

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4308-01  
Bill No.: HB 1716  
Subject: Environmental Protection; Health Department  
Type: Original  
Date: March 3, 2014

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Bill Summary: This proposal establishes new laws regarding smoking in public places.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Unknown, greater than \$548,886)	(Unknown, greater than \$612,600)	(Unknown, greater than \$620,352)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown, greater than \$548,886)</b>	<b>(Unknown, greater than \$612,600)</b>	<b>(Unknown, greater than \$620,352)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 11 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
General Revenue	Could exceed 8	Could exceed 8	Could exceed 8
<b>Total Estimated Net Effect on FTE</b>	<b>Could exceed 8</b>	<b>Could exceed 8</b>	<b>Could exceed 8</b>

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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Health and Senior Services (DHSS)** provide the following assumptions, by division:

#### Division of Public and Community Health (DCPH), Compliance Unit

Section 191.787.1 requires DHSS to enforce the provisions of the proposal. In order to fulfill these duties, a compliance unit would be established within DHSS with the following personnel:

- Health Educator III (\$39,980 annually) to answer questions, concerns, and complaints; maintain a log of complaints, direct complaints to the appropriate enforcement authority, or contact business regarding the complaint. Also, review reports of non-compliance from enforcement authority, send violation notices, and conduct appropriate follow-up or triage follow-up to field staff (below); prepare communications prior to implementation and report on progress of implementation.

Since the proposed legislation does not require mass notification to all businesses in the state, it is assumed that the changes in the law would be communicated through public avenues such as news releases, articles in appropriate publications, communication with statewide organizations, etc.

Entities that violate the proposed legislation will be officially notified of violations and potential consequences through the mail. DHSS estimates violation notices to be approximately 2,500.

$$2,500 \text{ violation notices} \times \$0.49 \text{ first class postage} = \$1,255$$

Section 191.787.2 states, "*The department of health and senior services, local fire departments, or such departments' designees, shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with sections 191.780 to 191.789.*" A large portion of the approximately 175,000 businesses in Missouri are not currently inspected by DHSS or its designees. The department assumes that those establishments not inspected by DHSS would be checked for compliance by the agencies that currently perform the inspections.

#### Division of Regulation and Licensure (DRL), Section for Child Care Regulation (SCCR)

Currently the only licensed facilities in SCCR that permit smoking are family homes. There are approximately 1,200 family home-run child care facilities. The SCCR would print and mail a letter notifying each of the 1,200 family homes of the change in the law. Other agencies involved

ASSUMPTION (continued)

with child care centers, such as fire and sanitation, child care nurse consultants, local health departments, and Child Care Aware® of Missouri would be notified. SCCR estimates 400 additional agencies would be sent a letter.

The SCCR would also print additional sheets to insert into approximately 1,200 Family Child Care Home Rule Books maintained by staff and family home child care facilities. These inserts would be mailed or delivered with the notification letters. Since SCCR inspection software is currently being replaced through use of Child Care Block Grant funding, minimal programming would be necessary to include additional rules.

DRL, Section for Long-Term Care Regulation (SLCR)

Most long term care facilities currently allow smoking. As a result, the department will need to increase visits during surveys and due to complaints to ensure compliance with the proposed legislation. In addition, if a facility does not comply with the requirements, they could face license revocation, which would require residents to move from their "home" to another facility. The SLCR assumes the increased visits will require the addition of one Facility Surveyor II (\$41,516 annually) in each of its seven SLCR regions. Notification letters will also be sent to the approximately 1,250 facilities that it regulates of the requirements of the legislation.

The cost of printing and mailing notification letters to SCCR and SLCR facilities is as follows:

Printing costs: \$435 ((3,150 notifications + 1,200 rule book inserts) X \$0.10/copy)  
Envelope costs: \$275 (\$55/1,000 envelopes; estimated five groups of 1,000 will be needed); and  
Postage costs: \$1,200 (3,150 x \$0.381).

Office of General Counsel

Section 191.787.5 allows the department or any person aggrieved by the failure of an owner, operator, manager, or other person in control of a public place or place of employment to comply with the provisions of the proposal to apply for a court order to enforce the provisions. The department is unsure of the fiscal impact of this section. This response does not include the services of an attorney, but depending on the interpretation of this section, significant legal activities may be required; therefore, the fiscal impact of this section is unknown. The cost to the Office of General Counsel is unknown, but it is estimated that it would be greater than \$100,000. A mechanism would have to be put into place for taking complaints and investigating violations of the ban. DHSS would need to provide legal representation for fining and for violations of the ban. It is unknown how many actions would need to be taken, so the estimated cost is unknown.

ASSUMPTION (continued)

Officials from the **Office of Attorney General (AGO)** state this proposal assigns enforcement of its provisions to DHSS and allows any aggrieved party to bring an injunctive action. The AGO assumes that the proposal would result in an increase in cases referred from DHSS. Therefore, costs are unknown. If a significant number of cases result from the proposal over time, the AGO would seek an additional appropriation to assist DHSS with upholding enforcement actions.

