

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5803 SB	<b>Title:</b> Tobacco & nicotine products
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## Estimated Cash Receipts

Agency Name	2025-27			2027-29			2029-31		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Revenue	50,700,000	50,700,000	62,300,000	(186,200,000)	(186,200,000)	(169,400,000)	(165,500,000)	(165,500,000)	(148,700,000)
Liquor and Cannabis Board	0	0	8,069,450	0	0	8,069,450	0	0	8,069,450
<b>Total \$</b>	<b>50,700,000</b>	<b>50,700,000</b>	<b>70,369,450</b>	<b>(186,200,000)</b>	<b>(186,200,000)</b>	<b>(161,330,550)</b>	<b>(165,500,000)</b>	<b>(165,500,000)</b>	<b>(140,630,550)</b>

## Estimated Operating Expenditures

Agency Name	2025-27				2027-29				2029-31			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	Fiscal note not available											
Department of Revenue	7.8	2,885,400	2,885,400	2,885,400	6.2	1,967,900	1,967,900	1,967,900	2.4	674,500	674,500	674,500
Liquor and Cannabis Board	4.0	0	0	65,910	4.0	0	0	0	4.0	0	0	0
Department of Health	Fiscal note not available											
<b>Total \$</b>	<b>11.8</b>	<b>2,885,400</b>	<b>2,885,400</b>	<b>2,951,310</b>	<b>10.2</b>	<b>1,967,900</b>	<b>1,967,900</b>	<b>1,967,900</b>	<b>6.4</b>	<b>674,500</b>	<b>674,500</b>	<b>674,500</b>

## Estimated Capital Budget Expenditures

Agency Name	2025-27			2027-29			2029-31		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	Fiscal note not available								
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Department of Health	Fiscal note not available								
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Val Terre, OFM	<b>Phone:</b> (360) 280-3073	<b>Date Published:</b> Preliminary 4/ 7/2025
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# Department of Revenue Fiscal Note

<b>Bill Number:</b> 5803 SB	<b>Title:</b> Tobacco & nicotine products	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates



No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2026	FY 2027	2025-27	2027-29	2029-31
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax		(7,300,000)	(7,300,000)	(90,100,000)	(90,700,000)
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		(200,000)	(200,000)	(6,400,000)	(6,400,000)
GF-STATE-State 01 - Taxes 25 - Cigarette Tax		37,500,000	37,500,000	(59,500,000)	(44,300,000)
GF-STATE-State 01 - Taxes 26 - Other Tobacco Tax		20,700,000	20,700,000	(30,200,000)	(24,100,000)
Andy Hill Cancer Research Endowment Fund Match Transfer Account-State 01 - Taxes 70 - Other Taxes		800,000	800,000	1,600,000	1,600,000
Foundational Public Health Services Account-State 01 - Taxes 70 - Other Taxes		5,800,000	5,800,000	5,400,000	5,400,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax				(200,000)	(200,000)
Tobacco Prevention and Control Account-State 01 - Taxes 25 - Cigarette Tax		5,000,000	5,000,000	10,000,000	10,000,000
<b>Total \$</b>		62,300,000	62,300,000	(169,400,000)	(148,700,000)

### Estimated Expenditures from:

	FY 2026	FY 2027	2025-27	2027-29	2029-31
FTE Staff Years	5.9	9.7	7.8	6.2	2.4
<b>Account</b>					
GF-STATE-State 001-1	1,482,700	1,402,700	2,885,400	1,967,900	674,500
<b>Total \$</b>	1,482,700	1,402,700	2,885,400	1,967,900	674,500

### Estimated Capital Budget Impact:

NONE

Request # 5803-1-1

*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:	Rachelle Harris	Phone: (360) 786-7137	Date: 03/28/2025
Agency Preparation:	Van Huynh	Phone: (360) 534-1512	Date: 04/06/2025
Agency Approval:	Valerie Torres	Phone: (360) 534-1521	Date: 04/06/2025
OFM Review:	Megan Tudor	Phone: (360) 890-1722	Date: 04/07/2025

Request # 5803-1-1

## 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.*

#### CURRENT LAW:

In Washington, tobacco and nicotine products fall into one of three categories:

- Cigarettes
- Vapor products
- Other tobacco products (OTP)

There is no prohibition on selling flavored tobacco or nicotine products or entertainment vapor products at retail.

#### CIGARETTES

The cigarette tax is a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes in Washington. The tax rate equals \$3.025 per pack of 20 cigarettes.

