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

Part I: Measure Information

Bill Request #: 1099				
Bill #: HB 322				
Bill Subject/Title:	AN ACT relating to the display of tobacco, alternative nicotine, and vapor products.			
Sponsor: _ Rep. David Watkins				
Unit of Government:	XCityXCountyXUrban-CountyXCharter CountyXConsolidated LocalXGovernment			
Office(s) Impacted:	Local law enforcement			
Requirement: Mandatory X_ Optional				
Effect on Powers & Duties:	Modifies Existing Adds New Eliminates Existing			

Part II: Purpose and Mechanics

HB 322 creates a new section of KRS Chapter 438 to prohibit a retailer from displaying a tobacco product, alternative nicotine product, or vapor product in a manner that permits a customer to readily view such a product prior to purchase. However, a retailer does not violate the section if he or she:

- 1. At the direct request of a customer over age 18, permits him or her to examine the product for quality and other attributes prior to purchase;
- 2. Is restocking or selling the product; or
- 3. Is conveying the product into or out of the place of business.

A retailer may temporarily display a menu to show a customer over age 18 the scope of products available for sale.

The Department of Alcoholic Beverage Control (ABC) shall enforce the section and may conduct periodic inspections to ensure compliance with the section. (Any citizen who desires to register a complaint under the section may do so with ABC.) A retailer found in violation of the section shall be subject to a fine of not less than \$100 nor more than \$500 for a first violation and a fine of not less than \$500 nor more than \$1,000 for any

subsequent violation. The fine shall be administered by ABC using a civil enforcement procedure.

ABC is authorized to promulgate administrative regulations necessary to implement and carry out the section.

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

The fiscal impact of HB 322 on local law enforcement is expected to be a nil to minimal increase in costs.

The measure provides that ABC, with the assistance of the public, enforces the measure. There is no reference to local law enforcement issuing citations. HB 322 establishes fines that are administered by ABC using a civil enforcement procedure.

ABC and the Kentucky Association of Chiefs of Police concur that local law enforcement has a very small role in implementing HB 322. ABC will take the lead. In the vast majority of cases, if a police officer notices that a retailer is violating HB 322, that officer will notify ABC so that it may send undercover personnel into the retail establishment to determine the nature and extent of the violation or violations.

It should be noted that the federal Tobacco Control Act of 2009 has similar provisions to those found in HB 322. The Food and Drug Administration enforces the Tobacco Control Act. Therefore, according to ABC, HB 322 compliments the federal statute.

Data Source(s):	Kentucky Department of Alcoholic Beverage Control; Kentucky		
	Association of Chiefs of Police		

Preparer: Scott Varland	Reviewer: JWN	Date: 2/5/16
-------------------------	----------------------	---------------------