department of Revenue; Office of the Attorney General; Secretary of State; Judicial Branch; Department of Correction.
EFFECTIVE DATE:					Sections 3 (compliance certification) and 4 (offenses) become effective on January 1, 2003. The remainder of the bill is effective when it becomes law.

BILL SUMMARY: The bill makes it unlawful in North Carolina to sell cigarettes from companies that were not part of the 1998 Master Settlement Agreement, unless the products are on the nonparticipating manufacturers' list. To be on this list, a manufacturer must comply with all escrow requirements and authorize a North Carolina resident process agent.

ASSUMPTIONS AND METHODOLOGY:

Revenue

The bill has no direct impact on the state General Fund or on the three trust funds receiving payments from the Master Settlement Agreement (MSA). However, the failure of North Carolina to diligently enforce the provisions of the MSA can result in the loss of payments to the state.

Over the next five years, North Carolina is scheduled to receive the following payments:

2003	\$177.86 million
2004	\$155.48 million
2005	\$163.35 million
2006	\$163.35 million
2007	\$163.35 million

Expenditures

Attorney General: This bill imposes several administrative tasks on the Office of Attorney General (AG). The AG must keep lists of participating and nonparticipating manufacturers, must provide the Secretary of Revenue with a list of manufacturers that are in compliance, must approve manufacturers' escrow agreements, and must record manufacturers' process service agents. An AG spokesman said that the staff of two attorneys and two paralegals that handle tobacco matters for the department will absorb the additional workload mandated by HB 348. These positions are funded by a grant from the Master Settlement Agreement. [Note: The Department of Revenue stated that it uses three FTEs to handle cigarette tax compliance issues without compensation from the Master Settlement Agreement.]

Judicial Branch: For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

The AOC does not anticipate that this legislation will have a significant impact on the courts. Staff with the AOC report that there were only six charges under G. S. 14-401.18 in 2001, and they do not anticipate a dramatic increase based on the changes in this legislation.

Correction: The Sentencing Commission cannot project the number of convictions that would result from the new Class A1 misdemeanor in this legislation. There were no convictions under G.S. 14-101.18(b)(5) during FY 2000-01 and the Sentencing Commission cannot project the number of convictions that would result from the expanded Class A1 offense in this legislation. In FY 2000-01, the majority of individuals convicted of Class A1 misdemeanors (76%) were given community sentences, and four percent were given intermediate sentences. The average cost for community punishment is \$1.87/day; the average cost for intermediate punishment is \$12.69/day.

Twenty percent of those convicted of Class A1 misdemeanors in FY 2000-01 were given active sentences, averaging 60.5 days of time served. Offenders serving active sentences of between 30 and 90 days are housed in county jails and the counties are reimbursed by DOC at a rate of \$18/day per offender. If sentencing practice for this offense is similar to that of other Class A1 misdemeanors, for every five convictions, the cost to the State *for active sentences* would average \$1,089 (=60.5*18).

SOURCES OF DATA: Office of the Attorney General; Department of Correction; Judicial Branch; and North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS:

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DATE: October 1, 2002



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