

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1345 HB	<b>Title:</b> Products sold to adults 21+
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## Estimated Cash Receipts

Agency Name	2021-23			2023-25			2025-27		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Revenue	(4,208,000)	(4,208,000)	(13,414,000)	(5,730,000)	(5,730,000)	(18,264,000)	(5,502,000)	(5,502,000)	(17,540,000)
Liquor and Cannabis Board	0	0	187,500	0	0	187,500	0	0	187,500
<b>Total \$</b>	<b>(4,208,000)</b>	<b>(4,208,000)</b>	<b>(13,226,500)</b>	<b>(5,730,000)</b>	<b>(5,730,000)</b>	<b>(18,076,500)</b>	<b>(5,502,000)</b>	<b>(5,502,000)</b>	<b>(17,352,500)</b>

Agency Name	2021-23		2023-25		2025-27	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		(1,726,000)		(2,350,000)		(2,257,000)
Local Gov. Total		(1,726,000)		(2,350,000)		(2,257,000)

## Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Revenue	7.8	1,673,100	1,673,100	1,708,300	.3	54,500	54,500	54,500	.2	43,600	43,600	43,600
Liquor and Cannabis Board	3.2	0	0	877,738	3.0	0	0	732,030	3.0	0	0	732,030
Department of Health	.0	0	0	0	.0	0	0	0	.0	0	0	0
<b>Total \$</b>	<b>11.0</b>	<b>1,673,100</b>	<b>1,673,100</b>	<b>2,586,038</b>	<b>3.3</b>	<b>54,500</b>	<b>54,500</b>	<b>786,530</b>	<b>3.2</b>	<b>43,600</b>	<b>43,600</b>	<b>775,630</b>

## Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
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	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

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<b>Prepared by:</b> Ramona Nabors, OFM	<b>Phone:</b> (360) 902-0547	<b>Date Published:</b> Final 2/ 1/2021
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# Department of Revenue Fiscal Note

<b>Bill Number:</b> 1345 HB	<b>Title:</b> Products sold to adults 21+	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2022	FY 2023	2021-23	2023-25	2025-27
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax	(1,170,000)	(2,753,000)	(3,923,000)	(5,342,000)	(5,130,000)
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	(85,000)	(200,000)	(285,000)	(388,000)	(372,000)
Andy Hill Cancer Research Endowment Fund Match Transfer Account-State 01 - Taxes 70 - Other Taxes	(1,372,000)	(3,228,000)	(4,600,000)	(6,263,000)	(6,015,000)
Foundational Public Health Services Account-State 01 - Taxes 70 - Other Taxes	(1,372,000)	(3,228,000)	(4,600,000)	(6,263,000)	(6,015,000)
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	(2,000)	(4,000)	(6,000)	(8,000)	(8,000)
<b>Total \$</b>	(4,001,000)	(9,413,000)	(13,414,000)	(18,264,000)	(17,540,000)

### Estimated Expenditures from:

Account	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	11.3	4.3	7.8	0.3	0.2
GF-STATE-State 001-1	1,274,000	399,100	1,673,100	54,500	43,600
Business License Account-State 03N-1	35,200		35,200		
<b>Total \$</b>	1,309,200	399,100	1,708,300	54,500	43,600

### 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:	Peter Clodfelter	Phone: 360-786-7127	Date: 01/22/2021
Agency Preparation:	Van Huynh	Phone: 360-534-1512	Date: 01/28/2021
Agency Approval:	Don Gutmann	Phone: 360-534-1510	Date: 01/28/2021
OFM Review:	Ramona Nabors	Phone: (360) 902-0547	Date: 02/01/2021

Request # 1345-1-1

## 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.*

#### CURRENT LAW:

Under RCW 82.25.010, there is a tax on vapor products (“vapor tax”). The vapor tax is based on the volume of the solution, as listed by the manufacturer. The tax rates are as follow:

- Any accessible container of solution, regardless of nicotine content, 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.

Revenues from the vapor tax are 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.

"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.

