

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 38** HLS 19RS 123
 Bill Text Version: **REENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: May 23, 2019 8:34 AM **Author:** HOFFMANN
Dept./Agy.: Statewide **Analyst:** Monique Appeaning
Subject: Age Change from 18 to 21 for tobacco and vapor products

CRIME RE DECREASE GF RV See Note Page 1 of 2

Raises the minimum age relative to the distribution, sale, purchase, or possession of tobacco products, alternative nicotine products, or vapor products

Proposed law changes the minimum age from 18 to 21 for unlawful distribution of sample tobacco products, alternative nicotine products, or vapor products. Proposed law changes the minimum age from 18 to 21 for a manufacturer, distributor, retailer, or other person knowingly selling or distributing any tobacco product, alternative nicotine products, or vapor products to a person under age from 18 to 21. Proposed law changes the minimum age from 18 to 21 to accept receipt of tobacco products, alternative nicotine products, or vapor products from an employer when required in the performance of such person's duties. Proposed law provides for specific technical changes to present law. Proposed law provides for specific exceptions to persons under 21 years of age who are either first responders as defined by R.S. 23:1017.1 or active members or veterans of the armed forces.

Proposed law provides for exceptions for persons who reach age 18 on or before December 31, 2019.

EXPENDITURES	2019-20	2020-21	2021-22	2022-23	2023-24	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW					
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	SEE BELOW					
Federal Funds	SEE BELOW					
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total						

REVENUES	2019-20	2020-21	2021-22	2022-23	2023-24	5 -YEAR TOTAL
State Gen. Fd.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Federal Funds	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total						

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure.

While proposed law does not directly impact expenditures, it does impact revenues that support general and specific operational costs in numerous state agencies. The impact is indeterminable and will depend on appropriation decisions by

EXPENDITURE EXPLANATION CONTINUED ON PAGE TWO

REVENUE EXPLANATION

Proposed law will result in a decrease in SGF and statutory dedications out of the Tobacco Tax Regulation Enforcement Fund, the Health Excellence Fund, the Tobacco Tax Health Care Fund and Tobacco Tax Medicaid Match Fund.

The Department of Revenue (DOR) provided the following information:

Purchases by persons under 21 account for approximately 2% of tobacco sales nationwide according to the Preventing Tobacco Addiction Foundation. Applying this percentage to the FY 18 net tobacco tax collection amount, collections are projected to decrease by approximately \$5,923,075 (\$296,153,731 x .02) per year. Because the tobacco tax is paid before the point of sale, this initial revenue decrease is likely to be delayed as it will take time for current tobacco inventory to be sold for which taxes have already been paid and for future sales to decrease. There will presumably be a secondary future decrease in revenue since raising the minimum age to purchase, possess or be sold tobacco products contributes to preventing youth from smoking at a later age. This impact is indeterminable.

Fund Name	FY 18 Distribution	Percentage of underage sales	Assumed demand decrease
Tobacco Tax Health Care	\$28,654,033	2%	(\$573,081)
Tobacco Tax Medicaid Match	\$119,391,188	2%	(\$2,387,824)
Tobacco Tax Regulation Enforcement	\$596,959	2%	(\$11,939)
Tobacco Health Excellence	\$9,551,346	2%	(\$191,027)
General Fund	\$137,960,205	2%	(\$2,759,204)
Total Estimated Revenue Decrease			(\$5,923,075)

NOTE: DOR reports that national surveys have shown that more than 86% of underage youth acquire cigarettes illegally and that more than 89% of underage youth acquire e-cigarettes illegally from friends over 18, family, and even strangers. Therefore, the decrease in revenue will likely be significantly less than stated above. DOR provided information from the Preventing Tobacco Addiction Foundation that states 12.3% (or 29,400) of high school students in Louisiana in 2017 smoked on at least one day in the past 30 days. From 2015 to 2017, the percentage of high school students who used e-cigarettes rose from 2.5% to 12.2%.