Officials from the **Office of Prosecution Services (OPS)** the proposal will have no measurable fiscal impact on the OPS. However, the creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs, which are difficult to determine.

**Oversight** assumes the potential responsibilities imposed on county prosecutors as a result of this proposal, will be absorbable within current funding and staffing levels.

Officials from **St. Louis County** state the overall impact of improved health quality and decrease in acute respiratory reaction to tobacco smoke exposure has a positive effect on health care savings. The amount is estimated in the millions of dollars annually.

**Oversight** assumes the savings referred to in St. Louis County's response to be an indirect savings and not an actual reduction in insurance premium costs paid for by the County. Therefore, these savings will not be reflected in the fiscal note.

Officials from the **Department of Corrections (DOC)** state the penalty provisions for violations, the component of the bill to have a potential fiscal impact for DOC, is for a class A misdemeanor. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational costs through supervision provided by the Board of Probation and Prolongation (FY 13 average of \$5.07 per offender, per day, or an annual cost of \$1,851 per offender).

The DOC assumes supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Mental Health (DMH)** state that a statewide ban on smoking, while not directly having a fiscal impact on the DMH, would free-up state resources to address other issues regarding substance abuse in the state.

ASSUMPTION (continued)

Officials from the **Department of Elementary and Secondary Education (DESE)** state there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

**Oversight** assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Department of Agriculture**, the **Office of State Courts Administrator**, the **Department of Economic Development (DED) - Business and Community Services Division**, the **DED - Arts Council**, the **DED - Tourism Division**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Natural Resources**, the **Department of Social Services**, the **Missouri Department of Transportation**, the **Department of Public Safety - Division of Fire Safety**, the **Missouri Department of Conservation**, the **Office of Administration - Facilities Management, Design, and Construction**, the **Office of State Public Defender**, the **City of Jefferson City**, the **City of Kansas City**, the **Columbia/Boone County Department of Public Health and Human Services**, the **Francis Howell School District**, and **Fulton Public Schools** each assume the proposal would not fiscally impact their respective agencies.

Officials from the following **counties**: Andrew, Audrain, Barry, Bates, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, St. Charles, St. Francois, St. Louis, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for a statement of fiscal impact.

Officials from the following **cities**: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Joplin, Kearney, Knob Noster,

ASSUMPTION (continued)

Ladue, Lake Ozark, Lebanon, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to **Oversight's** request for statement of fiscal impact.

Officials from the following **health departments**: Audrain County Health Unit, Cass County Health Department, Harrison County Health Department, Henry County Health Center, Jefferson County Health Department, Linn County Health Department, Madison County Health Department, McDonald County Health Department, Miller County Health Center, Morgan County Health Center, Nodaway County Health Center, Platte County Health Department, Randolph County Health Department, Reynolds County Health Center, Ripley County Health Center, Shelby County Health Department, St Francois County Health Center and the Tri-County Health Department did not respond to **Oversight's** request for fiscal impact.

Officials from the following **fire protection districts**: Battlefield Fire Protection District, Central County Fire and Rescue, Centralia Fire Department, Creve Coeur Fire District, Desoto Rural Fire Protection District, Hawk Point Fire Protection District, Hillsboro Fire Protection, Lake St. Louis Fire District, Mehlville Fire District, Nixa Fire Protection District, Saline Valley Fire Protection District, and Southern Iron County Fire Protection District did not respond to **Oversight's** request for a statement of fiscal impact.

Officials from the following **hospitals**: Barton County Memorial Hospital, Bates County Memorial Hospital, Cedar County Memorial Hospital, Cooper County Hospital, Excelsior Springs Medical Center, Putnam County Memorial Hospital, and Washington County Memorial Hospital did not respond to **Oversight's** request for fiscal impact.