The law deposits cigarette taxes in the General Fund.

#### VAPOR PRODUCTS

The volume of solution and type of container determine the vapor product tax rate. The tax rate for accessible containers of solution of more than 5 mL is \$0.09/mL and the tax rate for all others is \$0.27/mL.

The law deposits vapor taxes as follows:

- 50% into the Andy Hill Cancer Research Endowment Fund Match Transfer Account.
- 50% into the Foundational Public Health Services Account.

#### OTHER TOBACCO PRODUCTS

The OTP tax is a tax on the sale, use, consumption, handling, or distribution of cigars, pipe tobacco, chewing tobacco, and other forms of tobacco, except cigarettes. The tax rates on these products are as follows:

- For cigars, except little cigars, 95% of the taxable sales price of cigars, but not to exceed \$0.65 per cigar.
- For tobacco products whose tax rates are not specified, 95% of the taxable sales price.
- For consumer-sized cans or packages of moist snuff with a net weight of 1.2 ounces (or less), the tax rate is either the greater of \$2.526 or 83.5% of the cigarette tax (which is currently \$3.025/pack of 20 cigarettes).
- For little cigars, the tax rate per cigar equals the cigarette tax per cigarette, which is currently \$0.15125.

The law deposits OTP taxes in the General Fund.

#### PROPOSAL:

Starting July 1, 2027, no retailer may sell, display, market, or advertise for sale:

- Flavored tobacco or nicotine products.
- Entertainment vapor products.

A tobacco or nicotine product is any:

- Product containing, made of, or derived from tobacco or nicotine intended for human consumption or likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, or alternative nicotine product.
- Vapor product or any aerosolized or vaporized substance by such product, whether or not the substance contains nicotine.

- Component, part, or accessory of a product, regardless of whether such component, part, or accessory contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, flavor enhancers, mouthpieces, or pipes.

A flavored tobacco or nicotine product is a tobacco or nicotine product imparting a taste or smell other than the taste or smell of tobacco or a cooling or numbing sensation. Evidence as to whether the product has a cooling or numbing sensation may include, but is not limited to, the use of terms such as "cool," "chill," "ice," "fresh," "arctic," or "frost" to describe the product. However, flavored shisha is excluded if sold on premises from which people under the age of 21 are prohibited.

Flavored means including the taste or smell of fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb, or spice.

An entertainment vapor product is a vapor product that has interactive gaming or other entertainment features, including but not limited to, allowing a user to play music or audio, display photos or video, play virtual games, or display other animations on the device.

In addition to banning the sale of products described above, the bill also increases taxes on the remaining (lawful) tobacco and nicotine products.

## CIGARETTES

The bill imposes an additional tax of \$2 per pack of cigarettes.

Beginning December 2028, and every three years thereafter, the Department of Revenue (department) will adjust this additional tax amount by multiplying the current amount by one plus the percentage by which the most current consumer price index (CPI) available on December 1st of the current year exceeds the CPI for the prior 36-month period. If the adjustment would reduce the applicable amounts, the department may not adjust the applicable amounts for use in the following year. The department will publish the adjusted applicable amounts on its website by December 31st. The adjusted applicable amounts calculated take effect for taxes due in the following calendar year.

This bill deposits the additional taxes as follows:

- The first \$5 million in the Youth Tobacco and Vapor Products Prevention Account.
- The remainder into the General Fund.

Consumer price index means the consumer price index for all urban consumers, all items, for the Seattle area as calculated by the U.S. Bureau of Labor Statistics or its successor agency.

## VAPOR PRODUCTS

The bill replaces the current milliliter tax with a tax based on the taxable sales price of the products. The tax rate will be 95% of the taxable sales price. In cases where the taxpayer cannot isolate the value of the vapor product, the total selling price of the product is subject to the tax.

This bill deposits vapor products taxes as follows:

- For the first \$25 million per calendar year collected:
  - 50% into the Andy Hill Cancer Research Endowment Fund Match Transfer Account

- 50% into the Foundational Public Health Services Account.
- The rest of the taxes go into the General Fund.

## OTHER TOBACCO PRODUCTS

Except for little cigars, all OTP will now be taxed at 95% of the taxable sales price. Little cigars will be taxed at \$0.25125 per cigar.

## ADDITIONAL CHANGES

The bill also does the following:

- Increases license fees for retailers, distributors, and others.
- Adds entertainment vapor products, flavored tobacco, and flavored nicotine products to the definition of vapor product.
- Adds alternative nicotine products and flavored tobacco and nicotine products to the definition of tobacco products.

## EFFECTIVE DATE:

The additional cigarette tax, the changes to vapor products tax base and rate, and the changes for other tobacco products take effect January 1, 2026, (Sections 21, 24, 25, 28, 30, and 31). The rest of the bill takes effect 90 days after the final adjournment of the session.

However, due to the time it will take to program this bill's changes, the department cannot implement the provisions relevant to the department until January 1, 2027.

## 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:

- Menthol cigarettes make up 36% of all cigarettes. Taxed sales of tobacco flavored cigarettes will increase by 3.2% to account for menthol smokers buying tobacco flavored cigarettes as substitutes after the ban.
- A pack of cigarettes costs \$10.14.
- The price of a disposable vapor product is \$7.49 (small) and \$19.15 (large).
- The price of a nicotine pod is \$5.86.
- A typical alternative nicotine product costs \$7/unit.
- Washington's population is 2.4% of the U.S. population.
- Local revenue estimates use the statewide average local sales and use taxes rate of 3%.
- Currently, tribes with compacts receive a share of state sales and use taxes and certain business and occupation taxes (RCW 43.06.523). Under this legislation, the amount of revenue shared with tribes may decrease.
- The 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 revenue impacts for the state and a two-month delay in revenue impacts for local jurisdictions.
- The tax rate increases will be implemented January 1, 2027, and impacts five months of state collections and four months of local collections in fiscal year 2027.
- The flavor ban will be implemented July 1, 2027, and impacts 11 months of collections in fiscal year 2028.

## DATA SOURCES:

- Department of Revenue tax returns and vapor schedules
- Economic and Revenue Forecast Council, November 2024 forecast for cigarette and other tobacco products
- Massachusetts Department of Revenue, cigarette tax collections
- Orzechowski & Walker (Consulting). "Tax Burden on Tobacco, 2021."

- Moneyzine. “A Guide to Cigarette Prices by State, 2024.”  
<https://moneyzine.com/personal-finance-resources/cigarette-prices-by-state/>
- Tax Foundation. “Massachusetts Flavored Tobacco Ban: No Impact on New England Sales.”  
<https://taxfoundation.org/blog/massachusetts-flavored-tobacco-ban-sales-jama-study/>
- Nicotine and Tobacco Research. “The Impact of Menthol Cigarette Bans: A Systematic Review and Meta-Analysis, 2024”.  
<https://pubmed.ncbi.nlm.nih.gov/38379278/>
- Federal Trade Commission. “Cigarette Report for 2022.”  
[https://www.ftc.gov/system/files/ftc\\_gov/pdf/2022-Cigarette-Report.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2022-Cigarette-Report.pdf)
- Mitchell Hamline School of Law. “San Francisco’s Flavored Tobacco Products Policy: A Case Study.”  
<https://www.publichealthlawcenter.org/>
- Tobacco Insider, <https://tobaccoinsider.com>
- U.S. Census, population data
- Office of Financial Management, population data

#### REVENUE ESTIMATES:

This bill increases state revenues by an estimated \$62.3 million in the five months of impacted collections in fiscal year 2027, but decreases state revenues by \$87.8 million in fiscal year 2028, the first full year of impacted collections.

This bill decreases local revenues by an estimated \$1.1 million in the four months of impacted collections in fiscal year 2027, and by \$20.4 million in fiscal year 2028, the first full year of impacted collections.

While the bill increases tax rates, the net revenue impact of the fiscal note still shows significant revenue losses starting in fiscal year 2028 because the additional revenues from the tax rate increases do not outweigh the revenue losses due to the drop in taxed sales. The drop in taxed sales is due to both the tax rate increases and the flavor ban.

Fiscal year 2027 shows a net revenue gain because the tax rate increases will start January 1, 2027, while the flavor ban will start July 1, 2027.

#### TOTAL REVENUE IMPACT:

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

FY 2026 -	\$ 0
FY 2027 -	\$ 62,300
FY 2028 -	(\$ 87,800)
FY 2029 -	(\$ 81,600)
FY 2030 -	(\$ 75,800)
FY 2031 -	(\$ 72,900)

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

FY 2026 -	\$ 0
FY 2027 -	(\$ 1,100)
FY 2028 -	(\$ 20,400)
FY 2029 -	(\$ 20,400)
FY 2030 -	(\$ 20,500)
FY 2031 -	(\$ 20,700)



## 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.*

### ASSUMPTIONS:

This bill affects 4,200 taxpayers with cigarette, tobacco, and vapor product business license endorsements.

### FIRST YEAR COSTS:

The department will incur total costs of \$1,482,700 in fiscal year 2026. These costs include:

Labor Costs – Time and effort equate to 5.9 FTEs.

- Set up, program, and test computer system changes.
- Gathering requirements, attending implementation meetings, and documenting and testing system changes.
- Meet with tribes with compact agreements to discuss changes in the law.

Object Costs - \$571,200.

- Computer system changes, including contract programming.
- Travel expenses for meetings with compacting tribes.

### SECOND YEAR COSTS:

The department will incur total costs of \$1,402,700 in fiscal year 2027. These costs include:

Labor Costs – Time and effort equate to 9.69 FTEs.

- Amend two administrative rules.
- Create special notices and update relevant information on the department's website.
- Set up, program, and test computer system changes.
  - Hear additional administrative reviews that provide taxpayers with an informal, non-adversarial dispute resolution process for the review of a disputed action by the department, such as an assessment of taxes, notice of taxes due, denial of a refund request, or tax ruling.
- Respond to data requests and questions, compile statistics, and manage data.
  - Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.
- Continued computer system testing, monitoring, and maintenance.
- Meet with tribes with compact agreements to discuss changes in the law.
- Answer additional phone calls and counter inquiries from businesses, individuals, and accountants regarding tax questions and tax return preparation.

Object Costs - \$133,300.

- Printing and postage
- Travel expenses for meetings with compacting tribes.

### THIRD YEAR COSTS:

The department will incur total costs of \$916,200 in fiscal year 2028. These costs include:

Labor Costs – Time and effort equate to 5.7 FTEs.

- Hear additional administrative reviews that provide taxpayers with an informal, non-adversarial dispute resolution process for the review of a disputed action by the department, such as an assessment of taxes, notice of taxes due, denial of a refund request, or tax ruling.

- Respond to data requests and questions, compile statistics, and manage data.
  - Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.
- Continued computer system testing, monitoring, and maintenance.
- Meet with tribes with compact agreements to discuss changes in the law.

Object Costs - \$120,500.

- Printing and postage.
- Travel expenses for meetings with compacting tribes.

#### FOURTH YEAR COSTS:

The department will incur total costs of \$1,051,700 in fiscal year 2029. These costs include:

Labor Costs – Time and effort equate to 6.7 FTEs.

- Set up, program, and test computer system changes.
  - Hear additional administrative reviews that provide taxpayers with an informal, non-adversarial dispute resolution process for the review of a disputed action by the department, such as an assessment of taxes, notice of taxes due, denial of a refund request, or tax ruling.
    - Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.
- Continued computer system testing, monitoring, and maintenance.
- Meet with tribes with compact agreements to discuss changes in the law.
- Answer additional phone calls and counter inquiries from businesses, individuals, and accountants regarding tax questions and tax return preparation.

Object Costs - \$171,900.

- Computer system changes, including contract programming.
- Printing and postage.
- Travel expenses for meetings with compacting tribes.

#### ONGOING COSTS:

Ongoing costs for the 2029-31 biennium equal \$674,500 and include similar activities described in the fourth-year costs. Time and effort equate to 2.35 FTEs.

### Part III: Expenditure Detail

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

	FY 2026	FY 2027	2025-27	2027-29	2029-31
FTE Staff Years	5.9	9.7	7.8	6.2	2.4
A-Salaries and Wages	588,800	809,000	1,397,800	1,087,500	432,500
B-Employee Benefits	212,000	291,300	503,300	391,600	155,700
C-Professional Service Contracts	452,800		452,800	51,400	
E-Goods and Other Services	86,900	141,500	228,400	173,900	66,000
G-Travel	118,600	131,200	249,800	240,000	11,400
J-Capital Outlays	23,600	29,700	53,300	23,500	8,900
<b>Total \$</b>	<b>\$1,482,700</b>	<b>\$1,402,700</b>	<b>\$2,885,400</b>	<b>\$1,967,900</b>	<b>\$674,500</b>

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

Job Classification	Salary	FY 2026	FY 2027	2025-27	2027-29	2029-31
EMS BAND 4	135,635		0.0	0.0		
EXCISE TAX EX 1	47,988		0.1	0.1	0.1	
EXCISE TAX EX 2	59,844		2.0	1.0	1.1	0.3
EXCISE TAX EX 3	66,012		1.2	0.6	0.6	0.2
EXCISE TAX EX 4	72,924	0.1	0.2	0.2	0.1	
IT B A-JOURNEY	94,728	1.1	0.6	0.9	0.2	
IT B A-SR/SPEC	104,412		0.1	0.1	0.1	
IT QA-JOURNEY	94,728	0.1		0.1		
IT QA-SR/SPEC	104,412	0.1		0.1		
IT SYS ADM-JOURNEY	99,444	0.7	0.3	0.5	0.1	
MGMT ANALYST4	78,468	0.9	1.1	1.0	1.0	0.3
TAX INFO SPEC 1	47,988		0.2	0.1	0.1	
TAX POLICY SP 2	80,460		0.3	0.2		
TAX POLICY SP 3	91,068		0.5	0.3	0.2	0.1
TAX POLICY SP 4	98,040	1.0	1.5	1.3	1.3	1.0
WMS BAND 2	101,410		0.0	0.0		
WMS BAND 3	115,352	1.9	1.5	1.7	1.5	0.5
<b>Total FTEs</b>		5.9	9.7	7.8	6.2	2.4

**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**

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

Should this legislation become law, the department will use the expedited rulemaking process to amend the following rules:

- WAC 458-20-185, titled: "Tax on tobacco products."
- WAC 458-20-186, titled: "Tax on cigarettes."

This rulemaking would affect taxpayers with cigarette, tobacco, and vapor product business license endorsements.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5803 SB	<b>Title:</b> Tobacco & nicotine products	<b>Agency:</b> 195-Liquor and Cannabis Board
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2026	FY 2027	2025-27	2027-29	2029-31
Youth Tobacco and Vapor Products Prevention Account-State 235-1	4,034,725	4,034,725	8,069,450	8,069,450	8,069,450
<b>Total \$</b>	4,034,725	4,034,725	8,069,450	8,069,450	8,069,450

### Estimated Operating Expenditures from:

	FY 2026	FY 2027	2025-27	2027-29	2029-31
FTE Staff Years	4.0	4.0	4.0	4.0	4.0
<b>Account</b>					
Liquor Revolving Account-State 501-1	65,910	0	65,910	0	0
<b>Total \$</b>	65,910	0	65,910	0	0

### 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: Rachelle Harris	Phone: 360-786-7137	Date: 03/28/2025
Agency Preparation: Colin O'Neill	Phone: (360) 664-4552	Date: 04/04/2025
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 04/04/2025
OFM Review: Val Terre	Phone: (360) 280-3073	Date: 04/07/2025

## 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.*

#### FLAVORED TOBACCO AND RETAILER REGULATION

Section 1(2) INTENT: The legislature therefore intends to prohibit the sale of all flavored tobacco and nicotine products and entertainment vapor products and increase the tax on all tobacco products to reduce youth usage and protect the next generation from a lifetime of addiction and premature death.

Section 2(1) A person who sells or gives, or permits to be sold or given, to any person under the age of 21 years, any alternative nicotine product, is guilty of a gross misdemeanor.

Section 3 adds definitions to include:

"Entertainment vapor product" means any vapor product that has interactive gaming or entertainment features including, but not limited to, allowing a user to play music or audio, display photos or video, play virtual games, or display other animations on the device.

NEW SECTION. Sec. 4 (1) Beginning July 1, 2027, no retailer may sell, offer for sale, display, market, or advertise for sale in this state, any flavored tobacco or nicotine product or entertainment vapor product.

NEW SECTION. Sec. 6. (1) In addition to the liquor and cannabis board's other powers and authorities, the liquor and cannabis board may enforce the provisions of this chapter. The liquor and cannabis board may revoke or suspend the license of any retailer or wholesaler in accordance with the provisions of RCW 70.155.100.

(2) The liquor and cannabis board must adopt rules to implement the requirements of this chapter and for compliance education for licensed retailers, distributors, and manufacturers and their employees relating to abating violations of this chapter and rules adopted under this chapter.

Section 12 (RCW 70.155.100 – penalties) 3b increases monetary penalties.

Section 13 (1b): A retailer may obtain vapor products only from a licensed distributor. A retailer that obtains vapor products from any person that is not licensed under this chapter, including directly from a manufacturer, must be licensed both as a retailer and a distributor under this chapter and is liable for the tax imposed under RCW 82.25.010 with respect to the vapor products acquired from the unlicensed person that are held for sale, handling, or distribution in this state.

Section 14 (RCW 70.345.040) – increases the vapor product distributor's license fee from \$150 to \$1,000. The additional location fee is increased from \$100 to \$1,000 per location.

Section 15 (RCW 70.345.050) – increases the vapor product retailer's license fee from \$175 to \$1,000. The combo fee of \$250 is deleted (for combined tobacco/vapor license)

Section 16 (RCW 70.345.060) – increases the vapor product delivery sale license fee from \$250 to \$1,000.

Section 17 (RCW 70.345.070) – added sign display requirements (prohibition of flavored and entertainment products)

Section 19 (RCW 70.345.180) – increases monetary penalties

Section 20 (NEW SECTION) - A new section is added to chapter 70.345 RCW to read as follows:

(1) It is unlawful for any person to sell, give, deliver, or furnish to a person in this state a product that contains a nicotine analogue.

(2) Factors relevant to determining whether a substance is a nicotine analogue include, but are not limited to, the marketing, advertising, and labeling of the product.

(3) For the purposes of this section, "nicotine analogue" means a substance:

(a) The chemical structure of which is substantially similar to the chemical structure of nicotine; or

(b) That has, purports to have, or is represented to have, an effect on the central nervous system that is similar to or greater than the effect on the central nervous system of nicotine.

## CIGARETTE TAX

NEW SECTION. Sec. 21. A new section is added to chapter 82.24 RCW to read as follows:

(1) In addition to the tax imposed upon the sale, use, consumption, handling, possession, or distribution of cigarettes set forth in RCW 82.24.020 and 82.24.026, there is imposed a tax in an amount equal to \$2 per package of cigarettes.

Section 22 (RCW 82.24.520) – increases the cigarette wholesaler’s license fee from \$650 to \$1,000. The additional location fee increases from \$115 to \$1,000.

Section 23 (RCW 82.24.530) – increases the cigarette retailer’s license fee from \$175 to \$1,000. The fee for vending machine licenses increases from \$30 to \$200 per machine. The fee for a cigarette-making machine license increases from \$93 to \$500. The combo fee of \$250 is deleted (for combined tobacco/vapor license)

## VAPOR PRODUCTS TAX

Section 24 (RCW 82.25.005) deletes the definition of accessible container and adds definitions for:

1) “Actual price”

14) “Taxable sales price”

16) Vapor product is redefined to add entertainment vapor product or flavored tobacco or nicotine product.

Section 25 (RCW 82.25.010). the existing tax rates for vapor products are deleted and replaced with a flat 95% of the taxable sales price.

Section 26 (RCW 82.25.030) – distributor records must include quantity of vapor products by brand.

Section 27 (RCW 82.25.095) – the Board may destroy vapor products.

Section 28 (RCW 82.25.110) – preexisting inventories are subject to the tax in RCW 82.25.010 (Section 25). Retailers and distributors must report the tax due to the department on or before January 31, 2026 and pay the tax on or before April 30, 2026.

## TOBACCO TAX

Section 29 (RCW 82.26.010)

(3) "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. It does not include a vapor product or a product regulated as a drug or device by the food and drug administration.

Section 30 (RCW 82.26.020) – strikes existing tax rates on cigars and OTP and assesses a tax equal to 95% of the taxable sales price.

Section 31 (RCW 82.26.030) – deletes the reference to the moist snuff tax rate

Section 32 (RCW 82.26.060) – distributor records must include quantity of tobacco products by brand.

Section 33 (RCW 82.26.160) – increases the tobacco distributor’s license fee from \$650 to \$1,000. The additional location fee increases from \$115 to \$1,000.

Section 34 (RCW 82.26.170) – increases the tobacco retailer’s license fee from \$175 to \$1,000. The combo fee of \$250 is deleted (for combined tobacco/vapor license)

Section 36 (RCW 82.26.200): A retailer may obtain tobacco products only from a licensed distributor.

Section 37 (RCW 82.26.240) – the Board may destroy tobacco products.

Section 39: Sections 21, 24, 25, 28, 30, 31 of this act take effect January 1, 2026.

Section 40: RCW 82.26.260 (Tax payment and exemption verification) is REPEALED.

