

Multiple Agency Fiscal Note Summary

Bill Number: 6118 SB	Title: Vapor product directory
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	37,000	0	0	67,000	0	0	64,000
Office of Administrative Hearings	0	0	33,000	0	0	66,000	0	0	66,000
Liquor and Cannabis Board	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	70,000	0	0	133,000	0	0	130,000

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	Fiscal note not available					
Loc School dist-SPI						
Local Gov. Other						
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	Fiscal note not available											
Office of Attorney General	1.1	210,000	210,000	247,000	1.3	210,000	210,000	277,000	.4	0	0	64,000
Office of Administrative Hearings	.1	0	0	33,000	.2	0	0	66,000	.2	0	0	66,000
Liquor and Cannabis Board	4.4	2,238,798	2,238,798	2,238,798	8.0	2,254,758	2,254,758	2,254,758	8.0	2,251,758	2,251,758	2,251,758
Total \$	5.6	2,448,798	2,448,798	2,518,798	9.5	2,464,758	2,464,758	2,597,758	8.6	2,251,758	2,251,758	2,381,758

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	Fiscal note not available								
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

Estimated Capital Budget Breakout

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Prepared by: Val Terre, OFM	Phone: (360) 280-3973	Date Published: Preliminary 1/21/2024
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Individual State Agency Fiscal Note

Bill Number: 6118 SB	Title: Vapor product directory	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1		37,000	37,000	67,000	64,000
Total \$		37,000	37,000	67,000	64,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	2.1	1.1	1.3	0.4
Account					
General Fund-State 001-1	0	210,000	210,000	210,000	0
Legal Services Revolving Account-State 405-1	0	37,000	37,000	67,000	64,000
Total \$	0	247,000	247,000	277,000	64,000

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: Madeline Ralstin	Phone: 360-786-7356	Date: 01/09/2024
Agency Preparation: Cassandra Jones	Phone: 360-709-6028	Date: 01/12/2024
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 01/12/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 01/16/2024

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 1 - New section added to Chapter 70.345 RCW. Requires manufacturer of vapor products sold in Washington State to certify under penalty of perjury that it agrees to comply with this chapter. Certification must be done by August 1, 2024, and yearly thereafter. Requires several other factual certifications, and it must list separately each vapor product sold in Washington State. Sets out fees and notification requirements. The Liquor and Cannabis Board (LCB) must maintain and make available a directory listing all vapor product manufacturers, and vapor products. LCB must do this by October 1, 2024.

Sets out other LCB responsibilities. Sets out civil penalties.

Allows the Attorney General's Office (AGO) to seek recovery of penalties or an injunction as well as applying the Consumer Protection Act. LCB may do rulemaking and submit a report to the Legislature.

This bill is assumed effective 90 days after the end of the 2024 legislative session.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished 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 and Cannabis Board (LCB). 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 agency's fiscal note. Appropriation authority is necessary in the AGO budget.

AGO AGENCY ASSUMPTIONS:

LCB will be billed for non-King County rates:

FY 2025: \$37,000 for 0.2 Assistant Attorney General FTE (AAG), 0.1 Paralegal 2 FTE (PL2), and 0.1 Paralegal 1 FTE (PL1).

FY 2026: \$35,000 for 0.1 AAG, 0.1 PL2 and 0.1 PL1.

FY 2027 and in each FY thereafter: \$32,000 for 0.1 AAG, 0.1 PL2 and 0.1 PL1.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Attorney General's Office (AGO) Agency Assumptions:

This bill is assumed effective 90 days after the end of the 2024 legislative session.

Location of staffing is assumed to be in a King County, and non-King County office building.

Total workload impact in this request includes standard assumption costs for goods & services, travel, and capital outlays for all FTE identified.

Agency administration support FTE are included in the tables. The Management Analyst 5 FTE (MA), is used as a representative classification. An example ratio is for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 Paralegal 1 FTE (PL1), and 0.4 MA.

1.0 AGO Consumer Protection Division (CPR) activities are funded with General Fund-State dollars. CPR enforces the Consumer Protection Act with respect to conduct that is made unlawful under RCW 19.86.020, which broadly prohibits unfair or deceptive acts or practices in trade or commerce. CPR focus is on representations and failures to disclose terms and conditions.

