

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 2795 S HB AMH THAR H4509.4	<b>Title:</b> Tobacco substitutes/taxation
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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	536,000	2,037,000	4,077,000	24,883,000	9,974,000	70,889,000
<b>Total \$</b>	<b>536,000</b>	<b>2,037,000</b>	<b>4,077,000</b>	<b>24,883,000</b>	<b>9,974,000</b>	<b>70,889,000</b>

## 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
Department of Health	.0	0	0	.0	0	0	.0	0	0
<b>Total</b>	<b>0.3</b>	<b>\$52,300</b>	<b>\$52,300</b>	<b>0.9</b>	<b>\$162,100</b>	<b>\$162,100</b>	<b>1.1</b>	<b>\$189,600</b>	<b>\$189,600</b>

## Estimated Capital Budget Impact

NONE

<b>Prepared by:</b> Kathy Cody, OFM	<b>Phone:</b> (360) 902-9822	<b>Date Published:</b> Final 3/10/2014
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

FNPID: 37898

FNS029 Multi Agency rollup

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 2795 S HB AMH THAR H4509.4	<b>Title:</b> Tobacco substitutes/taxation	<b>Agency:</b> 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		500,000	500,000	3,800,000	9,300,000
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		36,000	36,000	277,000	674,000
Education Legacy Trust Account-State 01 - Taxes 26 - Other Tobacco Tax		1,500,000	1,500,000	20,800,000	60,900,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax		1,000	1,000	6,000	15,000
<b>Total \$</b>		2,037,000	2,037,000	24,883,000	70,889,000

### 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
<b>Account</b>					
GF-STATE-State 001-1	25,900	26,400	52,300	162,100	189,600
<b>Total \$</b>	25,900	26,400	52,300	162,100	189,600

### 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:	Richelle Geiger	Phone: 360-786-7175	Date: 03/07/2014
Agency Preparation:	Van Huynh	Phone: 360-534-1512	Date: 03/08/2014
Agency Approval:	Don Gutmann	Phone: 360-534-1510	Date: 03/08/2014
OFM Review:	Kathy Cody	Phone: (360) 902-9822	Date: 03/10/2014

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## 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 the nicotine content of products such as 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 to inhalable nicotine products. The tax rate will be 8 cents per milligram of nicotine, or portion thereof, contained within such product.

The tax will apply to preexisting inventories of this product also.

Revenue from this new OTP tax will be deposited in the education legacy trust account.

The bill provides that by January 1, 2015, every inhalable nicotine product and every other tobacco product containing an inhalable nicotine product, and the packaging provided to the consumer containing such products, must be clearly labeled as to the milligram nicotine content of individual inhalable nicotine products and the total nicotine content for multiple inhalable nicotine products contained within a package.

Also, for inhalable nicotine products sold on or after January 1, 2015, that do not comply with the labeling requirements, it is presumed that these products contain 24 milligrams of nicotine per milliliter of product sold.

“Inhalable nicotine product” means any cartridge, bottle, or other product containing nicotine that is used in conjunction with an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

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 consumption is 1.73 percent of the U.S.
- Consumption of these nicotine products will be 19 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).
- 78 percent of inhalable nicotine products consumed are at the 24-milligrams level.

#### 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 \$2.0 million in the 2013-15 Biennium and \$24.9 million in the

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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.

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.

Also, the revenue impact assumes annual compliance rates of 13 percent, 26 percent, 39 percent, and 52 percent (each year thereafter), respectively. For example, in Fiscal Year 2015, it is assumed that only 13 percent of the potential tax revenue will actually be realized.

The impact to local government will be an increase in revenue of \$177,000 in the 2013-15 Biennium and \$1.4 million in the 2015-17 Biennium.

