

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6715
BILL NUMBER: SB 149

NOTE PREPARED: Mar 7, 2024
BILL AMENDED: Feb 27, 2024

SUBJECT: Tobacco.

FIRST AUTHOR: Sen. Rogers
FIRST SPONSOR: Rep. King

BILL STATUS: Enrolled

FUNDS AFFECTED: GENERAL
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Tobacco Sales Certificates:* This bill prohibits a retail establishment from holding more than one active tobacco sales certificate (certificate) for a retail location at any time. It also prohibits the Alcohol and Tobacco Commission (ATC) from issuing a certificate to certain persons.

It provides that, if a majority interest in a business that holds a certificate is sold or transferred:

- (1) the new ownership must apply for a new certificate; and
- (2) the certificate and permit number held by the previous ownership are void 90 days after the sale or transfer of the ownership of the business.

It specifies that an employee of a certificate holder (employee) must hold a valid: (1) driver's license issued by the state of Indiana or another state; or (2) identification card issued by the state of Indiana, another state, or the United States; to sell tobacco products.

The bill requires an employee to have the driver's license, identification card, or a copy of these documents readily available to show an excise officer or law enforcement when selling tobacco products. It allows an employee who is unable to show these documents to provide certain evidence within five days. It permits the ATC to impose a civil penalty on the certificate holder if an employee fails to timely produce this evidence.

Penalty Provisions: The bill provides that a person who recklessly, knowingly, or intentionally sells a tobacco product without a valid certificate commits a Class C infraction.

The bill also makes it a Class C misdemeanor for a person to operate a tobacco and vaping business within 1,000 feet of school property. It specifies exceptions.

Effective Date: July 1, 2024.

Explanation of State Expenditures: *Tobacco Sales Certificates:* The ATC would experience an increase in workload to verify that an applicant for a tobacco sales certificate is not a person who is restricted from holding a certificate. The bill's requirements should be able to be implemented within existing staffing and resource levels. [The ATC is primarily funded by appropriations from the Enforcement and Administration Fund.]

Explanation of State Revenues: *Tobacco Sales Certificates:* The bill imposes restrictions on who qualifies for a tobacco sales certificate. To the extent this provision reduces the number of applications for tobacco sales certificates, revenue to the Enforcement and Administration Fund could decrease. [The fee for a tobacco sales certificate is \$200 for each retail location, paid every three years.]

The bill also allows the ATC to impose a civil penalty of up to \$1,000 on a certificate holder if an employee is unable to show a valid driver's license, government issued identification card, or a copy of either within five days that an excise officer or law enforcement requests it. Civil penalties imposed by the ATC are deposited in the Enforcement and Administration Fund.

Penalty Provisions: The bill provides that a person that operates a tobacco and vaping business within 1,000 feet of school property, which is defined in IC 35-31.5-2-285, commits a Class C misdemeanor. (Under current law, it is a Class C misdemeanor for a tobacco and vaping business to operate within 1,000 feet of a building used by a public or private elementary or secondary school for instructional purposes.) The bill also makes it a Class C infraction for a person to recklessly, knowingly, or intentionally sell a tobacco product without a valid tobacco sales certificate.

If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class C misdemeanor is \$500. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. The total fee revenue per case would range between \$113 and \$135 for a Class C misdemeanor and between \$85.50 and \$103 for a Class C infraction. The amount of court fees deposited will vary depending on whether the case is filed in a court of record or a municipal court. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Explanation of Local Expenditures: *Penalty Provisions:* A Class C misdemeanor is punishable by up to 60 days in jail.

Explanation of Local Revenues: *Penalty Provisions:* If additional court actions occur and a guilty verdict or judgment is entered, more revenue will be collected by certain local units. If the case for a Class C misdemeanor is filed in a court of record, the county general fund will receive \$47.40, and qualifying municipalities will receive a share of \$3.60. If the case is filed in a municipal court, the county receives \$30, and the municipality will receive \$46.

If the case for a Class C infraction is filed in a court of record, the county will receive \$33.90, and qualifying municipalities will receive a share of \$2.10. If the case is filed in a municipal court, the county receives \$20, and the municipality will receive \$33.50.

The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

State Agencies Affected: Alcohol and Tobacco Commission.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Legislative Services Agency, *Indiana Handbook of Taxes, Revenues, and Appropriations*, FY 2023. Indiana Supreme Court, Indiana Trial Court Fee Manual.

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