Assumptions for the AGO CPR:

FY 2025 and FY 2026:

Monitoring and enforcement to ensure compliance will be a priority for the AGO during the first two years after the bill goes into effect. Industry will come into full compliance after two years. The bill will remain, as drafted, without of a private right of action. If private right of action is added, fiscal impact to CPR is decreased. AAG duties will include investigating potential violations, drawing conclusions from investigations, drafting Civil Investigative Demands (CID), and discovery requests. PL1 and Paralegal 2 (PL2) duties will include managing documents, drafting CID, discovery requests, and managing responses.

The Liquor and Cannabis Board (LCB) will refer instances of non-compliance to CPR, but will not be taking enforcement action against violations. If LCB takes enforcement actions, fiscal impact to CPR will be decreased.

CPR: Total King County workload impact:

FY 2025 and FY 2026: \$210,000 for 0.3 AAG, 1.0 PL2 and 0.2 PL1, which includes direct litigation costs of \$3,000.

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

The AGO will bill LCB for legal services based on the enactment of this bill. Beginning August 1, 2024, this bill would require vapor product manufacturers to submit certifications to the LCB regarding each vapor product to be sold in Washington State, and to update that information within 30 days of any material change. Each certification form would have to be accompanied by certain FDA paperwork. It would also require the LCB to maintain a directory of all vapor product manufactures and all vapor products for which the required certifications have been received.

Beginning October 1, 2024, or the date the LCB first makes the directory available to the public, a person may not sell vapor products in the state that are not listed on the directory.

LCB will be required to engage in rulemaking to implement this bill. Assuming an effective date of July 1, 2024, LAL projects that it will require 40 hours of AAG time to advise LCB on rulemaking and implementation of this bill during FY 2025, as implementation must occur prior to October 1, 2024.

LAL also advises LCB final orders of administrative regulatory actions. LCB projects that it will issue 61 administrative violations each year, of which nine will proceed to hearings before the Office of Administrative Hearings (OAH). Each violation that proceeds to hearing will require five hours of AAG time to advise LCB. The remaining cases will require one hour of AAG time to review and advise LCB. The directory and enforcement provisions must start no later than October 1, 2024, and because this is a new regulatory requirement, LAL does not project a prorated number of violations for FY 2025, as we anticipate an adjustment period for licensees to comply with the new requirements. Therefore, beginning FY 2025, and continuing thereafter, LAL projects 52 hours advising LCB on violations that do not proceed to hearing, and 45 hours advising LCB on violations that proceed to hearing, for a total of 97 hours of AAG time each FY beginning FY 2025.

Section 6 of this bill would require the LCB to provide notice to manufacturers and an opportunity to cure any deficiencies

before removing either the manufacturer or the vapor product from the directory. A manufacturer would have 15 business days following service of the notice to establish that the manufacturer or the vapor product should be included in the directory. The bill is silent as to whether a manufacturer would have a right to a hearing to challenge a removal from the directory. We assume that the LCB could pass rules providing an opportunity for some type of hearing, and should it elect to do so, these hearings would utilize some indeterminate, but small amount of legal services.

LAL: Total non-King County workload impact:

FY 2025: \$20,000 for 0.1 AAG and 0.05 PL1

FY 2026: \$15,000 for 0.1 AAG and 0.05 PL.

FY2027 and in each FY thereafter: \$15,000 for 0.05 AAG and 0.05 PL1

3.) Assumptions for the AGO Government Compliance & Enforcement Division (GCE) Legal Services for the Liquor and Cannabis Board (LCB):

The AGO will bill LCB for legal services based on the enactment of this bill. Beginning August 1, 2024, this bill would require vapor product manufactures to submit certifications to the LCB regarding each vapor product to be sold in Washington State, and to update that information within 30 days of any material change. Each certification form would have to be accompanied by certain FDA paperwork. This bill would also require LCB to maintain a directory of all vapor product manufacturers and all vapor products for which the required certifications have been received. Beginning October 1, 2024, or the date LCB first makes the directory available to the public, a person may not sell vapor products in Washington State that are not listed on the directory.