Officials from the following **schools**: Blue Springs Public Schools, Branson Public Schools, Carondelet Leadership Academy, Charleston R-I Schools, Cole R-I Schools, Columbia Public Schools, Fair Grove Schools, Independence Public Schools, Jefferson City Public Schools, Kirksville Public Schools, Kirbyville R-VI Schools, Lee Summit Public Schools, Malden R-I Schools, Malta Bend Schools, Mexico Public Schools, Monroe City R-I Schools, Nixa Public Schools, Parkway Public Schools, Pattonville Schools, Raymore-Peculiar R-III Schools, Raytown School District, Sedalia School District, Sikeston Public Schools, Silex Public Schools, Special School District of St. Louis County, Spickard School District, St Joseph School District, St Louis Public Schools, St. Charles Public Schools, Sullivan Public Schools and Warren County R-III School District did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>GENERAL REVENUE FUND</b>			
<u>Costs - DHSS</u>			
Personal service	(Could exceed \$275,496)	(Could exceed \$333,898)	(Could exceed \$337,237)
Fringe benefits	(Could exceed \$140,515)	(Could exceed \$170,305)	(Could exceed \$172,008)
Equipment and expense	(Unknown, <u>greater than</u> \$132,875)	(Unknown, <u>greater than</u> \$108,397)	(Unknown, <u>greater than</u> \$111,107)
Total <u>Costs</u> - DHSS	(Unknown, <u>greater than</u> \$548,886)	(Unknown, <u>greater than</u> \$612,600)	(Unknown, <u>greater than</u> \$620,352)
FTE Change - DHSS	Could exceed 8 FTE	Could exceed 8 FTE	Could exceed 8 FTE
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(Unknown, greater than \$548,886)</u></b>	<b><u>(Unknown, greater than \$612,600)</u></b>	<b><u>(Unknown, greater than \$620,352)</u></b>
Estimated Net FTE Change for the General Revenue Fund	Could exceed 8 FTE	Could exceed 8 FTE	Could exceed 8 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2015 (6 Mo.)	FY 2016	FY 2017
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

This proposal could directly, negatively impact small businesses as it allows for licenses to be suspended or revoked for violations. The proposal allows for fines to be levied for each day a violation occurs.



## FISCAL DESCRIPTION

This proposal repeals the Indoor Clean Air Act and establishes the Missouri Indoor Clean Air Act that prohibits smoking in specified facilities and public places. In its main provisions, the proposal: (1) Prohibits smoking in all enclosed facilities including buildings and vehicles owned, leased, or operated by governmental entities; (2) Prohibits smoking in all enclosed public places including, but not limited to, libraries, museums, banks, laundromats, professional offices, retail service establishments, at least 80% of hotel and motel rooms that are rented to guests, public transportation vehicles, restaurants, bars, shopping malls, retail stores, sports arenas, theaters; (3) Prohibits smoking in all enclosed facilities within places of employment without exception including, but not limited to, meeting rooms, employee lounges, private offices, and cafeterias; (4) Prohibits smoking within 15 feet outside of entrances, windows, and ventilation systems of enclosed areas where smoking is prohibited; bleachers and grandstands of outdoor arenas, stadiums, and amphitheaters; outdoor public transportation stations, platforms, and shelters; and outdoor playgrounds; (5) Exempts private residences with specified exceptions, tobacco retail stores, not more than 20% of hotel and motel rooms rented to guests and designated as smoking rooms, and certain outdoor areas of places of employment with specified exceptions from the provisions of the proposal; (6) Requires no smoking signs to be clearly and conspicuously posted and all ashtrays to be removed in an area where smoking is prohibited; (7) Prohibits any person or employer from discriminating, refusing to hire, or retaliating against any person who has exercised his or her rights under the provisions of the proposal or reports or attempts to prosecute a violation of these provisions. Any person or employer who violates these provisions is guilty of a class A misdemeanor; (8) Specifies that the Department of Health and Senior Services or an authorized designee to enforce the provisions of the proposal; (9) Specifies that any person smoking in a prohibited area is guilty of an infraction and any person who owns or otherwise controls a public place or place of employment who fails to comply with the provisions of the proposal will be subject to a fine of up to \$50 for the first violation, a fine of up to \$100 for a second violation within one year, and a fine of up to \$500 for a third or subsequent violation within one year and may have his or her license suspended or revoked; and (10) Specifies that these provisions cannot prohibit a political subdivision or local school board from enacting more stringent ordinances or rules.

If passed, the provisions of this proposal would become effective January 1, 2015.

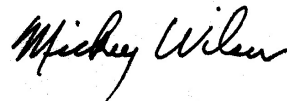
This legislation is not federally mandated, would not duplicate any other program but may require additional capital improvements or rental space.

## SOURCES OF INFORMATION

Office of Attorney General  
Department of Agriculture  
Office of State Courts Administrator

SOURCES OF INFORMATION (continued)

Department of Economic Development -  
    Business and Community Services Division  
    Arts Council  
    Tourism Division  
Department of Elementary and Secondary Education  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Mental Health  
Department of Natural Resources  
Department of Corrections  
Department of Health and Senior Services -  
    Division of Public and Community Health  
    Division of Regulation and Licensure  
    Office of General Counsel  
Department of Social Services  
Missouri Department of Transportation  
Department of Public Safety -  
    Division of Fire Safety  
Missouri Department of Conservation  
Office of Administration -  
    Facilities Management, Design and Construction  
Office of Prosecution Services  
Office of State Public Defender  
City of Jefferson City  
City of Kansas City  
Columbia/Boone County Department of Public Health and  
    Human Services  
Francis Howell School District  
Fulton Public Schools



Mickey Wilson, CPA  
Director  
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Ross Strobe  
Assistant Director  
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