#### WHAT THIS BILL DOES:

The legislature intends to ban the sale of flavored vapor products and enact additional regulatory protections to protect the health of youth and young adults in Washington.

This bill replaces the current vapor tax structure with a different one. The new tax is an excise tax of 45 percent of the selling price on each retail sale of vapor products in Washington. This tax is separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is not part of the total retail price to which general state and local sales and use taxes apply.

A bundled transaction that includes a vapor product is subject to the new excise tax on the entire selling price of the bundled transaction.

The bill also imposes new business and occupation (B&O) tax surcharges.

Beginning with business activities occurring on July 1, 2021, and thereafter, a vapor products surcharge is imposed as follows:

- Every Washington manufacturer of vapor products, in addition to the tax imposed under RCW 82.04.240 (standard B&O tax on manufacturers), a surcharge equal to the value of the manufactured vapor products, including by-products, multiplied by the rate of 4.4 percent;
- Every Washington vapor product distributor licensed under RCW 70.345.020, in addition to the tax imposed under RCW 82.04.240 (standard B&O tax on wholesalers), a surcharge equal to the value of the manufactured vapor products, including by-products, multiplied by the rate of 4.4 percent.

Beginning with business activities occurring on July 1, 2021, and thereafter, a tobacco products surcharge is imposed as follows:

- Every Washington manufacturer of tobacco products, in addition to the tax imposed under RCW 82.04.240 (standard B&O tax on manufacturers), a surcharge equal to the value of the manufactured tobacco products, including by-products, multiplied by the rate of 4.4 percent;
- Every Washington tobacco product distributor licensed under RCW 82.26.190, in addition to the tax imposed under RCW 82.04.240 (standard B&O tax on wholesalers), a surcharge equal to the value of the manufactured tobacco products, including by-products, multiplied by the rate of 4.4 percent.

The bill adds a new section to RCW 82.25, creating a tax credit so that vapor products taxed at the wholesale level under the law as it existed immediately before the effective date of this new tax are not also taxed in a retail sale under the provisions of this bill.

Under this bill, a vapor product may no longer be sold or offered for sale if the product has nicotine salts or other ingredients that result in nicotine concentrations that exceed any of the following comparative levels of nicotine:

- 20 milligrams of nicotine per milliliter of liquid;
- Nicotine that is equivalent to two percent of the total volume of the liquid; or
- 20,000 parts per million of nicotine in the liquid.

Also, the sale of flavored vapor products and menthol-flavored tobacco products are now banned.

"Tobacco product" means:

- Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, bidis, or snuff; and
- Any device or component, part, or accessory that delivers nicotine alone or combined with other substances to the person using the device including, but not limited to, electronic cigarettes, cigars, or pipes, whether or not the device or component is sold separately.

"Tobacco product" does not include any product approved by the U.S. food and drug administration for sale as a tobacco cessation product, medical device, or for other therapeutic purposes when such product is marketed and sold solely for such an approved purpose.

"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.

"Flavored vapor product" is any vapor product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of a vapor product including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, or honey, or any candy, dessert, alcoholic beverage, herb, or spice.

The new 45 percent excise tax is effective January 1, 2022. The B&O tax surcharges are effective July 1, 2021.

## 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

- Flavored vapor products make up 80 percent of total sales. Section 15 of the bill bans these products.
- Among the smaller-unit vapor products (e.g. disposables, pods), 82 percent of sales are of products exceeding the nicotine levels prescribed in Section 13 of the bill and will therefore, be banned.
- 18 percent of current sales will be lost due to the 45 percent vapor tax alone.
- For smaller-unit vapor products, the average wholesale price of one mL of e-juice is \$3.07.
- For larger-unit vapor products, the average wholesale price of one mL of e-juice is \$0.23.
- Because the effective date of the new vapor tax is January 1, 2022, there are only five months of collections in Fiscal Year 2022.

### DATA SOURCES

- Department of Revenue excise tax returns
- Online vapor sellers and market information

### REVENUE ESTIMATES

The revenue impact in this fiscal note reflects only the new vapor excise tax of 45 percent. No other tax-related provisions are considered.