Section 6 of this bill would require the LCB to provide notice to manufacturers and an opportunity to cure any deficiencies before removing either the manufacturer or the vapor product from the directory. A manufacturer would have 15 business days following service of the notice to establish that the manufacturer or the vapor product should be included in the directory. The bill is silent as to whether a manufacturer would have a right to a hearing to challenge a removal from the directory. GCE assumes LCB could pass rules providing an opportunity for some type of hearing, and should it elect to do so, these hearings would utilize some indeterminate, but small amount of legal services.

Section 7 of this bill would deem vapor products to be contraband after 21 days following their removal from the LCB directory and subject them to seizure, forfeiture and destruction. Based on past experience with a similar product type, LCB assumes that in FY 2025 and FY 2026, two vapor product distributors would seek hearings each year to contest the seizure and forfeiture of the product. Thereafter, only one hearing would be sought each fiscal year. We assume that each case to challenge a seizure and forfeiture of vapor product would utilize approximately 15 AAG hours and five PL hours of new work. Therefore, in FY 2025 and FY 2026, these new cases would utilize 30 AAG hours (2 hearings x 15 hours) and 10 PL hours (2 hearings x 5 hours), and beginning in FY 2027 and continuing each year thereafter, this new work would utilize 15 AAG hours (1 hearing x 15 hours) and five PL hours (1hearing x 5 hours).

Section 9(a) of this bill would create penalties for a retailer, distributor or wholesaler to sell or offer for sale vapor products that are not included in the directory. The penalties include a \$1,000 per day penalty for each product for a first violation, and suspensions and revocation of licensure for second through fourth violations within a two year period. Based on past experience with a similar product type, LCB estimates that they would issue 61 administrative violation notices each year beginning October 1, 2024. They further estimate that from those 61 violation notices, approximately 15 percent, or nine hearings would be sought. Because the first FY of enforcement would not be a full year, we assume that approximately seven hearings would be generated in FY 2025, and nine hearings each FY thereafter. We further assume that most of these cases would be resolved on summary judgment, so each new litigation referral would utilize approximately nine AAG hours and three PL hours to litigate to completion. Therefore, in FY 2025, this new enforcement litigation would generate 63 AAG hours (7 hearings x 9 hours) and 21 PL hours (7 hearings x 3 hours) of new work, and beginning FY 2026 and continuing each year thereafter, these cases would utilize 81 AAG hours (9 hearings x 9 hours) and 27 PL hours (9 hearings x 3 hours).

Finally, the LCB would be authorized to adopt rules to implement this bill. GCE assumes that we would be asked to provide some input relating to the rules and assume that advice would utilize approximately five AAG hours in FY 2025.

Therefore, as a result of this bill, GCE assumes it would see the following total workload increases:

FY 2025: 98 AAG hours (30 + 63 + 5) and 31 PL hours (10 + 21)
 FY 2026: 111 AAG hours (30 + 81) and 37 PL hours (10 + 27)
 FY 2027: 96 AAG hours (15 + 81) and 32 PL hours (5 + 27)
 FY 2028: 96 AAG hours (15 + 81) and 32 PL hours (5 + 27)
 FY 2029: 96 AAG hours (15 + 81) and 32 PL hours (5 + 27)
 FY 2030: 96 AAG hours (15 + 81) and 32 PL hours (5 + 27)

FY 2025: \$17,000 for 0.1 AAG, 0.1 PL2 and 0.05 PL1
 FY 2026: \$20,000 0.1 AAG, 0.1 PL2 and 0.05 PL1
 FY 2027 and in each FY thereafter: \$17,000 for 0.05 AAG, 0.1 PL2 and 0.05 PL1

Total workload impact:
 FY 2025: \$247,000 for 0.5 AAG, 1.1 PL2 and 0.3 PL1, which includes direct litigation costs of \$3,000
 FY 2026: \$245,000 for 0.5 AAG, 1.1 PL2 and 0.3 PL1, which includes direct litigation costs of \$3,000
 FY 2027 and in each FY thereafter: \$32,000 for 0.1 AAG, 0.1 PL2 and 0.1 PL

