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## FISCAL IMPACT REPORT

SPONSOR: Garcia DATE TYPED: 1/30/03 HB \_\_\_\_\_

SHORT TITLE: Cigarette Delivery Sales Act SB 58

ANALYST: Smith

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	NFI			

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

Responses Received From  
DFA

### SUMMARY

#### Synopsis of Bill

Senate Bill 58 bill makes a variety of technical improvements to the Cigarette tax statutes. It enacts the "Cigarette Delivery Sales Act". The purpose of the act is to enforce compliance. The salient features are listed below.

- Restricts sales of cigarettes to consumers whose age address is verified.
- Delivery of cigarettes must include a copy of the act.
- Delivery may not take place unless all taxes are paid on the purchase.
- All distributors/sellers must register with TRD and must provide a record of sale including the consumer's name and address and the brand & quantity of cigarettes sold.
- Places monetary and criminal penalties on those who violate the act and provides for forfeiture of fixtures, equipment, materials, and personal property for those who knowingly attempt to defraud or fail to satisfy requirements.
- Requires distributors to obtain and apply cigarette stamps to their product within 72-hours of receipt of cigarette packages and are forbidden to sell or distribute the stamps to another person or distributor.
- Distributors are further restricted to buy cigarettes from a licensed cigarette manufacturer or importer.

- Tax-exempt stamps are provided to licensed distributors that are in fully compliance with the reporting requirements of the Cigarette Tax Act.

Significant Issues

Under the Master Settlement Agreement (MSA), states are required to strictly enforce the model statute that “protects the public health gains associated with the MSA”. The Model Statute adopted in New Mexico during the 1999 legislative session (NMSA 6-14-13) requires any tobacco manufacturer selling cigarettes for consumption in New Mexico (whether directly, or through distributor, retailer or similar intermediary or intermediaries) to place \$0.0167539 (from 2003 through 2006) for each cigarette sold in an escrow fund. In essence, the model statute ensures the market share of the original participating manufacturers (OPMs) by equalizing the cigarette price of the small manufacturers (non-participating manufacturers) and the OPMs-- assuming the tax is passed directly on to the consumer.

**FISCAL IMPLICATIONS**

If the model statute is not strictly enforced and the MSA is deemed to be a contributing factor in the loss of market share experienced by the OPMs, the non-participating manufacturer’s adjustment will apply to payments received by the states. This adjustment equals three times the market shares loss experienced by the OPMs.

SS/ls