

Multiple Agency Fiscal Note Summary

Bill Number: 6118 S 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	24,000	0	0	52,000	0	0	48,000
Office of Administrative Hearings	0	0	26,000	0	0	52,000	0	0	52,000
Department of Revenue	(951,000)	(951,000)	(1,610,000)	(9,514,000)	(9,514,000)	(16,116,000)	(9,514,000)	(9,514,000)	(16,116,000)
Total \$	(951,000)	(951,000)	(1,560,000)	(9,514,000)	(9,514,000)	(16,012,000)	(9,514,000)	(9,514,000)	(16,016,000)

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	No fiscal impact					
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	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Attorney General	1.0	210,000	210,000	234,000	1.2	210,000	210,000	262,000	.4	0	0	48,000
Office of Administrative Hearings	.1	0	0	26,000	.1	0	0	52,000	.1	0	0	52,000
Department of Revenue	.0	0	0	0	.0	0	0	0	.0	0	0	0
Liquor and Cannabis Board	Fiscal note not available											
Total \$	1.1	210,000	210,000	260,000	1.3	210,000	210,000	314,000	0.5	0	0	100,000

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
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	.0	0	0	.0	0	0	.0	0	0
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
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	Fiscal note not available								
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	No fiscal impact								
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 2/ 7/2024
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Judicial Impact Fiscal Note

Bill Number: 6118 S SB	Title: Vapor product directory	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

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 for 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.

Legislative Contact: Madeline Ralstin	Phone: 360-786-7356	Date: 01/31/2024
Agency Preparation: Jackie Bailey-Johnson	Phone: 360-704-5545	Date: 02/02/2024
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 02/02/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/02/2024

193,392.00

Form FN (Rev 1/00)

Request # 176-1

Bill # 6118 S SB

Part II: Narrative Explanation

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

This bill relates to a directory for closed system nicotine containers and disposable nicotine vapor products. This bill clarifies product types included in the directory. It modifies timeframes for compliance and duties of the Liquor and Cannabis Board (LCB).

II. B - Cash Receipts Impact

None

II. C - Expenditures

Minimal fiscal impact for law table new misdemeanor. No system impacts.

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

NONE

III. B - Expenditure By Object or Purpose (County)

NONE

III. C - Expenditure By Object or Purpose (City)

NONE

III. D - FTE Detail

NONE

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B1 - Expenditures by Object Or Purpose (State)

NONE

IV. B2 - Expenditures by Object Or Purpose (County)

NONE

IV. B3 - Expenditures by Object Or Purpose (City)

NONE

IV. C - Capital Budget Breakout

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

NONE

193,392.00

Form FN (Rev 1/00)

Individual State Agency Fiscal Note

Bill Number: 6118 S 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		24,000	24,000	52,000	48,000
Total \$		24,000	24,000	52,000	48,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	1.9	1.0	1.2	0.4
Account					
General Fund-State 001-1	0	210,000	210,000	210,000	0
Legal Services Revolving Account-State 405-1	0	24,000	24,000	52,000	48,000
Total \$	0	234,000	234,000	262,000	48,000

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: 01/31/2024
Agency Preparation: Cassandra Jones	Phone: 360-709-6028	Date: 02/06/2024
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/06/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 02/07/2024

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.

Section 2 – Amends RCW 70.34.010 to add a definition of “disposable nicotine vapor product.”

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: \$24,000 for 0.1 Assistant Attorney General FTE (AAG), 0.1 Paralegal 1 FTE (PL1), and 0.1 Paralegal 2 FTE (PL2),

FY 2026: \$28,000 for 0.1 AAG, 0.1 PL1, and 0.1 PL2

FY 2027 and in each FY thereafter: \$24,000 for 0.1 AAG, 0.1 PL1, and 0.1 PL2

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.) 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:

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. The Liquor and Cannabis Board (LCB) will refer instances of non-compliance to CPR, but will not be taking enforcement action against violations. If the board will take enforcement actions, fiscal impact to CPR will be decreased. 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 Paralegal 2 FTE (PL2), and 0.1 PL1 which includes direct litigation costs of \$3,000.