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	210,000	210,000	210,000	0
405-1	Legal Services Revolving Account	State	0	37,000	37,000	67,000	64,000
Total \$			0	247,000	247,000	277,000	64,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		2.1	1.1	1.3	0.4
A-Salaries and Wages		160,000	160,000	180,000	42,000
B-Employee Benefits		52,000	52,000	58,000	14,000
E-Goods and Other Services		32,000	32,000	36,000	8,000
G-Travel		3,000	3,000	3,000	
Total \$	0	247,000	247,000	277,000	64,000

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 2024	FY 2025	2023-25	2025-27	2027-29
Assistant Attorney General	129,100		0.2	0.1	0.2	0.1
Assistant Attorney General-Seattle	135,555		0.3	0.2	0.2	
Management Analyst 5	95,184		0.2	0.1	0.2	0.1
Paralegal 1	69,072		0.1	0.1	0.1	0.1
Paralegal 1-Seattle	72,528		0.2	0.1	0.1	
Paralegal 2	76,188		0.1	0.1	0.1	0.1
Paralegal 2-Seattle	79,992		1.0	0.5	0.5	
Total FTEs			2.1	1.1	1.3	0.4

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Consumer Protection Division (CPR)		210,000	210,000	210,000	
Government Compliance & Enforcement Division (GCE)		17,000	17,000	37,000	34,000
Licensing & Administrative Law Division (LAL)		20,000	20,000	30,000	30,000
Total \$		247,000	247,000	277,000	64,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 6118 SB	Title: Vapor product directory	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Hearings Revolving Account-State 484-1		33,000	33,000	66,000	66,000
Total \$		33,000	33,000	66,000	66,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.2	0.1	0.2	0.2
Account					
Administrative Hearings Revolving Account-State 484-1	0	33,000	33,000	66,000	66,000
Total \$	0	33,000	33,000	66,000	66,000

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: Madeline Ralstin	Phone: 360-786-7356	Date: 01/09/2024
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 01/16/2024
Agency Approval: Rob Cotton	Phone: 360-407-2708	Date: 01/16/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 01/17/2024

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

This bill prohibits the sale or offer of sale of vapor products in Washington that do not appear in the state's directory of vapor product manufacturers and certified vapor products. Any manufacturer, retailer, delivery seller, distributor, or wholesaler who sells vapor products not listed in the directory will be cited and penalized, with increasing impact to its license with each additional citation.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

As a central service agency, the Office of Administrative Hearings (OAH) bills referring agencies for its costs and collects the revenue into the Administrative Hearings Revolving Account. Cash receipts are assumed to equal costs. OAH will bill the Liquor & Cannabis Board for the costs related to this proposed legislation.

These cash receipts represent the OAH's authority to bill and are not a direct appropriation to OAH. Appropriation authority is necessary in OAH's budget.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The Liquor & Cannabis Board (LCB) estimates that the proposed legislation will result in nine new appeals being referred to the Office of Administrative Hearings (OAH) per fiscal year beginning in FY 2025. On average, each appeal is expected to take approximately 15 hours of line Administrative Law Judge (ALJ) time including prehearing conferences, hearings, order writings, etc.

OAH Agency Workforce Assumptions:

- (1) 1.0 Line ALJ will include cost and FTE for 0.15 Senior ALJ (SALJ), 0.15 Lead ALJ (LALJ), 0.6 Legal Assistant 2 (LA2) (Range 40 step L), and 0.25 administrative support represented as a Management Analyst 5 (MA5) (Range 64 Step L).
- (2) ALJ salary is based on the ALJ collective bargaining agreement and assumed to be at step L. (Line ALJ-range 70. Senior ALJ-range 74.)
- (3) Benefit rates were analyzed by job class and projected using the latest benefit information available.
- (4) Goods and services, travel and on-going capital outlays were projected based on historical data for each of the job classifications.

Total workload impact beginning in FY 2025: 0.1 ALJ and 0.06 LA2 at a rounded cost of \$33,000 per FY.

