

LFC Requester:	Ginger Anderson
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date February 1, 2024

Bill No: HB 310

Sponsor: Luis M. Terrazas
Short Title: Tobacco Products Violations Penalties

Agency Name and Code Number: Regulation and Licensing Department - 420
Person Writing: Phillip A. Sanchez
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NA	NA		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
	7.2	7.2	Recurring	Public Education Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	None	None	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 310 amends the Tobacco Products Act (“the Act”) making employees, of licensees, liable for the violation of knowingly selling a tobacco product to a minor.

- Currently, the Act allows the Alcoholic Beverage Control Division of the Regulation and Licensing Department (ABC) to suspend or revoke a license of a licensee, require the use of identification verification software, or impose an administrative penalty against a licensee up to \$10,000 if ABC finds that the licensee, an employee of the licensee, or a contractor acting on behalf of the licensee has violated a provision of the Act.
- In addition to penalties currently allowed to be imposed by ABC, HB 310 will allow ABC to administer a penalty upon an employee who knowingly sells a tobacco product to a minor.
 - The penalty for a first offense of knowingly selling a tobacco product to a minor will be in an amount not to exceed \$100.
 - The penalty for subsequent violations will be in an amount not to exceed \$500.
- HB 310 does not contain an effective date.

FISCAL IMPLICATIONS

- In the 2023 calendar year a total of seventy-two (72) citations for sales to a minor were received by ABC. Fiscal year citation numbers should track similarly with only minor differences.
 - Barring any significant change to this number, they would have been accompanied by a maximum of seventy-two (72) citations issued to the employee as well.
 - This would result in an additional \$7,200 collected by the Regulation and Licensing Department (RLD) in penalties.

SIGNIFICANT ISSUES

- HB 310 expressly indicates that an administrative penalty may only be imposed upon an employee of a licensee for knowingly selling a tobacco product to a minor.
 - This may create instances where the employee sells a tobacco product to a minor without knowing that the customer is a minor.
 - The licensee will remain liable for the violation of selling to a minor, as the Act

makes it a strict liability offense for the licensee.

- The Act does not require employees to get any type of permit, or certification, to sell tobacco products.
 - Because ABC does not gather information personal identifying/contact on employees of licensees or perform sales of tobacco, the RLD/ABC will not have contact information for the individuals it is trying to impose the penalty, unless the citations include a valid mailing address and not just the address listed on a person's identification card or driver's license.
 - Additionally, due to the lack of possible revocation of a permit or certification, there may be little incentive for individuals who have been found to have knowingly sold tobacco to a minor to actually pay an administrative penalty if imposed.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

- Existing staff will be able to process the additional citations.
- Administrative rules concerning fines and penalties.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

- Only the licensee (the business) will be liable for sales of tobacco products to minors.

AMENDMENTS