### TOTAL REVENUE IMPACT:

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

FY 2022 -	\$ (4,001)
FY 2023 -	\$ (9,413)
FY 2024 -	\$ (9,224)
FY 2025 -	\$ (9,040)
FY 2026 -	\$ (8,859)
FY 2027 -	\$ (8,681)

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

FY 2022 -	\$ (515)
FY 2023 -	\$ (1,211)
FY 2024 -	\$ (1,187)
FY 2025 -	\$ (1,163)
FY 2026 -	\$ (1,140)
FY 2027 -	\$ (1,117)

## 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 legislation will affect 2,000 taxpayers.
- Expenditures assume that applications for credit, provided for in Section 26, will be made by all vapor products taxpayers for vapor products in their possession on the effective date of this section.

### FIRST YEAR COSTS:

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The Department will incur total costs of \$1,309,200 in Fiscal Year 2022. These costs include:

Labor Costs - Time and effort equates to 11.28 FTEs.

- Test and verify computer systems to expire the vapor products quantity tax and create a new vapor products tax.
- Expire both existing vapor products credits and create a credit for the new tax.
- Create new Business and Occupation surcharges with a worksheet for credit calculations.
- Create a new Vapor Product Manufacturer license and a surcharge on the existing Vapor Delivery Sales license.
- Update paper returns, design and develop new forms.
- Answer phone calls at the telephone information center on tax questions and tax return preparation from businesses, individuals and accountants.
- Create a Special Notice and identify publications and information that need to be created or updated on the Department's website.
- Respond to letter ruling requests, email inquiries.
- Update web pages, publications and forms for the reporting change.
- Receive credit applications from taxpayers for vapor products in their possession on the effective date of this legislation on which Vapor Products tax was previously paid. Documentation provided by taxpayers will be reviewed and verified. Credit will be approved or denied and may require addition communication with the claimant to clear any discrepancies.
- Adopt one new administrative rule.
- Amend one administrative rule.

Object Costs - \$177,800.

- Contract computer system programming.
- Print and mail a special notice to all affected taxpayers.

#### SECOND YEAR COSTS:

The Department will incur total costs of \$399,100 in Fiscal Year 2023. These costs include:

Labor Costs - Time and effort equates to 4.3 FTEs.

- Ongoing computer system testing, monitoring and maintenance.
- Receive credit applications from taxpayers for vapor products in their possession on the effective date of this legislation on which Vapor Products tax was previously paid. Documentation provided by taxpayers will be reviewed and verified. Credit will be approved or denied and may require addition communication with the claimant to clear any discrepancies.

#### THIRD YEAR COSTS:

The Department will incur total costs of \$32,700 in Fiscal Year 2024. These costs include:

Labor Costs - Time and effort equates to 0.3 FTE.

- Ongoing computer system testing, monitoring and maintenance.

#### ONGOING COSTS:

Ongoing costs for Fiscal Year 2025 equal \$21,800 and include similar activities described in the third year costs. Time and effort equates to 0.2 FTE.



## Part III: Expenditure Detail

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

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	11.3	4.3	7.8	0.3	0.2
A-Salaries and Wages	670,100	254,900	925,000	35,500	28,400
B-Employee Benefits	241,200	91,800	333,000	12,800	10,200
C-Professional Service Contracts	176,000		176,000		
E-Goods and Other Services	143,100	47,300	190,400	5,600	4,600
J-Capital Outlays	78,800	5,100	83,900	600	400
<b>Total \$</b>	<b>\$1,309,200</b>	<b>\$399,100</b>	<b>\$1,708,300</b>	<b>\$54,500</b>	<b>\$43,600</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 2022	FY 2023	2021-23	2023-25	2025-27
EMS BAND 4	119,061	0.0		0.0		
EMS BAND 5	139,090	0.0		0.0		
EXCISE TAX EX 2	54,108	8.0	3.0	5.5		
EXCISE TAX EX 3	59,688	0.2	0.2	0.2		
IT QA-JOURNEY	85,644	0.2		0.1		
MGMT ANALYST4	70,956	1.1	0.8	1.0	0.3	0.2
MGMT ANALYST5	78,408	0.5	0.2	0.4		
RECORDS MGMT SUPV	67,560	0.2		0.1		
TAX INFO SPEC 1	43,392	0.1		0.1		
TAX INFO SPEC 4	64,332	0.4		0.2		
TAX POLICY SP 2	72,756	0.0		0.0		
TAX POLICY SP 3	82,344	0.4	0.1	0.2		
TAX POLICY SP 4	88,644	0.0		0.0		
WMS BAND 2	89,018	0.1		0.1		
WMS BAND 3	101,257	0.0		0.0		
<b>Total FTEs</b>		<b>11.3</b>	<b>4.3</b>	<b>7.8</b>	<b>0.3</b>	<b>0.2</b>

