

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0131-01
Bill No.: HB 36
Subject: Drugs and Controlled Substances; Pharmacy; Revenue Dept.; Taxation and
Revenue - Sales and Use
Type: Original
Date: February 18, 2009

Bill Summary: Would authorize a state and local sales and use tax exemption for over-the-counter or nonprescription drugs as prescribed by a practitioner.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	Unknown	Unknown	Unknown
Total Estimated Net Effect on General Revenue Fund	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
School District Trust	Unknown	Unknown	Unknown
Conservation Commission	Unknown	Unknown	Unknown
Parks, and Soil and Water	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** stated that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Revenue** and the **Department of Health and Senior Services** assume this proposal would have no fiscal impact on their organizations.

Officials from the **Department of Social Services (DOSS)** stated that current law allows a sales tax exemption for the sale of over-the counter (OTC) or nonprescription drugs to individuals with disabilities. This proposal would delete the words "to individuals with disabilities" in the last clause, making the sale of over-the-counter (OTC) and nonprescription drugs exempt from sales tax for all purchasers, not just the disabled. At the same time, the proposal would limit the sales tax exemption to those OTC and nonprescription drugs that are prescribed by a physician.

Based on the Missouri Healthnet Division (MHD) response to similar legislation last year (HCS for HB 1589 LR FN 4182-02) there would be no fiscal impact to DOS. Prescribed OTC drugs are a benefit of MHD programs. Pharmacy providers receive payment for the drugs; however, MHD does not pay sales tax. Therefore, this legislation would have no fiscal impact to DOS.

Officials from the **Office of Administration, Division of Budget and Planning (BAP)** assume there would be no added cost to their organization as a result of this proposal. BAP officials noted that this proposal would exempt from sales tax any OTC or nonprescription drugs prescribed by a practitioner.

ASSUMPTION (continued)

BAP officials provided statistics from the Consumer Healthcare Products Association for retail sales of OTC drugs for the last several years.

2003	\$14.2 billion
2004	\$14.1 billion
2005	\$15.0 billion
2006	\$15.3 billion
2007	\$16.1 billion

Assuming 1.7% of these sales were made in Missouri, then \$273.7 million in sales occurred in 2007 in the state. BAP does not have information suggesting how much of these amounts by were by prescription. The table suggests average growth of about 3.4% each year, thus, BAP projects sales, and the related reductions in general and total state revenues, as up to these amounts.

Year	Total Sales	General Revenue Fund 3%	Schools 1%	Conservation Commission Fund 1/8%	Parks and Soils Fund 1/10%	Local Average 2.5%
2010	\$302,600,000	\$9,100,000	\$3,000,000	\$400,000	\$300,000	\$7,600,000
2011	\$312,900,000	\$9,400,000	\$3,100,000	\$400,000	\$300,000	\$7,800,000
2012	\$323,500,000	\$9,700,000	\$3,200,000	\$400,000	\$300,000	\$8,100,000

Oversight notes that this proposal would eliminate the current sales tax exemption for OTC drugs purchased by disabled persons; it would also create a sales tax exemption for the purchase of OTC drugs prescribed by a practitioner. Oversight is not able to determine the number of OTC drugs which are purchased by disabled persons nor the cost of those drugs. Oversight assumes that persons without MHD benefits would not likely obtain a prescription for a medication which they can purchase without such prescription. As a result, the amount of OTC drug sales which would be subject to the new sales tax exemption would likely be less than the amount currently exempt from sales tax. Therefore, Oversight assumes this proposal would result in an increase in sales tax revenues for those state and local funds which receive sales tax revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Change in sales tax exemption</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
SCHOOL DISTRICT TRUST FUND			
<u>Change in sales tax exemption</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
CONSERVATION COMMISSION FUND			
<u>Change in sales tax exemption</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
PARKS, AND SOIL AND WATER FUNDS			
<u>Change in sales tax exemption</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
LOCAL GOVERNMENTS			
<u>Change in sales tax exemption</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

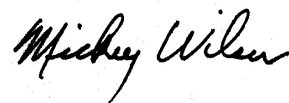
FISCAL DESCRIPTION

This proposal would eliminate a sales tax exemption for over-the counter or nonprescription drugs purchased by disabled persons and create a sales tax exemption for over-the-counter or nonprescription drug purchases as prescribed by a practitioner.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Office of Administration
Division of Budget and Planning
Department of Health and Senior Services
Department of Revenue
Department of Social Services



Mickey Wilson, CPA
Director
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