This bill is assumed effective 90 days after the end of the 2024 legislative session.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
484-1	Administrative Hearings Revolving Account	State	0	33,000	33,000	66,000	66,000
Total \$			0	33,000	33,000	66,000	66,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.2	0.1	0.2	0.2
A-Salaries and Wages		21,000	21,000	42,000	42,000
B-Employee Benefits		7,000	7,000	14,000	14,000
C-Professional Service Contracts					
E-Goods and Other Services		5,000	5,000	10,000	10,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	33,000	33,000	66,000	66,000

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 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Law Judge	110,100		0.1	0.1	0.1	0.1
Legal Assistant 2	52,964		0.1	0.0	0.1	0.1
Total FTEs			0.2	0.1	0.2	0.2

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)		33,000	33,000	66,000	66,000
Total \$		33,000	33,000	66,000	66,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 6118 SB	Title: Vapor product directory	Agency: 195-Liquor and Cannabis Board
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	8.8	4.4	8.0	8.0
Account					
General Fund-State 001-1	0	2,238,798	2,238,798	2,254,758	2,251,758
Total \$	0	2,238,798	2,238,798	2,254,758	2,251,758

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: Madeline Ralstin	Phone: 360-786-7356	Date: 01/09/2024
Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 01/16/2024
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 01/16/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 01/17/2024

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 1(1) By August 1, 2024, and annually thereafter, every manufacturer of vapor products that are sold in this state, must certify under penalty of perjury on a form and in the manner prescribed by the Washington State Liquor Control Board "LCB", that the manufacturer agrees to comply with this chapter, and that they meet FDA requirements as outlined in this subsection.

Section 1(2): A manufacturer must submit a certification form that separately lists each vapor product that is sold in this state.

Section 1(3): Each annual certification form must be accompanied by:

- a) FDA paperwork as outlined in section 1(3a).
- b) A payment of \$1,000 for each vapor product the first time a vapor product manufacturer submits a certification form for that product and a payment of \$250 annually thereafter for each vapor product.

Section 1(4): A manufacturer required to submit a certification form pursuant to this section must notify the LCB within 30 days of any material change to the certification form, including the issuance or denial of a marketing authorization or other order by the United States food and drug administration that affects the ability of the vapor product to be introduced or delivered into interstate commerce for commercial distribution in the US.

Section 1(5): The LCB must maintain and make available on its public website a directory that lists all vapor product manufacturers and vapor products for which certification forms have been submitted.

- (a) The LCB must make the directory available for inspection on its public website by October 1, 2024.
- (b) The LCB must update the directory as necessary on at least a monthly basis.

Section 1(6): The LCB must provide manufacturers notice and an opportunity to cure deficiencies before removing manufacturers or products from the directory.

Section 1(7): If a product is removed from the directory, each retailer, distributor, and wholesaler must have 21 days from the day such product is removed from the directory to remove the product from its inventory and return the product to the manufacturer for disposal. After 21 days following removal from the directory, the vapor products of a manufacturer identified in the notice of removal are contraband and are subject to seizure, forfeiture, and destruction, and may not be purchased or sold in the state.

Section 1(8): Beginning October 1, 2024, or on the date that the LCB first makes the directory available for inspection on its public website, a person may not sell or offer for sale a vapor product in this state that is not included in the directory, and a vapor product manufacturer may not sell a vapor product in this state that is not included in the directory.

Section 1(9): Penalties for violations of this section are outlined.

Section 1(10): Vapor products offered for sale in violation of this section are considered contraband and may be seized by an enforcement officer of the LCB.

Section 1(11): The attorney general, acting in the name of the state, may seek recovery of the penalty in a civil action in superior court.

Section 1(16): Each retailer, distributor, and wholesaler that sells or distributes vapor products in this state must be subject to at least two unannounced compliance checks annually for purposes of enforcing this section. Unannounced follow-up

compliance checks of all noncompliant retailers, distributors, and wholesalers must be conducted within 30 days after any violation of this section. The LCB must publish the results of all compliance checks at least annually and must make the results available to the public on request.

Section 1(17)

(a) Any nonresident or foreign manufacturer that has not registered to do business in the state as a foreign corporation or business entity must, as a condition precedent to having its products included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this section, may be served in any manner authorized by law. The service must constitute legal and valid service of process on the manufacturer. The manufacturer must provide the name, address, phone number, and proof of the appointment and availability of the agent to the satisfaction of the LCB.

(b) The manufacturer must provide notice to the LCB 30 calendar days prior to termination of the authority of an agent and must further provide proof to the satisfaction of the LCB of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the manufacturer must notify the LCB of the termination within five calendar days and include proof to the satisfaction of the LCB of the appointment of a new agent.

