

Multiple Agency Fiscal Note Summary

Bill Number: 5266 SB	Title: 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
Office of Attorney General	0	0	52,000	0	0	38,000	0	0	38,000
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
Total \$	(4,208,000)	(4,208,000)	(13,174,500)	(5,730,000)	(5,730,000)	(18,038,500)	(5,502,000)	(5,502,000)	(17,314,500)

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
Office of Attorney General	.1	0	0	52,000	.1	0	0	38,000	.1	0	0	38,000
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	929,738	3.0	0	0	770,030	3.0	0	0	770,030
Department of Health	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	11.1	1,673,100	1,673,100	2,690,038	3.4	54,500	54,500	862,530	3.3	43,600	43,600	851,630

Estimated Capital Budget Expenditures

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

Estimated Capital Budget Breakout

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Prepared by: Ramona Nabors, OFM	Phone: (360) 902-0547	Date Published: Final 2/ 1/2021
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Individual State Agency Fiscal Note

Bill Number: 5266 SB	Title: Products sold to adults 21+	Agency: 100-Office of Attorney General
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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
Legal Services Revolving Account-State 405-1	33,000	19,000	52,000	38,000	38,000
Total \$	33,000	19,000	52,000	38,000	38,000

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.2	0.1	0.2	0.1	0.1
Account					
Legal Services Revolving Account-State 405-1	33,000	19,000	52,000	38,000	38,000
Total \$	33,000	19,000	52,000	38,000	38,000

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: Alia Kennedy	Phone: 360-786-7405	Date: 01/16/2021
Agency Preparation: Bruce Turcott	Phone: (360) 586-2738	Date: 01/29/2021
Agency Approval: Dianna Wilks	Phone: 360-709-6463	Date: 01/29/2021
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 02/01/2021

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 1 is a legislative findings statement.

Section 2 amends RCW 70.155.120 direct the use of funds.

Section 3 amends definitions section RCW 70.345.010.

Section 4 amends RCW 70.345.020 adding a vapor product manufacturer's license.

Section 5 amends RCW 70.345.030 adding a manufacturer's license.

Section 6 amends RCW 70.345.060 to allow the Liquor and Cannabis Board (LCB) to establish an additional fee.

Section 7 amends RCW 70.345.090 prohibiting sale and shipment of vapor products unless manufactured by a licensed manufacturer.

Section 8 amends RCW 70.345.160 changing LCB enforcement authority, including the age to detain persons in relation to vapor products from under 18 to under 21.

Section 9 amends RCW 70.345.170 adding manufacturer's licenses.

Section 10 amends RCW 70.345.180 giving the Attorney General's Office primary jurisdiction in civil and criminal actions.

Section 11 amends RCW 70.345.190 to reflect changes in the use of funds under sections 7 and 10.

Section 12 adds a new section to chapter 70.345 RCW for a manufacturer's license fee.

Section 13 adds a new section to chapter 70.345 RCW to limit the nicotine in vapor products.

Section 14 adds a new section to chapter 70.345 RCW to require lists of ingredients to be submitted to the Department of Health (DOH), which may adopt rules.

Section 15 adds a new section to chapter 70.345 RCW to prohibit sale of flavored vapor products.

Section 16 adds a new section to chapter 70.345 RCW to allow local jurisdictions to limit retailers to reduce underage access.

Section 17 prohibits sale of menthol-flavored tobacco products.

Section 18 allows LCB to suspend licenses for violations of section 17.

Section 19 adds a new section to chapter 82.04 RCW impose a vapor products surcharge.

Section 20 amends definitional section RCW 82.25.005.

Section 21 amends RCW 82.25.010 to impose a vapor products excise tax of 45 percent.

Section 22 amends RCW 82.25.020 to amend taxation provisions.

Section 23 amends RCW 82.25.075 strike provisions regarding transportation.

Section 24 amends RCW 82.25.060 to strike provisions regarding invoices.

Section 25 amends RCW 82.25.080 to amends provisions regarding taxation.

Section 26 adds a new section to chapter 82.25 RCW to provide a tax credit.

Section 27 amends definitional section RCW 82.25.005.

Section 28 amends RCW 82.25.065 to add manufacturers.

Section 29 amends RCW 82.25.075 to add manufacturers.

Section 30 amends RCW 82.25.090 to add manufacturers.

Section 31 adds a new section to chapter 82.25 RCW to address bundled transactions.

Section 32 adds a new section to chapter 82.25 RCW to address taxation and Indian retailers.

Section 33 adds a new section to chapter 70.345 RCW to give LCB and DOH rulemaking authority.

