

Multiple Agency Fiscal Note Summary

Bill Number: 1873 2S HB PL	Title: Vapor product taxation
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Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of State Treasurer	(488,000)	0	(3,574,000)	0	(6,036,000)	0
Office of Attorney General	0	30,000	0	30,000	0	30,000
Department of Revenue	1,904,000	19,105,000	5,116,000	35,041,000	6,280,000	40,816,000
Total \$	1,416,000	19,135,000	1,542,000	35,071,000	244,000	40,846,000

Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		494,999		1,484,999		2,474,999
Local Gov. Total		494,999		1,484,999		2,474,999

Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.1	0	30,000	.1	0	30,000	.1	0	30,000
Department of Revenue	2.5	696,700	696,700	1.5	259,700	259,700	1.4	239,400	239,400
Liquor and Cannabis Board	8.0	0	2,135,348	8.0	0	1,840,338	8.0	0	1,840,338
Department of Health	Fiscal note not available								
Total \$	10.6	696,700	2,862,048	9.6	259,700	2,130,038	9.5	239,400	2,109,738

Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Local Gov. Total						

Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Department of Health	Fiscal note not available								
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

NONE

Prepared by: Kathy Cody, OFM	Phone: (360) 902-9822	Date Published: Preliminary 6/13/2019
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Individual State Agency Fiscal Note

Bill Number: 1873 2S HB PL	Title: Vapor product taxation	Agency: 090-Office of State Treasurer
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
General Fund-State 001-1		(488,000)	(488,000)	(3,574,000)	(6,036,000)
Andy Hill Cancer Research Endowment Fund Match Transfer Account-State 19V-1		244,000	244,000	1,787,000	3,018,000
Foundational Public Health Services Account-State New-1		244,000	244,000	1,787,000	3,018,000
Total \$					

Estimated Operating Expenditures from:

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:	Phone:	Date: 04/29/2019
Agency Preparation: Dan Mason	Phone: (360) 902-8990	Date: 05/03/2019
Agency Approval: Dan Mason	Phone: (360) 902-8990	Date: 05/03/2019
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 05/03/2019

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.

E2SHB 1873 PL creates the foundational public health services account, coupled with the general fund as the recipient of the earnings from investments.

The department of revenue (DOR) provided the section 401 transfer estimates.

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.

The estimates in this fiscal note are the section 401 transfers provided by DOR.

Projected cash flows are currently unavailable; therefore, estimated earnings from investments are indeterminable.

There may be an impact on the debt service limitation calculation. Any change to the earnings credited to the general fund will change, by an equal amount, general state revenues.

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

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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

Bill Number: 1873 2S HB PL	Title: Vapor product taxation	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
Legal Services Revolving Account-State 405-1	15,000	15,000	30,000	30,000	30,000
Total \$	15,000	15,000	30,000	30,000	30,000

Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.1	0.1	0.1	0.1	0.1
Account					
Legal Services Revolving Account-State 405-1	15,000	15,000	30,000	30,000	30,000
Total \$	15,000	15,000	30,000	30,000	30,000

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: 04/29/2019
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 05/01/2019
Agency Approval: Nick Klucarich	Phone: 360-586-3434	Date: 05/01/2019
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 05/07/2019

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 101 is a new section providing definitions, including that “Board” means the Liquor and Cannabis Board (LCB).

Section 102 is a new section levying a tax on the sale, use, consumption, handling, possession, or distribution of all vapor products in this state. The tax must be collected at the time the distributor takes one of a number of actions (e.g., bringing vapor products into the state). The Department of Revenue (DOR) must collect the tax from the consumer of the vapor products where the distributor did not pay the tax on such vapor products.

Section 103 is a new section creating the Essential Public Health Services Account in the state treasury.

Section 104 is a new section stating the intent to impose the tax on all vapor products sold, used consumed, handled, possessed, or distributed within this state, and to impose the tax only once.

Section 105 is a new section providing the tax does not apply to any vapor products that under the Constitution and laws of the United States may not be made the subject of taxation by this state.

Section 106 is a new section requiring distributors to keep complete and accurate records. DOR, LCB, and their duly authorized agents and employees are authorized to enter any place of business of distributors, without a search warrant, to inspect the premises, records required to be kept, and the vapor products contained therein, to determine compliance with the law.

Section 107 is a new section requiring persons licensed under RCW 70.345 to render itemized invoices for each sale.

Section 108 is a new section requiring every retailer to procure and keep itemized invoices of all vapor products purchased. DOR, LCB, and their duly authorized agents and employees are authorized to enter any place of business of distributors, without a search warrant, to inspect the premises for required invoices, and the vapor products contained therein, to determine compliance with the law.

Section 109 is a new section providing a credit as to taxed vapor products shipped or transported out of the state, returned to the manufacturer, destroyed by the distributor, sold to the United States, or sold to an Indian tribal organization, in accordance with rules adopted by DOR. Several terms are defined.

Section 110 is a new section providing that the provisions of RCW 82.32, which are not inconsistent with the provisions of this chapter, have full force and application with respect to the vapor products tax.

Section 111 is a new section requiring DOR to authorize LCB enforcement officers as duly authorized agents to enforce the provisions of this chapter.

