Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2016 Regular Session

Part I: Measure Information

Bill Request #: 1098
Bill #: HB 299 HCS
Bill Subject/Title: Prohibit sale of tobacco products to persons under age 21.
Sponsor: Rep. David Watkins
Unit of Government: X City X County X Urban-County Unified Local X Charter County X Consolidated Local X Government
Office(s) Impacted: Local law enforcement
Requirement: X Mandatory X Optional
Effect on Powers & Duties: X Modifies Existing X Adds New Eliminates Existing

Part II: Purpose and Mechanics

Please find below a summary of HB 299 as introduced. The HCS change is provided on page 2 of this Local Mandate.

Section 2 of HB 299 amends KRS 438.310 to prohibit a retailer from selling a tobacco product to someone under the age of 21, rather than under the age of 18 per current law. The current punishment is maintained: a fine of not less than \$100 nor more than \$500 for a first violation and not less than \$500 nor more than \$1000 for any subsequent violation. The fine is administered by the Department of Alcoholic Beverage Control (ABC) using civil enforcement for a retailer 18 years of age or older. For a retailer under the age of 18, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

Section 3 amends KRS 438.311 to prohibit someone under the age of 21, rather than under the age of 18 per current law, from purchasing a tobacco product. The penalty is changed. The youth shall pay a fine of not more than \$100 nor more than \$500 for each violation. If the youth is 18 or older but younger than 21, the fine shall be administered by ABC using civil enforcement. If the youth is under the age of 18, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the

District Court. Peace officers and employees of ABC may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of the section.

Sections 4, 5, and 6 of the measure consist of conforming amendments to prohibit the sale or distribution of tobacco products to someone under the age of 21, rather than under the age of 18 per current law. The penalties (fines) remain the same.

Section 7 amends KRS 438.330 to require ABC and the Department of Agriculture to carry out random inspections of retail establishments where tobacco products are sold to determine whether those products are being sold to persons under the age of 21, rather than under the age of 18 per current law.

Section 8 amends KRS 438.337 with a conforming amendment which maintains the authority of ABC to carry out the enforcement provisions of KRS 438.305 to 438.340, except in the case of a juvenile who shall be under the jurisdiction of the juvenile session of the District Court.

Section 9 amends KRS 438.350 with a conforming amendment which permits a law enforcement officer to confiscate a tobacco product in the possession of someone under the age of 21, rather than under the age of 18 per current law.

Section 10 sets an effective date of August 1, 2016.

HB 299 HCS makes a technical change.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of HB 299 HCS on local law enforcement is expected to be a minimal increase in costs.

The Kentucky Department of Alcoholic Beverage Control (ABC) has the lead role in investigating and enforcing state laws that prohibit the distribution or sale of tobacco products to youth. ABC has 30 investigators assigned to one or more counties throughout Kentucky. Every month an investigator is required to conduct at least ten checks within his or her territory. ABC is assisted by a federal Substance Abuse and Mental Health Services Administration (SAMHSA) grant through the Synar program (named after former Congressman Mike Synar), which supports annual unannounced federal inspections of tobacco outlets. Once per year ABC receives information from the Synar program pertaining to suspicious retailers at specific locations.

If HB 299 HCS is enacted, some training on its provisions might be needed by local law enforcement, but this is expected to be at a minimal cost. (The state Department of Criminal Justice Training annually sends out updates on crimes and punishments to local law enforcement agencies.)

Most local law enforcement will continue the current practice of supporting ABC in the enforcement of the prohibitions against youth smoking. Local peace officers who become aware of retailers selling tobacco products to youth usually contact ABC and file a complaint against the retailer rather than issue a uniform citation to the retailer or the underage purchaser. Passage of HB 299 HCS will lead to more violations of the law due to expanding the scope of prohibited youth tobacco consumption. This may create a minimal cost for local law enforcement as officers enforce the law. On the other hand, a retailer selling tobacco products to someone under the age of 21 will most likely be selling to someone under the age of 18. An officer will conduct the same investigation under HB 299 HCS as under current law and probably file a complaint with ABC rather than citing a retailer or a person under the age of 21.

Data Source(s): Department of Alcoholic Beverage Control, Teen Tobacco Enforcement

Program; Kentucky Association of Chiefs of Police

Preparer: Scott Varland Reviewer: JWN Date: 2/12/16