Section 1(18): The LCB may adopt by rule requirements necessary to implement this section.

Section 1(19): Starting January 31, 2025, and annually thereafter, the LCB must provide a report to the legislature regarding the status of the directory, manufacturers and products included in the directory, revenue and expenditures related to administration of this section, and enforcement activities undertaken pursuant to this section.

Section 1(20): All fees collected and funds collected by the LCB from the imposition of monetary penalties pursuant to this section must be used by the LCB for implementation of this section.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

Section 1(3): requires each manufacturer whose vapor products are sold in Washington state, to pay \$1,000 for each vapor product the first time they submit a certification form for that product and a payment of \$250 annually thereafter for each vapor product.

The agency does not know how many manufacturers of vapor products have their products sold in Washington state or how many might comply with this requirement. A large number of vapor manufacturers are either out-of-state or out-of-country (many in China) and so enforcing this requirement would be very difficult.

In addition, the agency does not currently track the number of different vapor products sold within Washington state.

Therefore for those reasons, the cash receipt impact is INDETERMINATE.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

AGO COSTS (AS BOARD DIVISION):

The AGO will bill LCB for legal services based on the enactment of this bill:

FY25: \$37,000
FY26: \$35,000
FY27+: \$32,000/yr

OAH COSTS (AS BOARD DIVISION)

The Office of Administrative Hearings (OAH) assumes 9 hearings and will require 15 ALJ hours per hearing. This equates to \$33,000 per FY.

FINANCE DIVISION:

The agency will need a Fiscal Analyst 3 (FA3) to to handle tracking of payment receipts, certification forms, vapor products, annual notifications, agents, and to coordinate with the Enforcement Division regarding violations and the Director's Office for updating the directory on a monthly basis as required by the bill.

1.0 FTE Fiscal Analyst 3 - \$100,777/yr (\$98,007 salary/benefits, \$2,770 in associated costs). Onetime costs in FY25 of \$6,105 for equipment purchases.

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 agency anticipates a workload impact of 7.0 FTE's (6 LCB Enforcement Officer 2's (LEO2) and 1 LCB Enforcement Officer 4 (LEO4). The workload is derived from premise checks, violation notices, rechecks, and licensee support and education. Please see the attached "6118 SB Vapor product directory - Enforcement Field Increment Calculator.pdf" for the workload calculations.

6.0 FTE LCB Enforcement Officer 2 - \$805,170/yr (\$710,010 salary/benefits, \$95,160 in associated costs). Onetime costs in FY25 of \$158,370 for equipment purchases.

1.0 FTE LCB Enforcement Officer 4 - \$154,932/yr (\$138,712 salary/benefits, \$16,220 in associated costs). Onetime costs in FY25 of \$23,425 for equipment purchases.

INFORMATION TECHNOLOGY DIVISION:

There will be one-time costs to implement the bill:

Vendor costs:

- BI/SSRS - 130 hrs x \$150/hr = \$19,500

- New interfaces and portal: \$63,000 + INDETERMINATE. The US Bank interface costs are indeterminate as the agency would need to work with US Bank and the Treasurer's office to determine costs. Supplemental funding may be needed at a later date to cover these costs.

Staff costs:

0.8 FTE IT App Development - Senior/Specialist - \$131,794/yr (\$130,938 salary/benefits, \$856 in associated costs). Onetime costs in FY25 of \$1,725 for equipment purchases.

OCIO oversight: 4,400 hrs x \$160/hr = \$704,000. See below

IT Investments – Approval and Oversight. The Office of the Chief Information Officer (OCIO) defines a major technology investment as one having a total cost that includes a combined level of effort of more than \$500,000 OR has a duration longer than 4-months.