Revenue Explanation Continued on Page Two:

Senate Dual Referral Rules House
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H} 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H} 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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Staff Director

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CONTINUED EXPLANATION from page one:

Expenditure Explanation Continued from Page One:

the legislature (see **NOTE** below). In addition to the SGF, appropriations funded from the following statutorily dedicated revenues will be impacted to an indeterminable degree by proposed law: the Tobacco Tax Health Care Fund, the Tobacco Tax Medicaid Match Fund (and potential federal match), the Tobacco Regulation Enforcement Fund and the Health Excellence Fund.

NOTE: To the extent revenue deposits into the aforementioned statutorily dedicated funds decline, the legislature will be required to reduce expenditure appropriations to those funds accordingly. Reductions will also be required to unspecified SGF appropriations. See REVENUE EXPLANATION on page one for additional information.

The Louisiana Department of Health (LDH) reports that studies have estimated that raising the minimum legal sales age for tobacco products to 21 nationwide could "result in a 12% decrease in tobacco use, approximately 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 M fewer years of life lost." LDH further indicates that a recent study estimates that a 1% reduction in smoking rates overall in Louisiana could potentially reduce Medicaid costs by \$31.7 M over time. LDH projects the following impact on its budget:

Updated Information from LDH now indicates savings beginning in FY 20 and is reflected below. FY 20 - FY 24 - LDH estimates that over this period of time, Medicaid will see savings totaling \$31.7 M after implementation of proposed law (\$3.17 M in FY 20, \$4.76 M in FY 21, \$6.34 M in FY 22, \$7.93 M in FY 23, and \$9.51 M - totals include an assumption of 33.6% SGF or other state funds match and 66.4% Federal Direct). LDH indicates the decline in tobacco related illnesses will likely result in a gradual savings over time.

NOTE: The LFO is unable to corroborate the timeline indicated by LDH for the state to begin realizing Medicaid savings by targeting tobacco access restrictions at 18-20 year olds. The LFO assumes any legislation that may impact baseline smoking levels in the state are likely to result in long-term savings to the public and private health system, including Medicaid. Such impact is indeterminable and will depend on consumer behavior and underlying medical conditions. The study cited by LDH above looked at a 1% reduction in smoking rates regardless of age, not among the 18-20 year old population. The likelihood that such cost savings within this population would rise to a material level within the first few years of enactment is speculative and the LFO is not certain the state will realize cost savings in excess of revenue loss within the window of this fiscal note.

The Office of Group Benefits (OGB) provided the following information:
 Based on information OGB received from its actuary, the impact of tobacco use on an individual's health care costs is \$2,000 per year higher than for non-tobacco users. However, there is not enough data to determine the length of time it takes for an individual to use tobacco before they begin to experience such increased health care costs. OGB's actuary believes the fiscal impact of this legislation will not be measurable during the five-year period associated with this fiscal note; rather any impacts to the health status of OGB members associated with the two-year delay in the legal ability for persons age 18 to purchase tobacco products and their associated health care costs will occur over a greater period of time.

Revenue Explanation Continued from Page Two:

NOTE: Testimony and data presented during committee indicates tobacco use among persons under 21 in Louisiana likely exceeds the 2% national average assumption used by DOR. To the extent an age change impacts overall sales greater than DOR assumptions, the revenue impact will grow proportionally.

Proposed law provides for exceptions for persons who reach age 18 on or before December 31, 2019. The impact of the revenue change is likely to grow incrementally as the affected the population ages from 18 to 20 years old. In FY 20, individuals aged 18 years (on or before December 31, 2019), 19 years and 20 years will not be restricted from purchasing these products. Those turning 18 years on or after January 1, 2020, will be restricted.

For illustrative purposes, using DOR's assumptions on page one, the LFO estimates the proposed law would reduce the total revenues by:

- FY 20 = \$493,590
- FY 21 = \$2,056,623
- FY 22 = \$4,030,982
- FY 23 = \$5,717,413
- FY 24 = \$5,923,075

The reductions will be applied on a pro rata basis to the various funds mentioned on page one of this fiscal note.

Senate
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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