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

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

LAL serves as the advisor for the LCB Board and staff, and represents LCB in non-administrative actions brought against it.

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 the state, and to update that information within 30 days of any material change. Each certification form would have to be accompanied by certain Food and Drug Administration (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 the Board 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 47 administrative violations each year. Because the first FY of enforcement would not be a full year, we assume that only five hearings would be generated in FY 2025, and seven hearings each FY thereafter. Each violation that proceeds to hearing will require five hours of AAG time to advise the Board. The remaining cases will require one hour of AAG time to review and advise the Board.

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. 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 to FY2029: \$11,000 for 0.1 AAG and 0.1 PL1

3.) Assumptions for the AGO Government Compliance & Enforcement Division (GCE):

GCE litigates licensing and enforcement actions for the LCB and would bill the LCB for legal services based on the enactment of SSB 6118.

Beginning August 1, 2024, this bill would require manufactures of closed system nicotine containers and disposable nicotine vapor products to submit certifications to the LCB regarding each such product to be sold in the 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 the LCB to maintain a directory of all manufacturers of closed system nicotine containers and disposable nicotine vapor products and the products for which the required certifications have been received. Following removal from the directory, a person may not sell closed system nicotine containers or disposable vapor products in the state that are not listed on the directory.

Section 1(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 product from the directory. A manufacturer would have 15 business days following service of the notice to demonstrate that the manufacturer or the product should be included in the directory. No separate administrative appeal process would be available.

Section 1(7) and Section 1(8) of this bill would deem closed system nicotine containers and disposable vapor products to be contraband after the elapse of a certain period of time 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 distributors would seek hearings each year to contest the seizure and forfeiture of their products. Thereafter, only one hearing would be sought each fiscal year. We assume that each case to challenge a seizure and forfeiture of closed system nicotine containers and disposable vapor products 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 x 15) and 10 PL2 hours (2 x 5) and beginning in FY 2027 and continuing each year thereafter, this new work would utilize 15 AAG hours (1 x 15) and five PL2 hours (1 x 5).

Section 1(9) of this bill would create penalties for any retailer, distributor or wholesaler who sells at retail or offers for sale at retail a closed system nicotine container or disposable nicotine vapor product that is included in the directory. The penalties include a \$1,000 per day penalty for each product offered for sale 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 approximately 47 administrative violation notices each year beginning FY 2025. They further estimate that from those 47 violation notices, approximately 15 percent, or seven hearings would be sought. Because the first FY of enforcement would not be a full year, we assume that only five hearings would be generated in FY 2025, and seven hearings each FY thereafter. We further assume that most of these cases would be resolved on summary judgement, 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 45 AAG hours (5 x 9) and 15 PL hours (5 x 3) of new work, and beginning FY 2026 and continuing each year thereafter, these cases would utilize 63 AAG hours (7 x 9) and 21 PL2 hours (7 x 3).

Finally, the LCB would be authorized to adopt rules to implement this bill. We assume 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, we assume GCE would see the following total workload increases:

FY 2024: 0

FY 2025: 80 AAG hours (30 + 45 + 5) and 25 PL2 hours (10 + 15)

FY 2026: 93 AAG hours (30 + 63) and 31 PL2 hours (10 + 21)

FY 2027 and in each year thereafter: 78 AAG hours (15 + 63) and 26 PL2 hours (5 + 21)

FY 2025: \$13,000 for 0.1 AAG, 0.1 PL2 and 0.1 PL1

FY 2026: \$17,000 for 0.1 AAG, 0.1 PL2 and 0.1 PL1

FY 2027 and in each FY thereafter: \$13,000 for 0.1 AAG, 0.1 PL2 and 0.1 PL1

4.) The AGO Complex Litigation Division (COM) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the LCB. New legal services are nominal and costs are not included in this request.

