



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 24, 2003

S. 1177 **Prevent All Cigarette Trafficking Act**

As reported by the Senate Committee on the Judiciary on July 31, 2003

SUMMARY

Under current law, it is illegal to sell, distribute, or transport contraband cigarettes. Contraband cigarettes are generally considered to involve trade of 60,000 cigarettes or more that have evaded state taxation. S. 1177 would lower that threshold from 60,000 to 10,000 cigarettes and would establish a similar contraband threshold for smokeless tobacco of 500 cans or packages. The bill would permit the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATFE) to inspect the premises of persons who distribute or sell in interstate commerce more than 10,000 cigarettes or 500 cans or packages of smokeless tobacco in a month via telephone, the mail, or the Internet. S. 1177 also would increase penalties, including criminal and civil fines, for violations of the laws relating to taxation of cigarettes and smokeless tobacco.

CBO estimates that implementing S. 1177 would cost about \$140 million over the 2004-2008 period for the ATFE to enforce the bill's provisions, assuming appropriation of the necessary amounts. Enacting the bill could affect direct spending and receipts, but any such effects would not be significant.

S. 1177 would impose both intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on certain tobacco sellers and individuals. CBO expects that the direct costs to comply with those mandates would not exceed the annual thresholds established in that act (\$59 million in 2003 for intergovernmental entities, adjusted annually for inflation, and \$117 million in 2003 for the private sector, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1177 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice). In addition to the costs shown below, enacting S. 1177 could affect direct spending and receipts. However, we estimate that any such effects would be less than \$500,000 in any year.

	By Fiscal Year, in Million of Dollars					
	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION						
ATFE Spending Under Current Law						
Estimated Authorization Level ^a	802	829	854	880	908	939
Estimated Outlays	802	827	852	878	905	937
Proposed Changes						
Estimated Authorization Level	0	15	30	31	32	34
Estimated Outlays	0	14	29	31	32	34
ATFE Spending Under S. 1177						
Estimated Authorization Level	802	844	884	911	940	973
Estimated Outlays	802	841	881	909	937	971

a. The 2003 level is the amount appropriated for that year for ATFE activities. The estimated authorization levels for 2004 through 2008 are CBO baseline estimates that adjust the amounts appropriated for 2003 for anticipated inflation.

BASIS OF ESTIMATE

CBO estimates that implementing S. 1177 would increase ATFE operating costs by about \$140 million over the 2004-2008 period. For this estimate, CBO assumes that the necessary amounts will be appropriated near the start of each fiscal year and that spending will follow historical patterns for this effort by the ATFE. In addition, the bill would have an insignificant effect on direct spending and receipts.

Spending Subject to Appropriation

S. 1177 would permit the ATFE to inspect the premises of businesses that distribute or sell more than 10,000 cigarettes or 500 cans or packages of smokeless tobacco each month via

telephone, the mail, or the Internet. The agency expects to conduct inspections, including audits of financial records, for at least 40,000 businesses each year. The ATFE anticipates hiring around 250 field inspectors, plus about 50 managerial and support personnel, to carry out the inspections. Once fully phased-in, CBO estimates that the costs of additional employees and inspections would reach \$30 million annually. For this estimate, we assume that the new positions would be fully staffed by fiscal year 2005.

In addition, S. 1177 would permit states to bring certain actions in federal courts against violators of the bill's provisions. Based on information from the federal judiciary, however, CBO does not expect any such actions to significantly increase court costs.

Direct Spending and Revenues

Enacting S. 1177 could increase collections of civil and criminal fines for violations of the bill's provisions relating to the sale of cigarettes and smokeless tobacco. CBO estimates that any additional collections would not be significant because of the small number of additional cases likely to be affected. Civil fines are recorded as receipts. Criminal fines are recorded as receipts, deposited in the Crime Victims Fund, and subsequently spent.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 1177 would impose mandates as defined in UMRA on certain tobacco delivery sellers and individuals. Delivery sellers include those businesses that sell or deliver tobacco products purchased online, by catalog, or by phone. The requirements would be both intergovernmental and private-sector mandates because tobacco delivery sales are done by private-sector and tribal entities. The bill would require delivery sellers of tobacco products to comply with certain requirements regarding reporting, shipping, recordkeeping, and tax collection. The bill also would prohibit interstate tobacco sellers from selling certain cigarettes that are not in full compliance with the terms of the tobacco settlement agreement between states and tobacco manufacturers and sellers. In addition, the bill would affect individuals who currently send or receive tobacco products in the mail by prohibiting the mailing of such tobacco products through the United States Postal Service. Based on information from government and industry sources, CBO estimates that the total direct costs to comply with those mandates would be insignificant and would fall well below the annual thresholds for both intergovernmental mandates (\$59 million in 2003, adjusted annually for inflation) and private-sector mandates (\$117 million in 2003, adjusted annually for inflation).

S. 1177 would benefit state governments by expanding their authority to enforce cigarette tax collection through the Jenkins Act. This expanded authority would allow states' attorneys general to file charges in U.S. district courts against sellers or deliverers who violate this law.

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