Section 34 repeals RCW 70.345.210, 82.25.045, and 82.25.085.

Section 35 is a severability clause.

Section 36 provides for conflicts with federal law.

Section 37 adds sections 17 and 18 to a new chapter in title 70 RCW.

Section 38 provides an effective date for Sections 20 through 26 of January 1, 2022.

Section 39 provides an expiration date for Sections 27 and 29 of January 1, 2022.

Section 40 is an emergency clause providing an effective date for Section 19 of 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.

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

The client agency is the Liquor & Cannabis Board. The Attorney General's Office (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.

Attorney General's Office (AGO) Agency Assumptions:

1. Legal services associated with the enactment of this bill will begin on:
 - A. Section 38 provides an effective date for Sections 20 through 26 of January 1, 2022.
 - B. Section 39 provides an expiration date for Sections 27 and 29 of January 1, 2022.
 - C. Section 40 is an emergency clause providing an effective date for Section 19 of July 1, 2021.
2. Total workload impact in this request includes standard assumption costs for good & services, travel, and capital outlays for all FTE identified.
3. The AGO Agriculture & Health Division (AHD) has reviewed this bill and determined it will not increase or decrease the division's workload in representing the Department of Commerce (COM). COM was assigned this fiscal note request for its role in estimating the impact of bills on local governments. COM itself will not be given any new authorities or responsibilities under this bill. This won't generate any legal work for AHD. Costs are not included in this request.
4. The AGO Criminal justice Division (CRJ) has reviewed this bill and determined it will not significantly increase the division's workload. Subsection (12) of Section 10 provides that the AGO "has primary jurisdiction over the board's actions under this section and may seek recovery of penalties in a civil or criminal action in Superior Court before a local prosecutor declines to file an action." An AGO division other than CRJ will enforce available civil remedies. This section also allows the AGO to use a misdemeanor criminal action to recover monetary penalties for violations of RCW 26.28.080. However, this task will likely fall first to county prosecutors with original criminal jurisdiction, and it is presumed that CRJ will only become involved if requested to do so. This seems like a rare occurrence, and legal services will be provided with existing resources. New legal services are nominal and costs are not included in this request.
5. The AGO Revenue & Finance Division has reviewed this bill and determined it will not significantly increase the division's workload in representing the Department of Revenue (DOR). The B&O tax surcharge imposed under Section 19 is unlikely to generate any requests for advice or result in any litigation. In addition, advice requests regarding the amended vapor products excise tax under Section 21 are likely to be relatively nominal, and any new excise tax refund litigation will be provided with existing resources. New legal services are nominal and costs are not included in this request.

Assumptions for the AGO Government Compliance & Enforcement Division's (GCE) Legal Services for the Liquor & Cannabis Board (LCB):

1. The AGO will bill LCB for legal services based on the enactment of this bill.
2. This bill amends RCW 70.345.020 to create a new Vapor Product Manufacturer's License, and will expand the LCB's rulemaking authority. It also sets additional limits on the sale of vapor products by delivery sale licensees, and will prohibit the sale of flavored vapor products and menthol-flavored tobacco products. The LCB will be authorized to suspend or revoke a license for violations of the chapter. Finally, it would give the AGO "primary jurisdiction" over the LCB's actions to enforce prohibitions against sales to minors or any other provisions of the chapter, and would authorize the attorney general to seek recovery of penalties in Superior Court.
3. GCE assumes to be asked to review and provide comments on any new rule proposals resulting from this bill. This will occur in FY 2022.
4. GCE assumes that most of the entities that obtain the new vapor product manufacturer's license are currently operating under existing vapor product retailer or distributor licenses. Based on past experience with administrative litigation relating to Vapor Product Retailer and Distributor Licenses, GCE assumes that this new license type will generate five new administrative cases each FY beginning in FY 2022. The new authority to seek recovery of penalties in Superior Court will not result in any appreciable increase in litigation for GCE. Each of the five new administrative cases will utilize 30 Assistant Attorney General (AAG) hours beginning in FY 2022, for a total annual increase of 150 AAG hours.
5. Based on current workloads and Paralegal (PL) utilization, GCE assumes that to utilize PL services for this new work at a ratio of one PL hour for three AAG hours. PL legal services are assumed nominal and costs are not included in this request.
6. GCE assumes an increase of 155 AAG hours beginning in FY 2022.
7. Total workload impact beginning in FY 2022 and in each FY thereafter: 0.08 AAG at a cost of \$19,000 per FY.