Total workload impact:

FY 2025: \$234,000 for 0.4 AAG, 1.1 PL2 and 0.3 PL1, which includes direct litigation costs of \$3,000

FY 2026: \$238,000 for 0.4 AAG, 1.1 PL2 and 0.3 PL1, which includes direct litigation costs of \$3,000

FY 2027 and in each FY thereafter: \$24,000 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	24,000	24,000	52,000	48,000
Total \$			0	234,000	234,000	262,000	48,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		1.9	1.0	1.2	0.4
A-Salaries and Wages		152,000	152,000	171,000	34,000
B-Employee Benefits		49,000	49,000	55,000	10,000
C-Professional Service Contracts		3,000	3,000	3,000	
E-Goods and Other Services		28,000	28,000	31,000	4,000
G-Travel		2,000	2,000	2,000	
Total \$	0	234,000	234,000	262,000	48,000

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		0.1	0.1	0.1	0.1
Assistant Attorney General-Seattle	135,555		0.3	0.2	0.2	
Management Analyst 5	95,184		0.1	0.1	0.1	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			1.9	1.0	1.2	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)		13,000	13,000	30,000	26,000
Licensing & Administrative Law Division (LAL)		11,000	11,000	22,000	22,000
Total \$		234,000	234,000	262,000	48,000

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 S 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		26,000	26,000	52,000	52,000
Total \$		26,000	26,000	52,000	52,000

Estimated Operating Expenditures from:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.1	0.1	0.1	0.1
Account					
Administrative Hearings Revolving Account-State 484-1	0	26,000	26,000	52,000	52,000
Total \$	0	26,000	26,000	52,000	52,000

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: 01/31/2024
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 02/02/2024
Agency Approval: Rob Cotton	Phone: 360-407-2708	Date: 02/02/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 02/03/2024

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 of this substitute bill prohibits the retail sale or offer of sale of closed system nicotine containers or disposable nicotine vapor products in Washington that do not appear in the state's directory of such product manufacturers and certified products. Beginning October 1, 2024, persons and manufacturers may not sell or offer for retail sale a closed system nicotine container or disposable nicotine vapor product in Washington state that is not included in the directory. The Liquor and Cannabis Board may impose a civil penalty and license restrictions on any retailer, delivery seller, distributor, wholesaler, or manufacturer who sells such products not in the directory.

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 and 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 and Cannabis Board (LCB) estimates that the proposed legislation will result in seven 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 30 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: 0.08 ALJ and 0.05 LA2 with a rounded cost of \$26,000 per FY.

These projected costs do not include approved COLA salary increases approved effective July 1, 2024.

Legal services associated with the enactment of this bill will begin on July 1, 2024.

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	26,000	26,000	52,000	52,000
Total \$			0	26,000	26,000	52,000	52,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.1	0.1	0.1	0.1
A-Salaries and Wages		17,000	17,000	34,000	34,000
B-Employee Benefits		5,000	5,000	10,000	10,000
C-Professional Service Contracts					
E-Goods and Other Services		4,000	4,000	8,000	8,000
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	26,000	26,000	52,000	52,000

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	110,400		0.1	0.0	0.1	0.1
Legal Assistant 2	52,964		0.1	0.0	0.1	0.1
Total FTEs			0.1	0.1	0.1	0.1

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)		26,000	26,000	52,000	52,000
Total \$		26,000	26,000	52,000	52,000

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.

Department of Revenue Fiscal Note

Bill Number: 6118 S SB	Title: Vapor product directory	Agency: 140-Department of Revenue
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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
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax		(887,000)	(887,000)	(8,870,000)	(8,870,000)
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		(64,000)	(64,000)	(644,000)	(644,000)
Andy Hill Cancer Research Endowment Fund Match Transfer Account-State 01 - Taxes 70 - Other Taxes		(329,000)	(329,000)	(3,294,000)	(3,294,000)
Foundational Public Health Services Account-State 01 - Taxes 70 - Other Taxes		(329,000)	(329,000)	(3,294,000)	(3,294,000)
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax		(1,000)	(1,000)	(14,000)	(14,000)
Total \$		(1,610,000)	(1,610,000)	(16,116,000)	(16,116,000)

Estimated 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: Madeline Ralstin	Phone: 60-786-7356	Date: 01/31/2024
Agency Preparation: Van Huynh	Phone: 60-534-1512	Date: 02/02/2024
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 02/02/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 02/03/2024

Request # 6118-2-1

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.

Note: This fiscal note reflects language in SSB 6118, 2024 Legislative Session.

COMPARISON OF SUBSTITUTE BILL WITH ORIGINAL BILL:

The substitute bill does the following:

- Applies the original bill's provisions to specifically closed system nicotine containers or disposable nicotine vapor products, and not to all vapor products.
- Requires the Liquor and Cannabis Board (LCB) to send monthly notifications to each licensed retailer, distributor, and wholesaler of all changes made to the directory in the previous month, by electronic communication.
- Gives the retailer, distributor, or wholesaler the option to sell the products removed from the directory,
- Increases the time a retailer, distributor, or wholesaler can sell the product or remove the product from its inventory from 21 days to 30 days from the day the product is removed from the directory.

CURRENT LAW:

No requirement exists for the LCB to publish a directory of manufacturers of closed system nicotine containers or disposable nicotine vapor products that are sold in Washington.

Also, no requirement exists for such manufacturers to certify to the LCB that their products meet one of these requirements:

- The manufacturer received a marketing authorization (or similar order) for the closed system nicotine container or disposable nicotine vapor product from the United States Food and Drug Administration (FDA) under 21 U.S.C. Sec. 387j.
- The manufacturer marketed the closed system nicotine container or disposable nicotine vapor product in the United States as of August 8, 2016, the manufacturer submitted a premarket tobacco product application for these products to the FDA under 21 U.S.C. Sec. 387j on or before September 9, 2020, and the application either remains under review by the FDA or a final decision on the application has not otherwise taken effect.

PROPOSAL:

This bill requires the LCB to publish a directory of manufacturers of closed system nicotine containers or disposable nicotine vapor products sold in Washington.

The directory will list manufacturers who certified to the LCB that their products meet one of these requirements:

- The manufacturer received a marketing authorization (or similar order) for the closed system nicotine container or disposable nicotine vapor product from the United States Food and Drug Administration (FDA) under 21 U.S.C. Sec. 387j.
- The manufacturer marketed the closed system nicotine container or disposable nicotine vapor product in the United States as of August 8, 2016. The manufacturer also submitted a premarket tobacco product application for these products to the FDA under 21 U.S.C. Sec. 387j on or before September 9, 2020, and the FDA still continues to review the application, or the FDA's final decision on the application has not taken effect.

The LCB must maintain on its website the directory of these manufacturers and the products for which certification forms have been submitted. The directory must be available by October 1, 2024.

This bill requires a payment of \$1,000 for each closed system nicotine container or disposable nicotine vapor product the first time a manufacturer submits the product's certification form and a payment of \$250 annually thereafter for each product.

By electronic communication, the LCB must send monthly notifications to each licensed retailer, distributor, and wholesaler,

Request # 6118-2-1

of all changes made to the directory in the previous month.

Beginning October 1, 2024, or on the date the LCB first makes the directory available, whichever is later, a person may only sell a closed system nicotine container or disposable nicotine vapor product in Washington listed in the directory. Various penalties apply for non-compliance.

