

Multiple Agency Fiscal Note Summary

Bill Number: 6569 SB	Title: Tobacco substitutes
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Estimated Cash Receipts

Agency Name	2013-15		2015-17		2017-19	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Revenue	3,443,000	3,444,000	38,776,000	38,785,000	76,644,000	76,660,000
Total \$	3,443,000	3,444,000	38,776,000	38,785,000	76,644,000	76,660,000

Estimated Expenditures

Agency Name	2013-15			2015-17			2017-19		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Revenue	.3	52,300	52,300	.9	162,100	162,100	1.1	189,600	189,600
Liquor Control Board	.0	0	0	.0	0	0	.0	0	0
Total	0.3	\$52,300	\$52,300	0.9	\$162,100	\$162,100	1.1	\$189,600	\$189,600

Estimated Capital Budget Impact

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

Prepared by: Kathy Cody, OFM	Phone: (360) 902-9822	Date Published: Final 2/26/2014
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 37703

FNS029 Multi Agency rollup

Department of Revenue Fiscal Note

Bill Number: 6569 SB	Title: Tobacco substitutes	Agency: 140-Department of Revenue
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Part I: Estimates



No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2014	FY 2015	2013-15	2015-17	2017-19
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax		634,000	634,000	5,451,000	10,351,000
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		46,000	46,000	395,000	751,000
GF-STATE-State 01 - Taxes 26 - Other Tobacco Tax		2,763,000	2,763,000	32,930,000	65,542,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax		1,000	1,000	9,000	16,000
Total \$		3,444,000	3,444,000	38,785,000	76,660,000

Estimated Expenditures from:

	FY 2014	FY 2015	2013-15	2015-17	2017-19
FTE Staff Years	0.2	0.3	0.3	0.9	1.1
Account					
GF-STATE-State 001-1	25,900	26,400	52,300	162,100	189,600
Total \$	25,900	26,400	52,300	162,100	189,600

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:	Dean Carlson	Phone: (360)786-7305	Date: 02/18/2014
Agency Preparation:	Van Huynh	Phone: 360-534-1512	Date: 02/24/2014
Agency Approval:	Don Gutmann	Phone: 360-534-1510	Date: 02/24/2014
OFM Review:	Kathy Cody	Phone: (360) 902-9822	Date: 02/26/2014

Request # 6569-1-1

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.

Under current law, there is no tobacco tax imposed on electronic cigarettes (“e-cigarettes”). Currently, the only tax revenues the state receives are the retailing Business and Occupation (“B&O”) tax and the retail sales tax.

This bill applies the other tobacco products (“OTP”) tax under RCW 82.26.020(1)(b) to e-cigarettes. The tax rate will be 95 percent of the taxable sales price. No deduction from the taxable sales price is allowed for the value of non-tobacco products that are sold together with tobacco products for one non-itemized price.

This tax will apply to preexisting inventories of e-cigarettes also.

This bill is effective July 1, 2014.

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

- Washington’s share of e-cigarette consumption is 1.73 percent of the U.S.
- Consumption of e-cigarettes will be 25 percent less under this bill than otherwise.
- Seller markups total 45 percent currently and 40 percent under this bill.
- Currently, 54 percent of sales are made at actual stores, not through other sources (e.g. internet).
- Growth of e-cigarette consumption is similar to the forecast done by Wells Fargo mentioned below. For example, between Fiscal Year 2014 and 2015, the estimate assumes a 43 percent growth. Between Fiscal Year 2015 and 2016, the estimate assumes a 153 percent growth.
- On average, the OTP tax will apply to 75 percent of the value of e-cigarettes.

DATA SOURCES

The estimate (and certain information herein) is based mostly on data either taken directly from, or derived from, a major study done by Wells Fargo Securities on e-cigarettes. Many other industry sources were also used.

REVENUE ESTIMATES

It is estimated that this bill will increase state revenues by \$3.4 million in the 2013-15 Biennium and \$38.8 million in the 2015-17 Biennium.

Much of this revenue may actually be tax revenue that was lost from reduced sales of conventional cigarettes. The literature shows that the vast majority of e-cigarette users are current tobacco users. Hence, it is likely that there is some reduction in consumption of conventional cigarettes as a result of this fact.

Also, if the federal government begins to regulate e-cigarettes to the same extent and with the same rigor as it does regular cigarettes, the estimate shown may no longer hold.

Lastly, the revenue impact assumes annual compliance rates of 26 percent, 39 percent, and 52 percent (each year thereafter), respectively. For example, in Fiscal Year 2015, it is assumed that only 26 percent of the potential tax revenue

will actually be realized.