Assumptions for the AGO Licensing & Administrative Law Division's (LAL) Legal Services for LCB:

1. The AGO will bill LAL for legal services based on the enactment of this bill.
2. This bill expands general LCB rulemaking authority and a new manufacturer's license to for LCB's Vapor Product Regulatory Program.
3. In FY 2022, 0.06 AAG's will be required to provide legal advice and guidance to implement these new requirements.
4. In FY 2023 and subsequent years, 0.03 AAG will be required to provide ongoing legal advice and guidance related to these new requirements. These legal services will be provided with existing resources.

5. Total workload impact:
 FY 2022: 0.06 AAG's at a cost of \$14,000.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
405-1	Legal Services Revolving Account	State	33,000	19,000	52,000	38,000	38,000
Total \$			33,000	19,000	52,000	38,000	38,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.2	0.1	0.2	0.1	0.1
A-Salaries and Wages	22,000	13,000	35,000	26,000	26,000
B-Employee Benefits	7,000	4,000	11,000	8,000	8,000
E-Goods and Other Services	4,000	2,000	6,000	4,000	4,000
Total \$	33,000	19,000	52,000	38,000	38,000

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 2022	FY 2023	2021-23	2023-25	2025-27
Assistant Attorney General	108,600	0.1	0.1	0.1	0.1	0.1
Legal Assistant 3	54,108	0.1		0.0		
Total FTEs		0.2	0.1	0.2	0.1	0.1

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Government Compliance & Enforcement Division (GCE)	19,000	19,000	38,000	38,000	38,000
Licensing & Administrative Law Division (LAL)	14,000		14,000		
Total \$	33,000	19,000	52,000	38,000	38,000

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

Department of Revenue Fiscal Note

Bill Number: 5266 SB	Title: Products sold to adults 21+	Agency: 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)
Total \$	(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		
Total \$	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:	Alia Kennedy	Phone: 360-786-7405	Date: 01/16/2021
Agency Preparation:	Van Huynh	Phone: 360-534-1512	Date: 01/27/2021
Agency Approval:	Kim Davis	Phone: 360-534-1508	Date: 01/27/2021
OFM Review:	Ramona Nabors	Phone: (360) 902-0547	Date: 01/28/2021

Request # 5266-1-1

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:

Request # 5266-1-1

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
Total \$	\$1,309,200	\$399,100	\$1,708,300	\$54,500	\$43,600

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 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		
Total FTEs		11.3	4.3	7.8	0.3	0.2

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

Revised

Bill Number: 5266 SB	Title: Products sold to adults 21+	Agency: 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	93,750	93,750	187,500	187,500	187,500
Total \$	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
Account					
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	506,723	347,015	853,738	694,030	694,030
Total \$	544,723	385,015	929,738	770,030	770,030

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: Alia Kennedy	Phone: 360-786-7405	Date: 01/16/2021
Agency Preparation: Colin O Neill	Phone: (360) 522-2281	Date: 01/29/2021
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 01/29/2021
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 02/01/2021

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.

BOARD DIVISION: The Washington State Attorney General's Office anticipates billing the Board for legal service costs arising from this bill; \$33,000 in FY22, \$19,000/year ongoing.

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 "5266 SB 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.

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	506,723	347,015	853,738	694,030	694,030
Total \$			544,723	385,015	929,738	770,030	770,030

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	86,046	32,980	119,026	65,960	65,960
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-					
Total \$		544,723	385,015	929,738	770,030

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
Total FTEs		3.3	3.0	3.2	3.0	3.0

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Board Division (010)	33,000	19,000	52,000	38,000	38,000
Enforcement Division (060)	446,400	366,015	812,415	732,030	732,030
Information Technology Division (070)	65,323		65,323		
Total \$	544,723	385,015	929,738	770,030	770,030

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

5266 SB "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
Total FI's				11,892
Total Field Increments per FTE				4,220
FTE's required				2.82
Round				3.00

Factors	Estimate	Comments
Vapor products retail license	1,397	
Standalone vapor product retailers	112	
In-state vapor distributors	136	
Total above lines	1,533	
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

Bill Number: 5266 SB	Title: Products sold to adults 21+	Agency: 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: Alia Kennedy	Phone: 360-786-7405	Date: 01/16/2021
Agency Preparation: Melissa Hoyt	Phone: 360-236-4543	Date: 01/20/2021
Agency Approval: Carl Yanagida	Phone: 360-789-4832	Date: 01/20/2021
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

Bill Number: 5266 SB	Title: 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)
TOTAL \$	(515,000)	(1,211,000)	(1,726,000)	(2,350,000)	(2,257,000)
GRAND TOTAL \$					(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: Alia Kennedy	Phone: 360-786-7405	Date: 01/16/2021
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)