### III. C - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

### IV. C - Capital Budget Breakout

*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 complex rule-making process to adopt one new rule under chapter 458-20 WAC. The Department will use the expedited rule-making process to amend WAC 458-20-185, titled: "Tax on tobacco products". Persons affected by this rule making would include sellers of tobacco vapor and heated tobacco products.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1345 HB	<b>Title:</b> Products sold to adults 21+	<b>Agency:</b> 195-Liquor and Cannabis Board
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
Youth Tobacco and Vapor Products Prevention Account-State 235-1	38,000	38,000	76,000	76,000	76,000
Liquor Revolving Account-State 501-1	55,750	55,750	111,500	111,500	111,500
<b>Total \$</b>	93,750	93,750	187,500	187,500	187,500

### Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	3.3	3.0	3.2	3.0	3.0
<b>Account</b>					
Youth Tobacco and Vapor Products Prevention Account-State 235-1	38,000	38,000	76,000	76,000	76,000
Liquor Revolving Account-State 501-1	473,723	328,015	801,738	656,030	656,030
<b>Total \$</b>	511,723	366,015	877,738	732,030	732,030

### 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: Peter Clodfelter	Phone: 360-786-7127	Date: 01/22/2021
Agency Preparation: Colin O'Neill	Phone: (360) 522-2281	Date: 01/25/2021
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 01/25/2021
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 01/27/2021

## 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(6) – Money deposited into the Youth Tobacco and Vapor Products Prevention Account from the additional delivery sale license fee must be made available to the Board to hire staff for enforcement of laws and rules applicable to internet and other delivery sales of vapor products, including sales to minors and collection of the vapor product tax.

Section 3(9) – Defines flavored vapor products as "Flavored vapor product" means any vapor product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of a vapor product including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, or honey, or any candy, dessert, alcoholic beverage, herb, or spice."

Section 4(1c) – adds a new vapor product manufacturer's license (Section 12 sets the fee at \$250)

Section 6 – the Board may establish an additional fee of up to \$250 for a vapor delivery sale license. The moneys from this additional \$250 are to be used by the Board (see sect 2(6).)

Section 7 – sets additional limits on the sale of products by a delivery sale licensee.

Section 10(12) – the Attorney General's office has primary jurisdiction over the Board's actions under section 10 and may seek recovery of penalties.

Section 13 – a vapor product may not be sold if the product has nicotine salts or other ingredients that result in nicotine concentrations greater than 20mg of nicotine per ml of liquid; nicotine equivalent to 2% of the total volume of liquid; or 20,000 ppm of nicotine in the liquid.

Section 14 – vapor product distributors and manufacturers who sell vapor products in this state must disclose ingredients to the Department of Health. The Board may use these disclosures for enforcement, investigation, research, and public information.

Section 15- flavored vapor products are banned.

Section 16- A local jurisdiction may limit the location of vapor product retailers within their jurisdiction.

Section 17 – menthol-flavored tobacco products are banned.

Section 19 – creates a vapor products surcharge and a tobacco products surcharge on manufacturers and distributors.

Section 21 – modifies the existing vapor products tax from a per ml rate to a percentage of the selling price on each retail sale.

Section 26 – creates a vapor product tax credit for preexisting wholesale inventory prior to the creation of the retail sales vapor product tax.

Section 31 – states that the entire bundled transaction is subject to the vapor product tax.

