

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

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7331

BILL NUMBER: HB 1495

DATE PREPARED: Jan 1, 1999

BILL AMENDED:

SUBJECT: Unused property market regulation.

FISCAL ANALYST: Susan Preble

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (A) Creates unused property market regulation and defines "unused property market" as including "swap meets", "indoor swap meets", "flea markets", and other similar events;
- (B) Prohibits the sale of baby food, infant formula, cosmetics, or personal care products, or any nonprescription drug or medical device at an unused property market except by a representative of a manufacturer with written authorization;
- (C) Requires unused property merchants to maintain receipts; and
- (D) Provides penalties for violations.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This bill makes violating the unused property market regulation a Class B misdemeanor for the first violation, a Class A misdemeanor for the second violation, and a Class D felony for the third and any subsequent violation.

A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.)

If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately seven months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class B

misdemeanor is \$1,000. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class D felony is \$10,000.

Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: A Class B misdemeanor is punishable by up to 180 days in jail. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

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

Information Sources: Indiana Sheriffs Association, Department of Correction.