



include private residences unless they are used as child care, adult day care or health care facilities. Employers are required to communicate the restrictions to current employees and to new employees and to post no smoking signs at various locations throughout the facility.

HB 351 permits local governmental units to adopt regulations that are stricter than the provisions of the bill by passing an ordinance. No regulations or ordinances currently in effect that provide additional restrictions are impacted by the provisions of the bill. The provisions of the bill are to be enforced by all peace officers, designated employees of the local health department, designated employees of the state Department of Public Health, and designated employees of units of local government. If local health departments or units of local government employees are designated to enforce measures they must be deemed to be a citation officer. A uniform citation must be used by all peace officers. A uniform smoking violation citation may be provided by the Kentucky State Police, and may be created by the Kentucky State Police.

The penalties for violations of smoking in a prohibited area cannot exceed \$25 for the first offense or \$100 for each subsequent offence. Owners, managers, or operators of enclosed public places or places of employment who fail to comply with the regulations or ordinances may be fined no more than \$250 for the first violation or \$500 for the second violation. Each additional violation within one calendar year will be \$1,000. Each day a violation occurs is deemed a separate violation with a fine not to exceed \$10,000 in any calendar year. Fines collected are to be distributed to the governmental entity issuing the citation. No individual can be incarcerated under the provisions of the bill. Employers cannot discriminate against employees who exercise the rights under the measure and would be subject to a \$1,000 fine for doing so.

As they are defined, cigar bars, private clubs, smoking laboratories, laboratories testing fire-safe qualities of tobacco products, businesses conducting research on tobacco products, tobacco barns and agricultural buildings on private farms are exempt from provisions Sections 1 through 6 of the Act.

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

**The fiscal impact on local governments is indeterminable and will range from minimal to moderate.**

HB 351 will result in some increased costs associated with creating associated regulations and ordinances and providing local law enforcement. These costs would likely be less on those governmental units that have already implemented regulations or ordinances. Future savings may be realized for smoking related indigent health care costs and for lower health insurance premiums for local government employees who decide to quit smoking. Fines collected as a result of citations would offset costs to some extent.

The Kentucky League of Cities (KLC) indicates that there will be costs relating to staff time for development or revision of ordinances. There would also be additional costs associated with publication of any ordinances. Any fines collected as a result of citations

would be retained by the issuing entity; however, the KLC believes the amount of revenue is not likely to offset the costs associated with training and enforcement of the provisions of this bill.

The Kentucky Association of Chiefs of Police has concerns related to the demands of local law enforcement required by enforcement of Section 4, Subsection (3) of the measure which requires that owners, managers, operators, or employees of an enclosed public place or enclosed place of employment contact law enforcement if a violator of the smoking policy does not cease smoking upon request or fails to depart the premises upon being requested to do so.

The U. S. Centers for Disease Control and Prevention (CDC) has identified Kentucky as among the top seven states in the number of adult smokers, with rates exceeding 29%. Kentucky has among the highest percentage in smoking prevalence by high school students (24.1%). Recently published statistics by the CDC show Kentucky with the highest smoking related mortality among adults in the nation. Recent statistics indicate that health expenditures attributable to smoking exceed \$1.5 billion annually for Kentucky and the loss of economic productivity related to smoking may exceed \$2.3 billion a year. The Medicaid portion of the health care cost has been estimated at \$487 million.

In this regard, it is estimated that increases in health care costs (by local governments as employers and health care costs for smoking related indigent health care provided by county hospitals or local health departments) could be slowed over time under the provisions of HB 351.

**Data Source(s):** Kentucky Center for Smoke-Free Policy, University of Kentucky College of Nursing; Kentucky Association of Chiefs of Police; Kentucky Chamber of Commerce; Kentucky League of Cities; Kentucky Association of Counties; American Non-Smokers Rights Foundation

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