The impact to local government will be an increase in revenue of \$225,000 in the 2013-15 Biennium and \$1.9 million in the 2015-17 Biennium.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2014 -	\$ 0
FY 2015 -	\$ 3,444
FY 2016 -	\$ 12,536
FY 2017 -	\$ 26,249
FY 2018 -	\$ 34,303
FY 2019 -	\$ 42,357

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

FY 2014 -	\$ 0
FY 2015 -	\$ 225
FY 2016 -	\$ 676
FY 2017 -	\$ 1,256
FY 2018 -	\$ 1,642
FY 2019 -	\$ 2,027

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.

ASSUMPTIONS:

Expenditures assume 6,200 taxpayers will be affected by this legislation.

FIRST YEAR COSTS:

The Department of Revenue (Department) will incur total costs of \$25,900 in Fiscal Year 2014. These costs include:

Labor Costs - Time and effort equates to 0.2 FTEs.

- Expedite one administrative rule.
- Develop and implement new line code for electronic reporting Other Tobacco Products (OTP) tax on E-cigarettes.

Object Costs - \$4,100

- Printing and postage of one special notice.

SECOND YEAR COSTS:

The Department will incur total costs of \$26,400 in Fiscal Year 2015. These costs include:

Labor Costs - Time and effort equates to 0.3 FTEs.

- Assist taxpayers and resolve error and out of balance returns.

THIRD YEAR COSTS:

The Department will incur total costs of \$62,200 in Fiscal Year 2016. These costs include:

Labor Costs - Time and effort equates to 0.7 FTEs.

- Assist Taxpayers and resolve error and out of balance returns.
- Conducting partial audits of Tobacco products.

ONGOING COSTS:

Ongoing costs for the year 2017-2019 equal \$189,600 and include similar activities described in the second and third year costs. Time and effort equates to 1.1 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2014	FY 2015	2013-15	2015-17	2017-19
FTE Staff Years	0.2	0.3	0.3	0.9	1.1
A-Salaries and Wages	13,500	15,200	28,700	98,900	123,000
B-Employee Benefits	4,000	4,600	8,600	29,700	37,000
E-Goods and Other Services	7,100	4,600	11,700	25,500	27,400
J-Capital Outlays	1,300	2,000	3,300	8,000	2,200
Total \$	\$25,900	\$26,400	\$52,300	\$162,100	\$189,600

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 2014	FY 2015	2013-15	2015-17	2017-19
EXCISE TAX EX 3	50,563		0.3	0.2	0.1	
EXCISE TAX EX 4	55,839	0.0		0.0		
HEARINGS SCHEDULER	32,688	0.0		0.0		
IT SPEC 5	69,756	0.2		0.1		
REVENUE AUDITOR 3	54,505				0.8	1.0
TAX POLICY SP 2	61,628	0.0		0.0		
TAX POLICY SP 3	69,756	0.0		0.0	0.1	0.1
WMS BAND 3	88,546	0.0		0.0		
Total FTE's	483,281	0.2	0.3	0.3	0.9	1.1

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 standard, expedited ETC process to amend WAC 458-20-185 Rule, Tax on tobacco products. Persons affected by this rule-making would include approximately 200 distributors and 6,000 retailers of liquid nicotine.

Individual State Agency Fiscal Note

Bill Number: 6569 SB	Title: Tobacco substitutes	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.

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

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Agency Preparation: Colin O'Neill	Phone: (360) 664-1675	Date: 02/20/2014
Agency Approval: Michael Kashmar	Phone: 360-664-1690	Date: 02/20/2014
OFM Review: Chris Stanley	Phone: (360) 902-9810	Date: 02/20/2014

Request # 6569 SB-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.

Section 1(3a) - "Tobacco product" is defined as:

- i) any product containing, made, or derived from tobacco or nicotine and intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means.
- ii) any electronic device that can be used to deliver nicotine or other substances to a person inhaling from the device, including (but not limited to), an electronic cigarette, cigar, pipe, or hookah.

Section 2(c) - the prohibitions on consumers ordering tobacco products through the mail or internet (RCW 70.15.140) does not apply to cigars defined in RCW 82.26.010 as to which one thousand units weigh more than three pounds.

Section 4 - no deduction from the tobacco tax is allowed for the value of nontobacco products sold together with tobacco products for one nonitemized price.

Section 6 - preexisting inventories of tobacco substitutes are subject to the tax in RCW 82.26.020 (tobacco tax) as of July 1st, 2014.

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 as the Liquor Control Board does not collect tobacco taxes.

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.

Enforcement Division: There will be minimal impact as the e-cigarette and vapor products are an addition to current products in the marketplace regulated by the Liquor Control Board. There will be some education needed for licensees, but the impact is estimated at less than \$50,000. The agency plans to absorb these costs in the current appropriation.

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.