If the agency fiscal note analysis anticipates one or both of these criteria being met, the agency is required under OCIO Policy #121 to submit an online self-assessment via OCIO’s Information Technology Assessment Tool (ITPA) speaking to effort size, risk and expected impact on citizens and state operations. If the agency assumes that OCIO’s formal decision is to place the project/effort under formal OCIO oversight, the agency would be required under OCIO Policy #132 to have external Quality Assurance (QA) services present at all stages of the project, from feasibility through implementation.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	2,238,798	2,238,798	2,254,758	2,251,758
Total \$			0	2,238,798	2,238,798	2,254,758	2,251,758

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		8.8	4.4	8.0	8.0
A-Salaries and Wages		796,169	796,169	1,388,856	1,388,856
B-Employee Benefits		281,498	281,498	504,602	504,602
C-Professional Service Contracts		82,500	82,500		
E-Goods and Other Services		891,181	891,181	200,020	197,020
G-Travel		106,120	106,120	156,240	156,240
J-Capital Outlays		81,330	81,330	5,040	5,040
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	2,238,798	2,238,798	2,254,758	2,251,758

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 2024	FY 2025	2023-25	2025-27	2027-29
Fiscal Analyst 3	71,148		1.0	0.5	1.0	1.0
IT App Development - Senior/Specialist	127,176		0.8	0.4		
LCB Enforcement Officer 2	86,712		6.0	3.0	6.0	6.0
LCB Enforcement Officer 4	103,008		1.0	0.5	1.0	1.0
Total FTEs			8.8	4.4	8.0	8.0

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Board Division (010)		70,000	70,000	133,000	130,000
Finance Division (020)		106,882	106,882	201,554	201,554
Enforcement Division (060)		1,141,897	1,141,897	1,920,204	1,920,204
Information Technology Division (070)		920,019	920,019		
Total \$		2,238,798	2,238,798	2,254,758	2,251,758

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Section 1(18): The LCB may adopt by rule requirements necessary to implement this section (manufacturer certification forms, penalties, etc).

Enforcement Field Increment (FI) Calculator

6118 SB "Vapor product directory"

	Number of events	Time Factor	Staffing Factor	FI Total
Vapor Retailer premise checks	7458	2	1.3	19391
Vapor Producers and Distributors checks	164	6	1.3	1279
Administrative Violation Notice (AVN) Issuance	61	12	1.3	952
Vapor Premises rechecks due to failure	61	1	2	122
License Support and Education	373	5	1.3	2424

<u>Factors</u>	<u>Values</u>
Vapor Retailer licenses	3729
Vapor Producer/Distributor licenses	82
Vapor Premises checks/year per license	2
Administrative Violation Notice (AVN) Issuance	61
Vapor Premises rechecks due to failure	61
License Support and Education	10%

Total FI's	24,167
Total Field Increments per FTE	4,220
FTE's required	5.73
Round	6.00



Multiple Agency Ten-Year Analysis Summary

Bill Number 6118 SB	Title Vapor product directory
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This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimated Cash Receipts

Office of Attorney General	0	0	0	0	0	0	0	0	0	0	0	0
Office of Administrative Hearings	0	0	0	0	0	0	0	0	0	0	0	0
Liquor and Cannabis Board Indeterminate Impact	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0



Ten-Year Analysis

Bill Number 6118 SB	Title Vapor product directory	Agency 100 Office of Attorney General
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts **Partially Indeterminate Cash Receipts** **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code												
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Agency Preparation: Cassandra Jones	Phone: 360-709-6028	Date: 1/12/2024 6:30:18 pm
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 1/12/2024 6:30:18 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 6118 SB	Title Vapor product directory	Agency 110 Office of Administrative Hearings
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts **Partially Indeterminate Cash Receipts** **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code												
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Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 1/16/2024 1:12:13 pm
Agency Approval: Rob Cotton	Phone: 360-407-2708	Date: 1/16/2024 1:12:13 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 6118 SB	Title Vapor product directory	Agency 195 Liquor and Cannabis Board
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code											
Total												

Biennial Totals

Narrative Explanation (Required for Indeterminate Cash Receipts)

Section 1(3): requires each manufacturer whose vapor products are sold in Washington state, to pay \$1,000 for each vapor product the first time they submit a certification form for that product and a payment of \$250 annually thereafter for each vapor product.

The agency does not know how many manufacturers of vapor products have their products sold in Washington state or how many might comply with this requirement. A large number of vapor manufacturers are either out-of-state or out-of-country (many in China) and so enforcing this requirement would be very difficult.

In addition, the agency does not currently track the number of different vapor products sold within Washington state.

Therefore for those reasons, the cash receipt impact is INDETERMINATE.

Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 1/16/2024 11:42:36 an
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 1/16/2024 11:42:36 an
OFM Review:	Phone:	Date: