

Multiple Agency Fiscal Note Summary

Bill Number: 2565 3E 2S HB	Title: 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
Total \$	12,027,000	12,029,000	26,244,000	26,248,000	26,244,000	26,248,000

Estimated Expenditures

Agency Name	2011-13			2013-15			2015-17		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Attorney General	.3	0	70,069	.6	0	140,138	.6	0	140,138
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
Total	0.4	\$173,600	\$254,769	0.6	\$248,000	\$388,138	0.6	\$272,000	\$412,138

Estimated Capital Budget Impact

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

Prepared by: Cherie Berthon, OFM	Phone: 360-902-0659	Date Published: Final 4/17/2012
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 32590

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 2565 3E 2S HB	Title: Roll your own cigarettes	Agency: 100-Office of Attorney General
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.0	0.6	0.3	0.6	0.6
Account					
Tobacco Prevention and Control Account-State 828-1	0	70,069	70,069	140,138	140,138
Total \$	0	70,069	70,069	140,138	140,138

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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:	Phone:	Date: 04/12/2012
Agency Preparation: Gretchen Leanderson	Phone: 253-597-4434	Date: 04/17/2012
Agency Approval: Sarian Scott	Phone: (360) 586-2104	Date: 04/17/2012
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 04/17/2012

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.

Section 1 amends RCW 82.24.010 to add the following definitions: “cigarette paper,” “cigarette tube,” “commercial cigarette-making machine,” and “roll-your-own cigarettes”.

Section 1(2) states that the definition of “cigarette” includes roll your own cigarettes.

Section 2 amends RCW 82.24.030 relating to requirements for the retailer to ensure Department of Revenue (DOR) stamps are appropriately affixed in order to enforce the tax collection on roll-your-own cigarettes.

Section 3(3) is amended stating that RCW 82.24.035 does not apply to “boxes or similar containers used by a consumer to transport roll-your-own cigarettes”.

Section 4 amends RCW 82.24.050 requiring retailers who provides consumers with access to commercial cigarette-making machines to provide consumers with a box to transport roll-your own cigarettes purchased from the retailer’s business, and requires commercial cigarette machines to have a secure meter.

Section 5 amends RCW 82.24.060 requiring that DOR stamps be affixed securely to each individual box or container of roll-your-own cigarettes provided by the retailer to the consumer.

Section 6 amends RCW 82.24.110(1)(h) to make it a gross misdemeanor to use any individual stamped box or container to transport roll-your-own cigarettes more than once.

Section 6(1)(q) is added to make it a gross misdemeanor if a retailer provides consumers with access to a commercial cigarette-making machine without providing a box or container that has a properly affixed stamp.

Section 7 amends the monetary penalty assessment provisions of RCW 82.24.120.

Section 8 amends the seizure and forfeiture provisions of RCW 82.24.130 to apply to commercial cigarette-making machines. This section strikes language that identified for seizure and forfeiture of all cigarettes sold, delivered, or attempted to be delivered in violation of RCW 70.155.105.

Section 9 amends RCW 82.24.180(2) to provide that DOR seized roll-your-own cigarettes may be returned to the retailer after their seizure, provided the party affixes the proper amount of DOR stamps, and they pay a penalty of \$10 per 20 roll-your-own cigarettes.

Section 10 amends RCW 82.24.295 provides that retailers purchasing stamps for roll-your-own cigarettes are allowed additional compensation to offset the cost of the tax under chapter 82.26 RCW, in the amount of five (5) cents per cigarette.

Section 11 amends RCW 82.24.500 to require licensing of persons who provide consumers with access to a

commercial cigarette-making machines.

Section 12 amends RCW 82.24.530 to require an additional fee of \$93 for each application or renewal of license issued to a retailer operating a cigarette-making machine.

Section 13 is a new section making this act effective July 1, 2012.

The Attorney General's Office (AGO) estimates a workload impact of 0.2 Assistant Attorney General (AAG), 0.1 Legal Assistant (LA), and 0.3 Investigator (INV) at a cost of \$70,069 in Fiscal Year (FY) 2013 and in each FY thereafter. The increase in staffing is to provide legal services for the defense of legal challenges and in the investigating and certifying of retailers.