Section 112 is a new section providing rulemaking authority to the DOR with respect to the invoice requirements in Sections 106 and 108. A retailer that fails to keep invoices is liable for the tax owed on uninvoiced vapor products, and in certain listed circumstances, penalties and interest.

Section 113 is a new section limiting the persons that may transport vapor products for sale in this state.

Section 114 is a new section requiring LCB to compile and maintain a list of distributors, retailers, and delivery sales licenses under RCW 70.345, which it must update on a monthly basis and publish.

Section 115 is a new section imposing various limitations on persons engaged in or conducting business as a distributor or retailers in this state.

Section 116 is a new section applying to retailers that obtain vapor products from an unlicensed distributor or any other person not licensed under RCW 70.345. Every distributor licensed under RCW 70.345 may sell vapor products only to retailers that have a current retailer's license under RCW 70.345.

Section 117 is a new section requiring manufacturers to provide certain information to the LCB, and keep such provided information current.

Section 118 is a new section addressing the seizure of vapor products from unlicensed distributors and retailers, or persons selling vapor products in violation of RCW 82.24.550(6), as well as forfeiture of vapor products.

Section 119 is a new section requiring DOR or the LCB to proceed as providing in RCW 82.45.135 in all cases of seizure of vapor products made subject to forfeiture under this chapter.

Section 120 is a new section authorizing DOR or the LCB, upon good reason to believe a violation of this chapter has occurred, to apply for a search warrant by making an affidavit of facts.

Section 121 appears to be identical to Section 109.

Section 122 is a new section addressing preexisting inventories of vapor products, including subjecting them to the tax imposed under Section 102.

Section 201 amends RCW 66.08.145 to authorize LCB to issue subpoenas with respect to the new chapter created in Section 408.

Section 202 amends RCW 66.44.010 to authorize LCB to enforce the new chapter created in Section 408.

Section 203 amends RCW 82.24.510 to add references to RCW 70.345.

Section 204 amends RCW 82.24.550 to add references to RCW 70.345 and vapor products, and to define the term "vapor products."

Sections 205 through 208 amend four statutes in RCW 82.26 to add references to RCW 70.345 or to RCW 70.345 and vapor products.

Section 209 amends RCW 82.32.300 to require DOR and LCB to make and publish rules to enforce the new chapter created in Section 408

Section 210 amends RCW 70.345.010 to revise the definition of "distributor."

Section 211 amends RCW 70.345.030 to remove a reference to a person who "sells vapor products to persons

other than ultimate consumers.”

Section 212 amends RCW 70.345.090 to add a definition for “vapor products.”

Section 301 amends the statement of legislative intent in RCW 43.06.450.

Sections 302 through 307 are new sections authorizing and applying to tribal compacts concerning vapor products.

Section 401 adds a new section to Chapter 82 RCW to require DOR by October 15, 2020, and each October 15th thereafter, to estimate any increase in state general fund revenues resulting from the taxes imposed under this Act.

Section 402 is a new section repealing RCW 43.348.900 and Laws of 2015, 3rd sp. sess., ch. 34, § 10.

Section 403 amends RCW 43.348.900 to require the subject funds to be used solely and exclusively for the program created in RCW 43.438.040.

Section 404 amends RCW 82.26.020 to require reductions in the tax as to a product under this subsection when certain conditions are satisfied.

Section 405 provides that the provisions of RCW 82.32.805 and RCW 82.32.808 do not apply to this Act.

Section 406 is a severance clause.

Section 407 addresses conflicts with federal law.

Section 408 creates a new title in RCW 82 with respect to Sections 101 through 122.

Section 409 provides an effective date of October 1, 2019.

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.

Cash receipts are assumed to equal the Legal Service Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is LCB. The AGO will bill all clients for legal services rendered.

These cash receipts represent the AGO’s authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agencies’ fiscal note. Appropriation authority is necessary in the AGO budget.

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.

AGO Agency Assumptions:

1. This bill is assumed effective October 1, 2019.
2. This request does not include cost of living salary increases identified in the Governor's proposed 2019-21 budget.
3. The AGO Agriculture & Health (AHD) division has reviewed this bill and determined it will not significantly increase the division's workload in representing the Department of Health (DOH). This bill will levy a tax on vapor products, a portion of the proceeds of which likely will be appropriated to DOH for public health work. DOH may require a minimal amount of legal advice that will be provided with existing resources. Costs are not included in this request.
4. The AGO Licensing & Administrative Law (LAL) division has reviewed this bill and determined it will not significantly increase the division's workload in representing LCB. This bill imposes taxes on the sale of vapor products. LCB licenses vapor products retailers, but LCB will not collect this tax. LCB has various enforcement powers, including inspection of records and premises of distributors and retailers, and seizure of illegally held vapor products. The bill also authorizes the Department of Revenue (DOR) to enter into tribal vapor products compacts, in consultation with LCB. All of this work may require some legal advice from LAL, but it will be accommodated within existing resources. New legal services are assumed to be nominal and costs are not included in this request.
5. The AGO Revenue & Finance (REV) division has reviewed this bill and determined it will not significantly increase the division's workload in representing the DOR. Although DOR and REV assume this bill will generate one or two excise refund actions per year, those actions will be handled as part of the 50 - 70 refund actions annually received and defended by REV attorneys. The need for legal advice is assumed to be nominal and costs are not included in this request.

Assumptions for the AGO GCE Legal Services for LCB:

1. The AGO will bill LCB for legal services based on the enactment of this bill. GCE litigates enforcement, licensing and finance actions on behalf of LCB.
2. New sections 106 and 108 of this bill require vapor product distributors and retailers to maintain certain records as required by DOR. The failure of a distributor or retailer to allow free access to the records or the hinderance or interference with an examination of the records would subject the entity's vapor license to suspension or revocation by the LCB.
3. Based on data relating to similar provisions for liquor licensees, the LCB assumes this bill will result in an annual increase of 3 new administrative violations each Fiscal Year. GCE concurs with this assumption.
4. GCE assumes that the litigation of each new administrative violation case will utilize an average 30 Assistant Attorney General (AAG) hours. Therefore, beginning in FY 2020 and continuing each year thereafter, the AGO assumes an increase of 90 AAG hours of work for the litigation of these new cases.
5. New section 118 will subject to forfeiture certain vapor products and related instrumentalities. Based on data from similar forfeiture provisions for tobacco products, GCE assumes that this provision of the bill will result in an increase of 1 new forfeiture case each biennium. The litigation of each case is assumed to utilize 60 AAG

hours of work. An increase of 30 AAG hours is divided between each FY beginning in FY 2020.

6. Total workload impact: 0.07 AAG at a cost of \$15,000 per FY beginning in FY 2020.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
405-1	Legal Services Revolving Account	State	15,000	15,000	30,000	30,000	30,000
Total \$			15,000	15,000	30,000	30,000	30,000

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.1	0.1	0.1	0.1	0.1
A-Salaries and Wages	10,000	10,000	20,000	20,000	20,000
B-Employee Benefits	3,000	3,000	6,000	6,000	6,000
E-Goods and Other Services	2,000	2,000	4,000	4,000	4,000
Total \$	15,000	15,000	30,000	30,000	30,000

III. C - Operating FTE 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 2020	FY 2021	2019-21	2021-23	2023-25
Assistant Attorney General	103,560	0.1	0.1	0.1	0.1	0.1
Total FTEs		0.1	0.1	0.1	0.1	0.1

III. D - Expenditures By Program (optional)

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25
Government Compliance & Enforcement Division (GCE)	15,000	15,000	30,000	30,000	30,000
Total \$	15,000	15,000	30,000	30,000	30,000

Part IV: Capital Budget Impact

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.

None

Department of Revenue Fiscal Note

Bill Number: 1873 2S HB PL	Title: Vapor product taxation	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax	455,000	1,320,000	1,775,000	4,770,000	5,855,000
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	33,000	96,000	129,000	346,000	425,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	1,000	2,000	3,000	7,000	10,000
NEW2-State 00 - 00 -	2,987,000	5,612,000	8,599,000	14,959,000	17,263,000
NEW-State 00 - 00 -	2,987,000	5,612,000	8,599,000	14,959,000	17,263,000
Total \$	6,463,000	12,642,000	19,105,000	35,041,000	40,816,000

Estimated Expenditures from:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	3.4	1.6	2.5	1.5	1.4
GF-STATE-State 001-1	556,700	140,000	696,700	259,700	239,400
Total \$	556,700	140,000	696,700	259,700	239,400

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:	Phone:	Date: 04/29/2019
Agency Preparation: Van Huynh	Phone: 360-534-1512	Date: 05/01/2019
Agency Approval: Don Gutmann	Phone: 360-534-1510	Date: 05/01/2019
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 05/07/2019

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 E2SHB 1873 as passed in the 2019 Legislative Session.

CURRENT LAW:

Currently, there is no tobacco tax imposed on vapor products. The only state tax revenues from these products are the retailing business and occupation (B&O) tax and the retail sales tax.

WHAT THIS BILL DOES:

This bill imposes a new tax on vapor products ("vapor tax"). The tax will be based on the volume of the solution, as listed by the manufacturer. The tax rates will be as follow:

- Any accessible container of solution, regardless of whether it contains nicotine, that is greater than five milliliters (mL), is taxed at 9-cents per mL.
- All other vapor products are taxed at 27-cents per mL.

Preexisting inventories of vapor products are subject to the vapor tax. All retailers and other distributors must report the tax due on preexisting inventories by October 31, 2019. Such tax due must be paid by January 31, 2020.

Under this bill, the tax imposed on a product under RCW 82.26 (other tobacco products) must be reduced by 50 percent if that same product is issued a modified risk tobacco product order by the Secretary of the U.S. Department of Health and Human Services through Title 21 U.S.C. Sec. 387k(g)(2). The tax reduction applies during the period the modified risk tobacco product order is in effect.

The bill creates the foundational public health services account in the state treasury.

Revenues from the vapor tax must be deposited as follow:

- 50 percent into the Andy Hill cancer research endowment fund match transfer account in RCW 43.348.080; and
- 50 percent into the foundational public health services account.

The bill provides that by October 15, 2020, and by each October 15 thereafter, the Department of Revenue (Department) must estimate any increase in state general fund revenue for the immediately preceding fiscal year resulting from this new tax. The Department must notify the state Treasurer of these estimated amounts. Beginning November 1, 2020, and by each November 1 thereafter, the Treasurer must transfer from the general fund these estimated amounts as follow: 50 percent into the Andy Hill cancer research endowment fund match transfer account in RCW 43.348.080 and 50 percent into the foundational public health services account.

This bill authorizes tribal compacting for vapor products under the same model as cigarettes.

"Vapor product" is any noncombustible product containing a solution or other consumable substance, regardless of whether it contains nicotine, which employs a mechanical heating element, battery, or electronic circuit regardless of shape or size that can be used to produce vapor from the solution or other substance, including an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term also includes any cartridge or other container of liquid nicotine, solution, or other consumable substance, regardless of whether it contains nicotine, that is intended to be used with or in a device that can be used to deliver aerosolized or vaporized nicotine to a person inhaling from the device and is sold for such purpose.

"Accessible container" is a container that is intended to be opened. The term does not mean a closed cartridge or closed

container that is not intended to be opened, such as a disposable e-cigarette.

This bill is effective October 1, 2019.

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 vaping consumption is 2.2 percent of the U.S. total.
- Currently, 79 percent of sales are made at actual stores, not through other sources (e.g. Internet).
- Growth in the quantity (milliliter/mL) of e-juice consumed is tied to both the WA population growth and the prevalence growth of three percent.
- Average retail price of one mL of e-juice is \$0.68.
- Annual compliance rates will be 50, 60, 70, and 80% (each year thereafter) respectively.
- All additional retail sales tax and business and occupation tax collections are deposited into the general fund until the Treasurer makes distributions on November 1 of each year.
- The first transfer from the general fund will occur on November 1, 2020.
- These transfers will be shown on the Treasurer's fiscal note.
- Fiscal Year 2020 has eight months of revenue impact due to the October 1, 2019, effective date.

DATA SOURCES

- The estimate (and certain information herein) is based primarily on data taken directly from, or derived from, research done by Wells Fargo Securities on vaping.
- These estimates use the updated forecast of U.S. sales of vapor products from Wells Fargo.
- Office of Financial Management
- Many other industry sources were also used.

REVENUE ESTIMATES

This bill will increase state revenues by \$19.1 million and local revenues by \$500,000 in the 2019-21 Biennium.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2020 -	\$ 6,463
FY 2021 -	\$ 12,642
FY 2022 -	\$ 15,817
FY 2023 -	\$ 19,224
FY 2024 -	\$ 20,005
FY 2025 -	\$ 20,811

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

FY 2020 -	\$ 200
FY 2021 -	\$ 300
FY 2022 -	\$ 600
FY 2023 -	\$ 900
FY 2024 -	\$ 1,200
FY 2025 -	\$ 1,300

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:

- This estimate affects 3,400 taxpayers.

FIRST YEAR COSTS:

The Department will incur total costs of \$556,700 in Fiscal Year 2020. These costs include:

Labor Costs - Time and effort equates to 3.4 FTEs.

- Set up, program and test computer system changes for a two new quantity reporting lines for vapor tax, a new vapor credit, supporting indicators and issuance codes.
- Create a new account type and new online forms including those for reporting preexisting inventory.
- Update and create tracking reports and letters.
- Answer phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants/CPAs.
- Create and update website information and publications.
- Create a special notice.
- Respond to letter ruling requests and email inquiries.
- Review LCB reports and complete assessments to assess vapor tax.
- Process preexisting inventory returns.
- Resolve additional error and out of balance and amended returns, respond to secure messages and correspondence, answer telephone questions, monitor reports and assist taxpayers with reporting.
- Prepare and conduct hearings for taxpayer appeals.
- Adopt one new administrative rule.

Object Costs - \$222,900.

- Contract computer system programming.
- Print and mail a special notice.
- Print and mail preexisting inventory returns.

SECOND YEAR COSTS:

The Department will incur total costs of \$140,000 in Fiscal Year 2021. These costs include:

Labor Costs - Time and effort equates to 1.6 FTEs.

- Respond to letter ruling requests and email inquiries.
- Review LCB reports and complete assessments to assess vapor tax.
- Resolve additional error and out of balance and amended returns, respond to secure messages and correspondence, answer telephone questions, monitor reports and assist taxpayers with reporting.
- Prepare and conduct hearings for taxpayer appeals.

ONGOING COSTS:

Ongoing costs for the 2021-2023 Biennium equal \$259,700 and include similar activities described in the second year costs. Time and effort equates to 1.6 FTEs in Fiscal Year 2022 and 1.4 FTEs in Fiscal Year 2023.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	3.4	1.6	2.5	1.5	1.4
A-Salaries and Wages	209,200	92,700	301,900	171,500	157,600
B-Employee Benefits	62,700	27,700	90,400	51,300	47,200
C-Professional Service Contracts	220,000		220,000		
E-Goods and Other Services	42,400	16,300	58,700	30,700	28,800
J-Capital Outlays	22,400	3,300	25,700	6,200	5,800
Total \$	\$556,700	\$140,000	\$696,700	\$259,700	\$239,400

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 2020	FY 2021	2019-21	2021-23	2023-25
EMS BAND 4	115,593	0.0		0.0		
EMS BAND 5	135,039	0.0		0.0		
EXCISE TAX EX 3	56,256	1.4	1.4	1.4	1.4	1.4
FISCAL ANALYST 4	54,924	0.1		0.1		
FORMS AND RECORDS	54,924	0.1		0.1		
ANALYST SUPV						
IT SPEC 4	70,320	0.1		0.1		
MGMT ANALYST1	45,096	0.0		0.0		
MGMT ANALYST4	63,684	1.1		0.6		
TAX INFO SPEC 1	40,908	0.1		0.1		
TAX INFO SPEC 4	60,636	0.2	0.1	0.2	0.1	
TAX POLICY SP 3	77,616	0.3	0.1	0.2	0.1	
TAX POLICY SP 4	83,556	0.0		0.0		
WMS BAND 3	98,308	0.0		0.0		
Total FTEs		3.4	1.6	2.5	1.5	1.4

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.

Should this legislation become law, the Department will use the complex rule-making process to adopt one new rule under chapter 458-xx WAC. Persons affected by this rule making would include sellers of vapor products.

Individual State Agency Fiscal Note

Bill Number: 1873 2S HB PL	Title: Vapor product taxation	Agency: 195-Liquor and Cannabis Board
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	8.0	8.0	8.0	8.0	8.0
Account					
Foundational Public Health Services Account-State NEW-1	1,215,179	920,169	2,135,348	1,840,338	1,840,338
Total \$	1,215,179	920,169	2,135,348	1,840,338	1,840,338

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: 04/29/2019
Agency Preparation: Colin O Neill	Phone: (360) 664-1675	Date: 05/03/2019
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 05/03/2019
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 05/03/2019

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 101: "Vapor product" means any noncombustible product containing a solution or other consumable substance, regardless of whether it contains nicotine, which employs a mechanical heating element, battery, or electronic circuit regardless of shape or size that can be used to produce vapor from the solution or other substance, including an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term also includes any cartridge or other container of liquid nicotine, solution, or other consumable substance, regardless of whether it contains nicotine, that is intended to be used with or in a device that can be used to deliver aerosolized or vaporized nicotine to a person inhaling from the device and is sold for such purposes.

Section 102: Taxes vapor products at 27 cents/milliliter of solution, regardless of whether it contains nicotine, on all vapor products except accessible containers of solution that are greater than 5ml in size, which are taxed at 9 cents/milliliter of solution. The tax is imposed based on the volume of solution as listed by the manufacturer. The tax is collected at the distributor level, or from the consumer if the tax was not paid by the distributor. 50% of the revenue from the vapor product tax is deposited into the Andy Hill cancer research endowment fund match transfer account, and 50% into the foundational public health services account created in section 103.

Section 103: Creates the foundational public health services account. The distribution of funds deposited into this account are as follows:

1) For foundational health services, during the 2019-21 biennium, at least \$12 million of the funds deposited into this account. Beginning in the 2021-23 biennium, 50% of the funds deposited into this account, but no less than \$12 million per biennium.

2) For tobacco, vapor products, and nicotine control and prevention, and other substance use prevention and education. Beginning in the 2021-23 biennium, 17% of the funds deposited into this account are to be used for this purpose.

3) To support increased access and training of public health professionals at public health programs at higher education institutions in Washington state. Beginning in the 2021-23 biennium, 5% of the funds deposited into this account are to be used for this purpose.

4) To fund enforcement by the Washington State Liquor and Cannabis Board ("Board"), no more than 8% of the funds deposited into this account are to be used for this purpose.

Sect 106-108: record-keeping requirements for vapor product distributors and retailers.

Sect 109: A distributor that has paid the vapor product tax upon product that is subsequently: 1) shipped or transported outside of this state to a vapor product seller, 2) returned to the manufacturer, 3) destroyed by the distributor, 4) sold to the US government or its agencies, or 5) sold to any Indian tribal organization, the distributor may receive credit for the tax paid.

Sect 111: The Department of Revenue (DOR) must authorize, as duly authorized agents, enforcement officers of the Board to enforce the provisions of this chapter.

Sect 112: DOR may establish invoice detail requirements for vapor product distributors and retailers.

Sect 113: Vapor products for sale may only be transported by authorized persons - distributor, manufacturer's

representative, retailer, delivery sale licensee, or a person who has given notice to the Washington State Liquor and Cannabis Board (“Board”) in advance of the transportation of the vapor products to be sold. If DOR, the Board, or any peace officer of the state, has knowledge or reasonable grounds to believe that a vehicle is transporting vapor products in violation of this section, DOR, the Board, or the peace officer is authorized to stop the vehicle and inspect for contraband vapor products.

Sect 114: The Board must compile and maintain a current record of all vapor product distributors, retailers, delivery sales licensees and the status of their licenses. This information must be updated on a monthly basis on the Board’s internet site.

Sect 115: This section sets penalties for unauthorized vapor product delivery activities; invoices are required to transport vapor products for sale.

Sect 116: A vapor product retailer purchasing vapor products from unlicensed entities must be a licensed vapor products distributor.

Sect 117: Vapor product manufacturers that have representatives that sell or distribute the manufacturer’s vapor products within this state, must provide a list of their representatives to the Board, and the representative may not distribute or sell unless the manufacturer is a valid vapor products distributor licensee. The manufacturer must ensure that the list is kept current and the representative must carry a copy of the distributor’s vapor products license at all times when selling or distributing the manufacturer’s vapor products.

Sect 118: Vapor products in the possession of a person selling vapor products and not licensed as required, may be seized without a warrant and are deemed forfeited. Conveyances used to transport vapor products may be seized, with certain exceptions (common carrier, etc). Any vapor products seized by a law enforcement officer must be turned over to the Board as soon as practicable.

Sect 119: When vapor products are forfeited, DOR or the Board may retain the property, sell at public auction, or return the property (if there was no intention to violate this chapter, and as long as the vapor products tax was paid).

Sect 120: DOR or the Board may obtain warrants to search for, and seize vapor products found to be in violation of the provisions of this chapter.

Sect 121: Appears to be duplicate of Sect 109.

Sect 122: Makes preexisting inventories of vapor products subject to the vapor products tax; the amount of the tax due must be reported to DOR by October 31, 2019, and the tax owed must be paid on or before January 31, 2020. Late fees of the greater of \$250 or 10% of the tax owed will apply, as well as interest accrued after February 1, 2020 on unpaid tax on pre-existing inventory.

Section 202: The Washington State Liquor and Cannabis Board (“Board”) has the authority to enforce Part One of this act.

Part III: Authorizes the Governor to enter into vapor products taxation compacts with federally recognized Indian tribes, and establishes requirements for such compacts.

Sect 401: DOR must estimate any increase in general fund revenue collections for the preceding year resulting

from vapor product taxes. Beginning November 2020, the State Treasurer's Office must transfer from the general fund, the amounts estimated by DOR; 50% into the Andy Hill cancer research endowment fund match transfer account, and 50% into the foundational public health services account created in section 103.

Section 403: Amounts deposited into the Andy Hill cancer research endowment fund match transfer account, from vapor product taxes, that cause the account to exceed the cap of \$10 million annually, must be deposited into the foundational public health services account created in section 103.

Section 404: Taxes imposed on an Other Tobacco Product (OTP) must be reduced by 50% if that product is issued a modified risk tobacco product order under Title 21 USC Sec. 387k(g)(1), or by 25% if that product is issued a modified risk tobacco product order under Title 21 USC Sec. 387k(g)(2).

Sect 409: The act is effective October 1, 2019.

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 to the Washington State Liquor and Cannabis Board ("Board") as the Department of Revenue (DOR) would be the agency responsible for collecting the vapor products tax.

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.

Notes: The effective date is October 1, 2019, but the Washington State Liquor and Cannabis Board ("Board") will need to form the agency's new vapor tax unit and have officers in place prior to October 1st, so FY20 costs are assumed for the entire year. Section 103(4) states that no more than 8% of the funds deposited into the Foundational Public Health Services Account may be appropriated for the Board's enforcement of the vapor product tax.

Enforcement Division:

The LCB keeps detailed statistics on all of its enforcement activities and tracks this activity using a unit of measure called a Field Increment (FI). All direct enforcement activities such as premise checks, inspections and investigations are tracked to determine how many FI's are needed to accomplish each activity. Each FI is equivalent to 1/10th of an hour (6 minutes). For example, if a tavern premise check takes 2 FI's and two officers, it is anticipated that one check will consume 4 FI's. Using historical data to factor out indirect activities such as driving time, training, office time and leave, it has been determined that officers are available for an average of 4,220 FI's each year.

The Enforcement Division will enforce the vapor product tax regulations on behalf of the Department of Revenue. Workload is expected to be driven by complaint investigations, audits, surveillance, court testimony, education, and contact with other law enforcement agencies. The calculated workload impact of this bill requires 5.0 LCB Enforcement Officer 2's (LEO2), 1 LCB Enforcement Officer 4 (LEO4), a Commander (WMS2), and an Administrative Assistant 2 (AA2) for staff support. Please see the attached "1873 2SHB.PL Vapor products Tax Enforcement Field Increment Calculator" for the officer workload calculations.

5.0 LEO2: \$579,310/yr ongoing (\$499,510 in salary/benefits, \$79,800 in associated costs). Onetime costs in FY20 of \$133,975 for equipment and training.

1.0 LEO4: \$127,258/yr ongoing (\$110,938 in salary/benefits, \$16,320 in associated costs). Onetime costs in FY20 of \$24,325 for equipment and training.

1.0 WMS2: \$140,010/yr ongoing (\$127,920 in salary/benefits, \$12,090 in associated costs). Onetime costs in FY20 of \$6,105 for equipment and training.

1.0 AA2: \$64,811/yr ongoing (\$62,041 in salary/benefits, \$2,770 in associated costs). Onetime costs in FY20 of \$6,105 for equipment and training.

The Board intends to utilize officer overtime to perform audits of pre-existing vapor products inventory (Section 122) and for licensee education. Estimated at 526 hours of officer (LEO2) overtime at \$86.50/hr = \$45,500 in FY20.

Section 118 requires local law enforcement to turn over any vapor products seized to the Board, as soon as is practicable. This will increase the amount of evidence stored by the Board - the estimate is that the existing evidence warehouse space would need to be increased by 33%. Costs associated with the existing warehouse in FY18 were \$26,338. 33% of that would be an estimated \$8,780/year ongoing. The Board also estimates \$67,000 in FY20 for one-time buildout costs related to the expansion.

Information Technology Division:

There will be one-time costs to update the Enforcement Notebook software (120 hours x \$100/hr = \$12,000).

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
NEW-1	Foundational Public Health Services Account	State	1,215,179	920,169	2,135,348	1,840,338	1,840,338
Total \$			1,215,179	920,169	2,135,348	1,840,338	1,840,338

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	8.0	8.0	8.0	8.0	8.0
A-Salaries and Wages	615,056	569,556	1,184,612	1,139,112	1,139,112
B-Employee Benefits	230,853	230,853	461,706	461,706	461,706
C-Professional Service Contracts	12,000		12,000		
E-Goods and Other Services	179,340	42,360	221,700	84,720	84,720
G-Travel	100,420	76,420	176,840	152,840	152,840
J-Capital Outlays	77,510	980	78,490	1,960	1,960
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	1,215,179	920,169	2,135,348	1,840,338	1,840,338

III. C - Operating FTE 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 2020	FY 2021	2019-21	2021-23	2023-25
Administrative Assistant 2	41,856	1.0	1.0	1.0	1.0	1.0
LCB Enforcement Officer 2	70,320	5.0	5.0	5.0	5.0	5.0
LCB Enforcement Officer 4	79,548	1.0	1.0	1.0	1.0	1.0
WMS Band 2 (Commander)	96,552	1.0	1.0	1.0	1.0	1.0
Total FTEs		8.0	8.0	8.0	8.0	8.0

III. D - Expenditures By Program (optional)

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25
Enforcement Division (060)	1,203,179	920,169	2,123,348	1,840,338	1,840,338
Information Technology Division (070)	12,000		12,000		
Total \$	1,215,179	920,169	2,135,348	1,840,338	1,840,338

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.

1873 2SHB.PL - Enforcement Field Increment (FI) Calculator				
"Vapor Products Tax" (27 cents/ml & 9 cents/ml)				
	Number of events	Time Factor	Staffing Factor	FI Total
Vapor Product Complaints (non tobacco)	50	7	1.3	458
Surveillance Operations Long Term	13	100	3	3,772
Surveillance Operations (All others)	8	10	3	226
Vapor Product-Only Retailer Premises Checks	295	6	1.3	2,301
Non RVP Member Support and Education	259	7	1	1,810
OTP Audit (vapor-only retailers)	74	10	1	738
OTP Audit (vapor combo retailers)	319	10	1	3,189
Premises Checks Vapor	797	6	1.3	6,219
Administrative Violation Notice (AVN) Issuance	67	12	1.3	1,046
Annual Inspection	82	10	1.3	1,066
Total FI's				20,825
Total Field Increments per FTE				4,220
FTE's required				4.93
Round				5.00

Factors	Frequency	Basis
# of Vapor combo* retail licensees	3189	historical data
# of Vapor Product Distributors In-State	164	historical data
Subtotal	3353	sum of lines above
# of Vapor Product-only retail licensees	295	historical data
Vapor Product Complaints (non tobacco)	2%	historical data
Surveillance Operations Long Term	25%	
Surveillance Operations (All others)	15%	
Vapor Product-Only Retailer Premises Checks	295	1 per year
Non RVP Member Support and Education	8%	
OTP Audit (vapor-only retailers)	25%	
OTP Audit (vapor combo retailers)	10%	
Premises Checks Vapor	25%	increase in tax enforcement due to increase in tax
Administrative Violation Notice (AVN) Issuance	2%	historical data
Annual Inspection	50%	in-state vapor product distributors
Complaint Investigations Tobacco Tax	12	historical data

* "Vapor combo" refers to a retailer that has both tobacco and vapor product retailer licenses

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1873 2S HB PL	Title: Vapor product taxation
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities: Sales tax revenue increase as a result of pre-sale price adjustment, potential costs for enforcing a new misdemeanor.
- Counties: Same as above
- Special Districts: Sales tax revenue increase as a result of pre-sale price adjustment
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time:

Estimated revenue impacts to:

Jurisdiction	FY 2020	FY 2021	2019-21	2021-23	2023-25
City	64,825	97,238	162,063	486,189	810,315
County	67,379	101,069	168,448	505,345	842,242
Special District	65,795	98,693	164,488	493,465	822,442
TOTAL \$	197,999	297,000	494,999	1,484,999	2,474,999
GRAND TOTAL \$					4,454,997

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Tom Gilmore	Phone: 360-725-5038	Date: 05/20/2019
Leg. Committee Contact:	Phone:	Date: 04/29/2019
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 05/20/2019
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 05/20/2019

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

CHANGES FROM PREVIOUS BILL VERSION:

This bill adds a new misdemeanor for refusal to allow an officer of the board to conduct an inspection.

SUMMARY OF CURRENT BILL VERSION:

This bill imposes a new tax on vapor products ("vapor tax"). The tax will be based on the volume of the solution, as listed by the manufacturer. The tax rates will be as follow:

- Any accessible container of solution, regardless of whether it contains nicotine, that is greater than five milliliters (mL), is taxed at 9-cents per mL.
- All other vapor products are taxed at 27-cents per mL.

Preexisting inventories of vapor products are subject to the vapor tax. All retailers and other distributors must report the tax due on preexisting inventories by October 31, 2019. Such tax due must be paid by January 31, 2020.

Under this bill, the tax imposed on a product under RCW 82.26 (other tobacco products) must be reduced by 50 percent if that same product is issued a modified risk tobacco product order by the Secretary of the U.S. Department of Health and Human Services through Title 21 U.S.C. Sec. 387k(g)(2). The tax reduction applies during the period the modified risk tobacco product order is in effect.

The bill creates the foundational public health services account in the state treasury.

Revenues from the vapor tax must be deposited as follow:

- 50 percent into the Andy Hill cancer research endowment fund match transfer account in RCW 43.348.080; and
- 50 percent into the foundational public health services account.

The bill provides that by October 15, 2020, and by each October 15 thereafter, the Department of Revenue (Department) must estimate any increase in state general fund revenue for the immediately preceding fiscal year resulting from this new tax. The Department must notify the state Treasurer of these estimated amounts. Beginning November 1, 2020, and by each November 1 thereafter, the Treasurer must transfer from the general fund these estimated amounts as follow: 50 percent into the Andy Hill cancer research endowment fund match transfer account in RCW 43.348.080 and 50 percent into the foundational public health services account.

This bill authorizes tribal compacting for vapor products under the same model as cigarettes.

"Vapor product" is any noncombustible product containing a solution or other consumable substance, regardless of whether it contains nicotine, which employs a mechanical heating element, battery, or electronic circuit regardless of shape or size that can be used to produce vapor from the solution or other substance, including an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term also includes any cartridge or other container of liquid nicotine, solution, or other consumable substance, regardless of whether it contains nicotine, that is intended to be used with or in a device that can be used to deliver aerosolized or vaporized nicotine to a person inhaling from the device and is sold for such purpose.

"Accessible container" is a container that is intended to be opened. The term does not mean a closed cartridge or closed container that is not intended to be opened, such as a disposable e-cigarette.

This bill adds a new misdemeanor for refusal to allow an officer of the board to conduct an inspection.

This bill is effective October 1, 2019.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

This bill would have indeterminate impacts on local government. This bill would create a gross misdemeanor, the number of violations cannot be estimated.

For illustrative purposes, non-traffic misdemeanor cases (including gross misdemeanor cases) cost an average of \$963 for law enforcement, \$754 for prosecution and \$216 for indigent defense. Jail costs are \$ 114 per day.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

This bill would not directly change sales tax revenue source for local governments. The tax implemented in this bill would be assessed to affected products in a manner which would increase the retail selling price of these products which would result in a higher assessment of existing retail sales taxes. This would result in increased local revenues of an estimated \$198,000 in FY 2020 and by an estimated \$297,000 in FY 2021.

LOCAL GOVERNMENT REVENUE IMPACT:

Counties:

FY 2020 -	\$67,379
FY 2021 -	\$101,069
FY 2022 -	\$202,138
FY 2023 -	\$303,207
FY 2024 -	\$404,276
FY 2025 -	\$437,966

Cities:

FY 2020 -	\$64,825
FY 2021 -	\$97,238
FY 2022 -	\$194,476
FY 2023 -	\$291,713
FY 2024 -	\$388,951
FY 2025 -	\$421,364

Special Districts:

FY 2020 -	\$65,795
FY 2021 -	\$98,693
FY 2022 -	\$197,386
FY 2023 -	\$296,079
FY 2024 -	\$394,772
FY 2025 -	\$427,670

METHODOLOGY:

The distributions in this note for cities, counties, and special districts are based on Department of Revenue (DOR) data for local sales and use tax distributions from calendar year 2015 (the most current year available). Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. School districts are also not included in the special districts distribution. This results in a distribution of 34.03 percent to counties, 32.74 percent to cities, and 33.23 percent to special districts. The one percent DOR administrative fee has also been accounted for.

Note: School district impacts, including construction costs, operating costs, levy shifts, and other revenue impacts are described in fiscal notes prepared by the OSPI School District Fiscal Note process. Local Government Fiscal Notes include impacts to all other local governments (cities, counties, special districts). Please refer to the School District Fiscal Note for school district fiscal impacts.

SOURCES:

Department of Revenue fiscal note
Department of Revenue Local Tax Distributions (2016)
Local Government Fiscal Note program "Local Sales Tax" model (2019)
Local Government Fiscal Note program "Sales and Use Tax Distribution" model (2019)