

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 2565 2S HB H-4481.3	<b>Title:</b> Roll your own cigarettes
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## Estimated Cash Receipts

Agency Name	2011-13		2013-15		2015-17	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Revenue	12,027,000	12,029,000	26,244,000	26,248,000	26,244,000	26,248,000
<b>Total \$</b>	<b>12,027,000</b>	<b>12,029,000</b>	<b>26,244,000</b>	<b>26,248,000</b>	<b>26,244,000</b>	<b>26,248,000</b>

## Estimated Expenditures

Agency Name	2011-13			2013-15			2015-17		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Revenue	.1	173,600	184,700	.0	248,000	248,000	.0	272,000	272,000
Liquor Control Board	.0	0	0	.0	0	0	.0	0	0
<b>Total</b>	<b>0.1</b>	<b>\$173,600</b>	<b>\$184,700</b>	<b>0.0</b>	<b>\$248,000</b>	<b>\$248,000</b>	<b>0.0</b>	<b>\$272,000</b>	<b>\$272,000</b>

## Estimated Capital Budget Impact

NONE

<b>Prepared by:</b> Cherie Berthon, OFM	<b>Phone:</b> 360-902-0659	<b>Date Published:</b> Final 3/ 1/2012
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

FNPID 32426

FNS029 Multi Agency rollup

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 2565 2S HB H-4481.3	<b>Title:</b> Roll your own cigarettes	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2012	FY 2013	2011-13	2013-15	2015-17
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax		1,109,000	1,109,000	2,420,000	2,420,000
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		80,000	80,000	176,000	176,000
GF-STATE-State 01 - Taxes 25 - Cigarette Tax		10,838,000	10,838,000	23,648,000	23,648,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax		2,000	2,000	4,000	4,000
<b>Total \$</b>		12,029,000	12,029,000	26,248,000	26,248,000

### Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.2		0.1		
<b>Account</b>					
GF-STATE-State 001-1	61,600	112,000	173,600	248,000	272,000
Master License Account-State 03N-1	11,100		11,100		
<b>Total \$</b>	72,700	112,000	184,700	248,000	272,000

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Rick Peterson	Phone: 360-786-7150	Date: 02/27/2012
Agency Preparation: Steve Smith	Phone: 360-534-1518	Date: 02/29/2012
Agency Approval: Kim Davis	Phone: 360-534-1508	Date: 02/29/2012
OFM Review: Cherie Berthon	Phone: 360-902-0659	Date: 03/01/2012

Request # 2565-6-1

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Note: This fiscal note reflects House amendment H-4481.3 to SHB 2565.

This version of the bill establishes tax and regulatory provisions for roll-your-own (RYO) cigarettes.

#### BACKGROUND:

Recently, some retail establishments have begun offering customers the use of cigarette-making machines. These RYO cigarette shops typically sell customers loose tobacco, cigarette tubes, and the use of the cigarette-making machine for a total fee that is often around half of the price of conventional, pre-packaged cigarettes. Pipe tobacco is commonly used in these RYO cigarette-making machines because the federal tax rate on pipe tobacco is substantially less than cigarette tobacco.

The tobacco used in RYO cigarettes is subject to the “other tobacco products” (OTP) tax. However, cigarette taxes are not currently being collected on RYO cigarettes.

#### SUMMARY OF THE BILL:

This legislation provides a way to effectively collect the state cigarette tax on RYO cigarettes and provides an offset against the cigarette tax equal to five cents per cigarette to mitigate the OTP tax on the loose tobacco used in RYO cigarettes.

The measures imposed by this bill to assist in the collection of the cigarette tax include:

- Requiring retailers to affix tax stamps to each container provided by the retailer to the customer. The retailer must provide the container contemporaneously with the use of the RYO machine (consumers may not bring in their own or previously used containers). The container must be used by customers to transport the cigarettes from the retail outlet.
- Tax stamps must be for an amount that equals the cigarette tax, less the five cent per cigarette offset.
- Each cigarette tube or paper provided by the retailer to the consumer is deemed a cigarette for the purposes of the cigarette tax.
- Only retailers licensed by the Liquor Control Board (LCB) may provide consumers with access to a commercial cigarette-making machine to make RYO cigarettes.
- All tobacco used in a machine for making RYO cigarettes must be from a manufacturer and of a brand family listed on the Washington Attorney General’s certified tobacco products directory maintained pursuant to RCW 70.158.030.
- A commercial cigarette-making machine must provide accurate metering of cigarettes produced by the machine.
- Criminal penalties are provided for using any stamped RYO cigarette container more than once, providing consumers with access to a RYO cigarette-making machine without providing a container with the appropriate tax stamp or stamps, providing consumers with access to a RYO cigarette-making machine without a license from the LCB, and allowing consumers to use a RYO cigarette-making machine with tobacco that is not from a manufacturer and of a brand family that is listed on the Attorney General’s certified tobacco products directory.

The bill establishes a fee of \$100 for each license application or renewal to operate a RYO cigarette-making machine. This fee is in addition to the existing \$93 fee for a retailer's license to sell cigarettes.

This bill takes effect July 1, 2012.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### **ASSUMPTIONS**

In terms of cigarette sales, it is assumed that:

- About 65 to 100 retail outlets in this state currently provide consumers with access to a RYO cigarette-making machine. RYO cigarettes are produced at each of these retail outlets at a rate of 11,000 cartons per year. This works out to three customers/cartons per hour, 10 hours per day, 365 days per year for each of the outlets.
- Total sales statewide at these retail establishments equate to 7.1 million packs (of 20 equivalents) per year. This represents about five percent of the amount of currently taxed Washington cigarette sales.
- The retail price charged to consumers for using a RYO cigarette-making machine and for the components of the cigarettes produced by these machines currently averages \$34.50 per carton. This contrasts with the current average price of about \$70.00 per carton for a conventional carton of state-taxed cigarettes.
- Under this bill, the retail price for RYO cigarettes produced by cigarette-making machines located in retail establishments will rise to \$67.60 per carton. The increase in price primarily reflects the state cigarette tax and the additional retail sales and B&O taxes resulting from sales of the more expensive certified tobacco.
- The increase in price will cause the number of cigarettes produced in these retail establishments to fall by 45% to 3.9 million packs.

In terms of tax collections it is assumed that:

- Retailers with RYO cigarette-making machines are not currently required to pay or collect cigarette taxes.
- This measure will require such retailers to pay cigarette taxes on RYO cigarettes produced in their establishment, regardless of who inputs the tobacco into the cigarette-making machine.

### **DATA SOURCES**

Data was obtained from RYO Tobacco Machine News, RYO Machine Rental Company, the Kitsap Sun, the Bellingham Herald, grocery store and tobacco industry information and the Department of Revenue.

### **REVENUE ESTIMATES**

Because this is such a new market without a track record, the fiscal note estimate is based on the existing 65 participating retail outlets only.

The general fund will realize \$12 million in Fiscal Year 2013 that would not otherwise be collected if the bill were not enacted. However, these are revenues that would likely be lost without the bill.

Local jurisdictions will realize \$412,000 in sales tax revenues.

## TOTAL REVENUE IMPACT:

### State Government (cash basis, \$000):

FY 2013 \$12,029  
FY 2014 \$13,124  
FY 2015 \$13,124  
FY 2016 \$13,124  
FY 2017 \$13,124

### Local Government, if applicable (cash basis, \$000):

FY 2013 \$412  
FY 2014 \$450  
FY 2015 \$450  
FY 2016 \$450  
FY 2017 \$450

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing*

### ASSUMPTIONS:

- All 6,500 retailers currently licensed to sell cigarettes will be notified of this legislative change.
- Only about 100 retail outlets are currently using the RYO machines.
- The \$0.05 offset per cigarette will be applied against the price of the tax stamps at the time the stamps are ordered from the bank. The Department will not require an application and refund process for the offset.
- Effective date: July 1, 2012.

### FIRST YEAR COSTS:

The Department will incur total costs of \$72,700 in Fiscal Year 2012. These costs include:

Labor Costs - Time and effort equates to 0.15 FTE. These costs are incurred for:

- Amendment of two administrative rules.

Object Costs - \$56,100. These costs are to:

- Print and mail a special notice to all retailers of tobacco products.
- Purchase two new cigarette tax stamps and the first initial stamp purchase.
- Set up bank accounts for stamp purchases.
- Stamp printing charges.

### SECOND YEAR COSTS:

The Department will incur total costs of \$112,000 in Fiscal Year 2013. These costs include:

- Printing charges for stamps.
- Monthly bank charges for stamp orders.
- Annual bank fee for each retailer account.

### ONGOING COSTS:

The Department will incur ongoing costs for the following expenses: printing charges for stamps, monthly bank charges for stamp orders, and annual bank fees for each retailer account. During the 2013-15 Biennium, these costs equal \$248,000.

### Part III: Expenditure Detail

#### III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.2		0.1		
A-Salaries and Wages	10,100		10,100		
B-Employee Benefits	3,000		3,000		
E-Goods and Services	58,600	112,000	170,600	248,000	272,000
J-Capital Outlays	1,000		1,000		
<b>Total \$</b>	<b>\$72,700</b>	<b>\$112,000</b>	<b>\$184,700</b>	<b>\$248,000</b>	<b>\$272,000</b>

#### III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2012	FY 2013	2011-13	2013-15	2015-17
HEARINGS SCHEDULER	31,704	0.0		0.0		
IT SPEC 5	67,668	0.1		0.1		
TAX POLICY SP 2	59,784	0.0		0.0		
TAX POLICY SP 3	67,668	0.0		0.0		
WMS BAND 3	84,691	0.0		0.0		
<b>Total FTE's</b>	<b>311,515</b>	<b>0.2</b>		<b>0.1</b>		

### Part IV: Capital Budget Impact

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

None.

### Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Should this legislation become law, the Department will use the expedited process to amend WAC 458-20-185, titled: "Tax on tobacco products" and WAC 458-20-186, titled: "Tax on cigarettes." Persons affected by this rule-making would include retailers who operate RYO cigarette-making machines and other sellers of tobacco products.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2565 2S HB H-4481.3	<b>Title:</b> Roll your own cigarettes	<b>Agency:</b> 195-Liquor Control Board
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## Part I: Estimates

☒ No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

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- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
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- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Rick Peterson	Phone: 360-786-7150	Date: 02/27/2012
Agency Preparation: Colin O'Neill	Phone: (360) 664-1675	Date: 03/01/2012
Agency Approval: Michael Kashmar	Phone: 360-664-1690	Date: 03/01/2012
OFM Review: Diamatris Winston	Phone: (360) 902-7657	Date: 03/01/2012

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This proposed legislation regulates roll-your-own cigarettes and has no fiscal impact on the Liquor Control Board

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

No impact to the Liquor Control Board

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

No expenditure imact to the Liquor Control Board

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.