Section 32 – Indian retailers are not subject to the vapor product retail tax.

Section 33 – the Board may adopt rules as needed.

Section 34 – repeals three RCW (state pre-emption, tax credit for out-of-state, and manufacturer’s representatives)

Section 38 – sections 20-26 take effect January 1, 2022

Section 39 – sections 27 and 29 expire January 1, 2022

Section 40 – section 19 is effective July 1, 2021 (surcharge)

## **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.*

Section 4(1c) – adds a new vapor product manufacturer’s license (Section 12 sets the fee at \$250). The agency estimates that 223 currently licensed vapor standalone retailers and distributors would need to obtain a manufacturer's license.  $223 \times \$250 = \$55,750/\text{yr}$ .

Section 6 – the Board may establish an additional fee of up to \$250 for a vapor product delivery sales license. The moneys from this additional fee are to be used by the Board (see sect 2(6).) There are currently 152 licensed vapor product delivery sales licenses. The agency assumes that the Board would establish the additional fee at \$250.  $\$250 \times 152 = \$38,000/\text{yr}$ .

## **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:**

The Washington State Liquor and Cannabis Board ("Board") 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 anticipates workload impacts from this bill to be driven by complaints, surveillance operations, premises checks, education, audits, issuance of administrative violation notices (AVN), and annual inspections. Please see the attached "1345 HB Products sold to adults 21+ Enforcement Field Increment Calculator.pdf" for workload calculations.

3.0 FTE LCB Enforcement Officer 2 - \$366,015/yr (\$318,135 salary/benefits, \$47,880 in associated costs).  
 Onetime costs in FY22 of \$80,385 for equipment purchases.

Section 2(6) states that money deposited into the Youth Tobacco and Vapor Products Prevention Account from the additional delivery sale license fee must be made available to the Board to hire staff for enforcement of laws and rules applicable to internet and other delivery sales of vapor products, including sales to minors and collection of the vapor product tax. Estimated cash receipts from this additional fee is \$38,000/year so expenditures assume appropriation from this account consistent with the revenue estimates.

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**INFORMATION TECHNOLOGY DIVISION:**

There will be onetime costs in FY22 to implement the bill:

Vendor costs: iSeries and EN Notebook: \$19,600

0.3 FTE IT App Development - Senior/Specialist - \$45,723 (\$45,402 salary/benefits, \$321 in associated costs).

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
235-1	Youth Tobacco and Vapor Products Prevention Account	State	38,000	38,000	76,000	76,000	76,000
501-1	Liquor Revolving Account	State	473,723	328,015	801,738	656,030	656,030
<b>Total \$</b>			511,723	366,015	877,738	732,030	732,030

**III. B - Expenditures by Object Or Purpose**

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	3.3	3.0	3.2	3.0	3.0
A-Salaries and Wages	258,308	223,812	482,120	447,624	447,624
B-Employee Benefits	105,229	94,323	199,552	188,646	188,646
C-Professional Service Contracts	19,600		19,600		
E-Goods and Other Services	53,046	13,980	67,026	27,960	27,960
G-Travel	45,480	33,480	78,960	66,960	66,960
J-Capital Outlays	30,060	420	30,480	840	840
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	511,723	366,015	877,738	732,030	732,030

**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 2022	FY 2023	2021-23	2023-25	2025-27
IT App Development - Senior/Specialist	114,984	0.3		0.2		
LCB Enforcement Officer 2	74,604	3.0	3.0	3.0	3.0	3.0
<b>Total FTEs</b>		3.3	3.0	3.2	3.0	3.0

**III. D - Expenditures By Program (optional)**

<b>Program</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>2021-23</b>	<b>2023-25</b>	<b>2025-27</b>
Enforcement Division (060)	446,400	366,015	812,415	732,030	732,030
Information Technology Division (070)	65,323		65,323		
<b>Total \$</b>	511,723	366,015	877,738	732,030	732,030

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

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

NONE

**IV. D - Capital FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

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.*

Section 33 – the Board may adopt rules as needed.