The bill defines a closed system nicotine container as a sealed, prefilled, and disposable container of nicotine in a solution or other form where the container inserts directly into an electronic cigarette, electronic nicotine delivery system, or other similar product. The nicotine in the container must be inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

The bill defines a disposable nicotine vapor product as a vapor product consisting of a power source and a solution or other substance containing nicotine in a single unit sealed by the manufacturer, not intended to be opened by the consumer, and intended for the consumer to dispose of after depleting the solution or other substance.

EFFECTIVE DATE:

The bill takes effect 90 days after the final adjournment of the 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.

ASSUMPTIONS:

- The LCB will have the directory available by October 1, 2024.
- Each retailer, distributor, and wholesaler will sell from its inventory any closed system nicotine containers and disposable nicotine vapor products not included in the directory by November 30, 2024.
- The reduction in taxable sales due to removing those products not in the directory begins December 1, 2024, and impacts six months of collections in fiscal year 2025.
- The Department of Revenue (department) receives the taxes from monthly taxpayers the month after the business collects the sales tax from the consumer. Most local tax distributions occur the month after the department receives sales and use taxes that businesses collect. This leads to a one-month delay in revenues for the state and a two-month delay in revenues for local jurisdictions.
- 30% of current taxable sales of the items covered by this legislation will be lost due to the removal of those products (from retail sales) that will not be in the directory. However, only 40% of such loss will occur in fiscal year 2025, as it may take some time before all licensees will be familiar with and act upon the new law.
- The loss in taxable sales represents a combination of expected responses from taxpayers. Those brand-loyal taxpayers may choose other nontaxable purchasing options, such as online, through tribal establishments, or making purchases in other states. Some taxpayers may choose to purchase other replacement products. A small percentage of taxpayers may choose to cease use of these types of products altogether.
- Price of a disposable product is \$7.80.
- Price of a nicotine pod is \$4.50.

DATA SOURCES:

- Department of Revenue, Excise tax data
- Various sources on nicotine products, including the FDA website

REVENUE ESTIMATES:

This bill decreases state revenues by an estimated \$1.6 million in the six months of impacted collections in fiscal year 2025 and by \$8.1 million in fiscal year 2026, the first full year of impacted collections.

This bill also decreases local revenues by an estimated \$0.3 million in the five months of impacted collections in fiscal year 2025, and by \$2.0 million in fiscal year 2026, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 - \$ 0
FY 2025 - (\$ 1,610)
FY 2026 - (\$ 8,058)
FY 2027 - (\$ 8,058)
FY 2028 - (\$ 8,058)
FY 2029 - (\$ 8,058)

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

FY 2024 - \$ 0
FY 2025 - (\$ 336)
FY 2026 - (\$ 2,016)
FY 2027 - (\$ 2,016)
FY 2028 - (\$ 2,016)
FY 2029 - (\$ 2,016)

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 department will not incur any costs with the implementation of this legislation.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

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

NONE

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

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

NONE

Part V: New Rule Making Required



Multiple Agency Ten-Year Analysis Summary

Bill Number 6118 S 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

Administrative Office of the Courts	0	0	0	0	0	0	0	0	0	0	0
Office of Attorney General	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
Department of Revenue	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0



Ten-Year Analysis

Bill Number 6118 S SB	Title Vapor product directory	Agency 055 Administrative Office of the Courts
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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: Jackie Bailey-Johnson	Phone: 360-704-5545	Date: 2/2/2024 3:24:54 pm
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 2/2/2024 3:24:54 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 6118 S 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: 2/6/2024 6:32:03 pm
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 2/6/2024 6:32:03 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 6118 S 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: 2/2/2024 5:21:52 pm
Agency Approval: Rob Cotton	Phone: 360-407-2708	Date: 2/2/2024 5:21:52 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 6118 S SB	Title Vapor product directory	Agency 140 Department of Revenue
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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: Van Huynh	Phone: 360-534-1512	Date: 2/2/2024 11:36:08 am
Agency Approval: Valerie Torres	Phone: 360-534-1521	Date: 2/2/2024 11:36:08 am
OFM Review:	Phone:	Date: