CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 20, 2008

H.R. 5912
A bill to amend title 39, United States Code, to make cigarettes and certain other tobacco products nonmailable, and for other purposes

As ordered reported by the House Committee on Oversight and Government Reform on May 1, 2008

H.R. 5912 would make it illegal to use the Postal Service to mail cigarettes, smokeless tobacco, and roll-your-own tobacco. Violators of the bill's provisions would be subject to civil penalties of up to $100,000 for each violation. CBO estimates that implementing H.R. 5912 would have no significant cost to the federal government. Enacting the bill could affect direct spending and revenues, but CBO estimates that any such effects would not be significant.

The Postal Service works with federal and state law enforcement officials to combat illegal sales of cigarettes and other tobacco products, including the sales of those products to minors and transactions in which the seller does not pay the required taxes. Enforcing the provisions of H.R. 5912 would be difficult because certain classes of mail, such as priority mail, are sealed against inspection and because over 200 billion pieces of mail are delivered each year. Based on information from the Postal Service, CBO expects that the service would continue its current efforts relating to illegal tobacco sales and would enforce the bill's provisions as part of those ongoing activities. We do not expect that H.R. 5912 would significantly affect Postal Service spending on such activities, which is classified as direct spending (off-budget).

Because violators of the provisions of H.R. 5912 would be subject to civil fines, the federal government might collect additional fines if the legislation is enacted. Civil fines are recorded as revenues in the federal budget. CBO expects that any additional revenues would not be significant because of the small number of cases likely to be affected.

H.R. 5912 would impose two private-sector and intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). First, the bill would prohibit the mailing of tobacco products in the United States through the Postal Service. Information from industry experts indicates that most companies that ship tobacco products, including two tribal governments, rarely use the Postal Service to distribute their products. Therefore, CBO estimates that the cost of the mandate would be small. Second, the bill would expand the authority of the Postmaster General to issue subpoenas. Private and public entities, if subpoenaed, would be required to provide testimony, documents, or other evidence. CBO expects that the Postmaster General would use that authority sparingly and that the costs to private and public entities to comply with such subpoenas would be small. Therefore, CBO estimates that the aggregate cost of the mandates would fall well below the annual thresholds established in UMRA for private-sector and intergovernmental mandates ($136 million and $68 million in 2008, respectively, adjusted annually for inflation).

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), Elizabeth Cove (for the state and local impact), and Jacob Kuipers (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.