**Enforcement Field Increment (FI) Calculator**

**1345 HB "Products sold to adults 21+"**

	Number of events	Time Factor	Staffing Factor	FI Total
Vapor Product Complaints (non tobacco)	31	7	1.3	279
Surveillance Operations Long Term	8	100	3	2,300
Surveillance Operations (All others)	5	10	3	138
Vapor Retailers Premises Checks (vapor retailer only)	112	6	1.3	874
Non RVP Member Support and Education	259	7	1	1,810
OTP Audit (vapor only)	28	10	1	280
OTP Audit (vapor combo retailers)	140	10	1	1,397
Premises Checks Vapor Retailers (multiple license types)	349	6	1.3	2,724
Administrative Violation Notice (AVN) Issuance	31	12	1.3	478
Annual Inspection	124	10	1.3	1,612
<b>Total FI's</b>				<b>11,892</b>
<b>Total Field Increments per FTE</b>				<b>4,220</b>
<b>FTE's required</b>				<b>2.82</b>
<b>Round</b>				<b>3.00</b>

Factors	Estimate	Comments
Vapor products retail license	1,397	
Standalone vapor product retailers	112	
In-state vapor distributors	136	
<b>Total above lines</b>	<b>1,533</b>	
Other Tobacco Product Complaints	2%	historical data
Surveillance Operations Long Term	25%	
Surveillance Operations (All others)	15%	
Vapor Retailer Premises Checks	112	1 per year
Non RVP Member Support and Education	8%	
OTP Audit (vapor only)	25%	
OTP Audit (vapor combo retailers)	10%	
Premises Checks Vapor Retailers (multiple license types)	25%	increase in tax enforcement due
Administrative Violation Notice (AVN) Issuance	2%	historical data
Annual Inspection	50%	distributors/vape shops only



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1345 HB	<b>Title:</b> Products sold to adults 21+	<b>Agency:</b> 303-Department of Health
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**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: Peter Clodfelter	Phone: 360-786-7127	Date: 01/22/2021
Agency Preparation: Melissa Hoyt	Phone: 360-236-4543	Date: 01/22/2021
Agency Approval: Carl Yanagida	Phone: 360-789-4832	Date: 01/22/2021
OFM Review: Danielle Cruver	Phone: (360) 522-3022	Date: 01/22/2021

## 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 amends RCW 82.25 which governs the existing tax on vapor products. Currently, the Department of Revenue (DOR) deposits fifty percent of the revenues collected from this tax into the foundational public health services account, which then may be appropriated by the legislature to support foundational public health services and other services defined under RCW 43.70.512 and RCW 43.70.515. This bill alters the calculation of the tax, which may change the amount of revenue DOR collects. Therefore, this may change the amount of funds deposited into the foundational public health account.

This bill does not have a direct fiscal impact to the Department of Health (DOH), but it may impact decisions as to the amount from the fund legislature may appropriate to support foundational public health services provided by DOH, the State Board of Health, local health jurisdictions, and tribes.

### 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.*

NONE

### 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.*

NONE

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

**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*

NONE

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

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

NONE

**IV. D - Capital FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

NONE

**Part V: New Rule Making Required**

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 1345 HB	<b>Title:</b> Products sold to adults 21+
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## Part I: Jurisdiction

Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

- Cities:
- Counties:
- Special Districts: Decrease in revenues due to adjustments to the vapor tax.
- Specific jurisdictions only:
- Variance occurs due to:

## Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option: The option for local jurisdictions to limit the location of licensed vapor product retailers within a certain perimeter of schools and youth-orientated programs and activities.
- Key variables cannot be estimated with certainty at this time:

### Estimated revenue impacts to:

Jurisdiction	FY 2022	FY 2023	2021-23	2023-25	2025-27
Special District	(515,000)	(1,211,000)	(1,726,000)	(2,350,000)	(2,257,000)
<b>TOTAL \$</b>	(515,000)	(1,211,000)	(1,726,000)	(2,350,000)	(2,257,000)
<b>GRAND TOTAL \$</b>					(6,333,000)

### Estimated expenditure impacts to:

None

## Part III: Preparation and Approval

Fiscal Note Analyst: Rebecca Duncan	Phone: 360-725-5040	Date: 01/29/2021
Leg. Committee Contact: Peter Clodfelter	Phone: 360-786-7127	Date: 01/22/2021
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/29/2021
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 02/01/2021

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

This bill would replace the current vapor tax structure with a different one. In addition, this bill would amend and change relevant definitions.