We estimate direct litigation costs at \$5,000 in FY2013 and in each FY thereafter, which are included in this cost. Direct litigation costs are required for litigation expenses such as filing fees and depositions.

This bill has an emergency clause and is assumed to be effective 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.

No cash receipt impact.

The work is MSA related and is funded using Tobacco Prevention & Control Account dollars (account 828).

There is no client agency to bill for legal services.

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.

The AGO estimates a workload impact of 0.2 AAG, 0.1 LA, and 0.3 INV at a cost of \$70,069 in FY2013 and in each FY thereafter. The work is MSA legal services.

We estimate direct litigation costs at \$5,000 in FY2013 and in each FY thereafter, which are included in this cost.

Assumptions:

1. We assume that one (1) or more lawsuits will be filed challenging whether retailers subject to this bill are required to comply with statutory escrow requirements.
2. We assume that five (5) to 10 escrow enforcement lawsuits will be filed annually.

3. We assume new workload requires Tobacco Prevention & Control Account funding in addition to the current funding level.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years		0.6	0.3	0.6	0.6
A-Salaries and Wages		40,889	40,889	81,778	81,778
B-Employee Benefits		11,739	11,739	23,478	23,478
C-Personal Service Contracts		5,000	5,000	10,000	10,000
E-Goods and Services		9,981	9,981	21,962	21,962
G-Travel		560	560	1,120	1,120
J-Capital Outlays		1,900	1,900	1,800	1,800
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$70,069	\$70,069	\$140,138	\$140,138

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
Assistant Attorney General	82,284		0.2	0.1	0.2	0.2
Investigator 4	67,688		0.3	0.2	0.3	0.3
Legal Assistant II	41,316		0.1	0.1	0.1	0.1
Total FTE's	191,288		0.6	0.3	0.6	0.6

III. C - Expenditures By Program (optional)

Program	FY 2012	FY 2013	2011-13	2013-15	2015-17
Revenue Division (REV)		70,069	70,069	140,138	140,138
Total \$		70,069	70,069	140,138	140,138

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.

None.

Department of Revenue Fiscal Note

Bill Number: 2565 3E 2S HB	Title: Roll your own cigarettes	Agency: 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
Total \$		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		
Account					
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		
Total \$	72,700	112,000	184,700	248,000	272,000

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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:	Phone:	Date: 04/12/2012
Agency Preparation: Steve Smith	Phone: 360-534-1518	Date: 04/13/2012
Agency Approval: Don Gutmann	Phone: 360-534-1510	Date: 04/13/2012
OFM Review: Cherie Berthon	Phone: 360-902-0659	Date: 04/13/2012

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.

Note: This fiscal note reflects language in 3E2SHB 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 may be commonly used in these RYO cigarette-making machines because the federal tax rate on pipe tobacco is substantially less than cigarette RYO 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.
- 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 and for providing consumers with access to a RYO cigarette-making machine without providing a container with the appropriate tax stamp or stamps

The bill establishes a fee of \$93 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, and 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.
- It is assumed that allowing the use of noncertified tobacco will not affect the retail prices charged by the roll you own shops.

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		
Total \$	\$72,700	\$112,000	\$184,700	\$248,000	\$272,000

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		
Total FTE's	311,515	0.2		0.1		

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

Bill Number: 2565 3E 2S HB	Title: Roll your own cigarettes	Agency: 195-Liquor Control Board
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Part I: Estimates

☒ **No Fiscal Impact**

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

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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- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 04/12/2012
Agency Preparation: Colin O'Neill	Phone: (360) 664-1675	Date: 04/17/2012
Agency Approval: Michael Kashmar	Phone: 360-664-1690	Date: 04/17/2012
OFM Review: Diamatris Winston	Phone: (360) 902-7657	Date: 04/17/2012

Request # 25653E2SHB-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.

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 impact 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.