**TOTAL REVENUE IMPACT:**

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

FY 2014 -	\$ 0
FY 2015 -	\$ 2,037
FY 2016 -	\$ 6,383
FY 2017 -	\$ 18,500
FY 2018 -	\$ 32,819
FY 2019 -	\$ 38,070

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

FY 2014 -	\$ 0
FY 2015 -	\$ 177
FY 2016 -	\$ 394
FY 2017 -	\$ 956
FY 2018 -	\$ 1,500
FY 2019 -	\$ 1,800

**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 inhalable nicotine products.

Object Costs - \$4,100

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- 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
<b>Total \$</b>	<b>\$25,900</b>	<b>\$26,400</b>	<b>\$52,300</b>	<b>\$162,100</b>	<b>\$189,600</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 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		
<b>Total FTE's</b>	<b>483,281</b>	<b>0.2</b>	<b>0.3</b>	<b>0.3</b>	<b>0.9</b>	<b>1.1</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 Rule, Tax on tobacco products. Persons affected by this rule-making would include approximately 200 distributors and 6,000 retailers of inhalable nicotine products.

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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2795 S HB AMH THAR H4509.4	<b>Title:</b> Tobacco substitutes/taxation	<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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- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Richelle Geiger	Phone: 360-786-7175	Date: 03/07/2014
Agency Preparation: Aaron Hanson	Phone: 360-664-1701	Date: 03/10/2014
Agency Approval: Michael Kashmar	Phone: 360-664-1690	Date: 03/10/2014
OFM Review: Chris Stanley	Phone: (360) 902-9810	Date: 03/10/2014

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## 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 2(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(3b) - "Tobacco product" does not include any product approved by the U.S. Food and Drug Administration (FDA) for tobacco cessation or other therapeutic purposes.

Section 3(6c) - The prohibitions on consumers ordering tobacco products through the mail or internet (RCW 70.155.140) does not apply to cigars defined in RCW 82.26.010 as to which one thousand units weigh more than three pounds.

Section 4(10) – Defines “inhalable nicotine product” as any cartridge, bottle, or other product containing nicotine that is used in conjunction with an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

Section 4(23) – Defines “tobacco substitute” as any product containing nicotine but not tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means and has not been approved by the U.S. Food and Drug Administration (FDA) for tobacco cessation or other medical purpose.

Section 5(1e) – Inhalable nicotine products are taxed at eight cents per milligram of nicotine contained within the product.

Section 6 - No deduction from the tobacco tax is allowed for the value of nontobacco products sold together with tobacco products for one non-itemized price.

Section 8(2) - Preexisting inventories of tobacco substitutes are subject to the tax in RCW 82.26.020 (tobacco tax) as of July 1st, 2014.

Section 9(1) – Taxes collected by the Department of Revenue on the sale, handling, or distribution of tobacco substitutes must be deposited in the education legacy trust account.

Section 9(2) – By January 1, 2015, packages provided to consumers containing inhalable nicotine products must include labeling that indicates the milligram nicotine content per individual inhalable nicotine product and the total nicotine content for all inhalable nicotine products in the package.

### 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 taxes on tobacco products.

## **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 tobacco substitutes 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.*



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2795 S HB AMH THAR H4509.4	<b>Title:</b> Tobacco substitutes/taxation	<b>Agency:</b> 303-Department of Health
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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.*

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Richelle Geiger	Phone: 360-786-7175	Date: 03/07/2014
Agency Preparation: Stacy May	Phone: 360-236-3927	Date: 03/10/2014
Agency Approval: Kristin Bettridge	Phone: (360) 236-4530	Date: 03/10/2014
OFM Review: Danielle Cruver	Phone: (360) 902-0575	Date: 03/10/2014

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## 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 bill taxes each inhalable nicotine product, eight cents per milligram of nicotine. Requires inhalable nicotine products and every other tobacco product have clear labeling as to the milligram nicotine content of nicotine products or packages of such products to have labels indicating nicotine content by January 1, 2015. Prohibits the sale or distribution of tobacco substitutes to minors and directs the tax revenue generated from the distribution of tobacco substitutes to the Education Legacy Trust Account.

Department of Health is not named in this bill, therefore no fiscal impact.

### 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.*

### 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.*

## 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.*