Section 13 would state that a vapor product can no longer be sold or offered for sale if the product has nicotine salts or other ingredients that result in nicotine concentrations that exceed any of the following comparative levels of nicotine:

- 20 milligrams of nicotine per milliliter of liquid;
- Nicotine that is equivalent to two percent of the total volume of the liquid; or
- 20,000 parts per million of nicotine in the liquid.

Sections 15 and 17 would prohibit the sale of flavored vapor products and menthol-flavored tobacco products.

Section 16 would provide a city, town, county, or local health jurisdiction the option to limit the location of licensed vapor product retailers within a certain perimeter of schools and youth-orientated programs and activities if the city, town, county, or local health jurisdiction determines that such restriction may reduce underage access and addiction.

Section 19 would provide that, beginning with business activities occurring on July 1, 2021, and thereafter, a vapor products surcharge is imposed as follows:

- Every Washington manufacturer of vapor products, in addition to the tax imposed under RCW 82.04.240 (standard B&O tax on manufacturers), a surcharge equal to the value of the manufactured vapor products, including by-products, multiplied by the rate of 4.4 percent;
- Every Washington vapor product distributor licensed under RCW 70.345.020, in addition to the tax imposed under RCW 82.04.240 (standard B&O tax on wholesalers), a surcharge equal to the value of the manufactured vapor products, including by-products, multiplied by the rate of 4.4 percent.

These B&O tax surcharges would be effective July 1, 2021.

Section 21 would enact a new excise tax of 45 percent of the selling price on each retail sale of vapor products in Washington. This tax would be separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and would not be part of the total retail price to which general state and local sales and use taxes apply. This new 45 percent excise tax would be effective January 1, 2022.

In addition, section 26 would add a new section to RCW 82.25, creating a tax credit so that vapor products taxed at the wholesale level under the law as it existed immediately before the effective date of this new tax are not also taxed in a retail sale under the provisions of this bill.

Section 31 states that a bundled transaction that includes a vapor product would be subject to the new excise tax on the entire selling price of the bundled transaction.

### **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 zero or de minimis impacts for local government expenditures. According to the Washington State Association of Local Public Health Officials (WSAPHO), additional work that would be created by these changes to prohibition and regulation of vapor product sales would be addressed using existing resources. In addition, Section 16 would provide a city, town, county, or local health jurisdiction the option to limit the location of licensed vapor product retailers within a certain perimeter of schools and youth-orientated programs and activities. However, as this is completely optional, the costs are assumed to be zero for the purposes of this fiscal note.

### **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 see a decrease in Local Health Jurisdiction revenues due to the adjustments to the vapor tax.

The Department of Revenue (DOR) assumes the following:

- Flavored vapor products make up 80 percent of total sales. Section 15 of the bill bans these products.
- Among the smaller-unit vapor products (e.g. disposables, pods), 82 percent of sales are of products exceeding the nicotine levels prescribed in Section 13 of the bill and will therefore, be banned.
- 18 percent of current sales will be lost due to the 45 percent vapor tax alone. For smaller-unit vapor products, the average wholesale price of one mL of e-juice is \$3.07.
- For larger-unit vapor products, the average wholesale price of one mL of e-juice is \$0.23.
- Because the effective date of the new vapor tax is January 1, 2022, there are only five months of collections in Fiscal Year 2022.

With these assumptions accounted for, DOR calculates the following decreases in local government revenues:

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

FY 2022 -	\$ (515)
FY 2023 -	\$ (1,211)
FY 2024 -	\$ (1,187)
FY 2025 -	\$ (1,163)
FY 2026 -	\$ (1,140)
FY 2027 -	\$ (1,117)