## **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.*

### **VAPOR PRODUCT LICENSES**

Section 14 (RCW 70.345.040) – increases the vapor product distributor’s license fee from \$150 to \$1,000. The additional location fee is increased from \$100 to \$1,000 per location.

Section 15 (RCW 70.345.050) – increases the vapor product retailer’s license fee from \$175 to \$1,000. The combo fee of \$250 is deleted (for combined tobacco/vapor license)

Section 16 (RCW 70.345.060) – increases the vapor product delivery sale license fee from \$250 to \$1,000.

The agency anticipates that 1/3 of the existing standalone vapor product retailer licenses may go out of business due to the inability to sell flavored vapor products.

Please see the attached "5803 SB Fee changes.pdf" for the breakdown of license counts and anticipated revenue from each fee. All fees from vapor product licenses are deposited into the Youth Tobacco and Vapor Products Prevention Account.

## **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.*

### **BOARD DIVISION (PROJECT COSTS):**

The Washington State Liquor and Cannabis Board ("Board") is currently in the middle of a project to upgrade the agency's internal licensing and enforcement systems. The Licensing, Enforcement, Education, and Administrative Data Systems (LEEADS) is expected to go live in FY 2025. There are change request costs associated with this legislation that will have to be submitted to the vendor or contracted out by the LCB. The estimated costs for these change requests is \$65,910 in FY26. Some examples of changes needed follow:

Salesforce:

Developer: 105 hours x \$392/hr = \$41,160

Business Analyst: 10 hours x \$150/hr = \$1,500

QA Tester: 155 hours x \$150/hr = \$23,250

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## 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 workload impact from premise checks, complaint investigations, and support and education etc.... Please see the attached "5803 SB Tobacco and Nicotine Products - Enforcement Field Increment Calculator.pdf" for the workload calculations.

4.0 FTE LCB Enforcement Officer 2 - \$566,904/yr (\$474,624 salary/benefits, \$92,280 in associated costs). Onetime costs in FY26 of \$145,300 for equipment purchases.

NOTE: RCW 70.155.120 (3) states the department of health shall enter into interagency agreements with the board to pay the costs incurred, up to 30 percent of available funds in the youth tobacco and vapor products prevention account, in carrying out its enforcement responsibilities under this chapter. For this reason, enforcement costs are shown as being reimbursed under object S in this fiscal note.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2026	FY 2027	2025-27	2027-29	2029-31
501-1	Liquor Revolving Account	State	65,910	0	65,910	0	0
Total \$			65,910	0	65,910	0	0

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

	FY 2026	FY 2027	2025-27	2027-29	2029-31
FTE Staff Years	4.0	4.0	4.0	4.0	4.0
A-Salaries and Wages	346,848	346,848	693,696	693,696	693,696
B-Employee Benefits	127,776	127,776	255,552	255,552	255,552
C-Professional Service Contracts					
E-Goods and Other Services	168,050	37,880	205,930	75,760	75,760
G-Travel	52,400	50,400	102,800	100,800	100,800
J-Capital Outlays	83,040	4,000	87,040	8,000	8,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements	(712,204)	(566,904)	(1,279,108)	(1,133,808)	(1,133,808)
T-Intra-Agency Reimbursements					
9-					
Total \$	65,910	0	65,910	0	0

### 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 2026	FY 2027	2025-27	2027-29	2029-31
LCB Enforcement Officer 2	86,712	4.0	4.0	4.0	4.0	4.0
Total FTEs		4.0	4.0	4.0	4.0	4.0



III. D - Expenditures By Program (optional)

Program	FY 2026	FY 2027	2025-27	2027-29	2029-31
Board Program (010)	65,910		65,910		
Total \$	65,910		65,910		

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.

NEW SECTION. Sec. 6. (2) The liquor and cannabis board must adopt rules to implement the requirements of this chapter and for compliance education for licensed retailers, distributors, and manufacturers and their employees relating to abating violations of this chapter and rules adopted under this chapter.

Vapor/Tobacco license fee changes in 5803 SB "Tobacco & Nicotine Products"

PrivID	Privilege Description	# licenses 2024	Current Fee	New Fee	est # licenses lost due to flavor rest	Rev Increase	Bill Section	General Fund- State	Youth Tobacco
Vapor Products									
57	Vapor Product Distributor	268	\$ 150	\$ 1,000		\$ 227,800	Sect 14		\$ 227,800
58	Vapor Product Distributor branch	24	\$ 100	\$ 1,000		\$ 21,600	Sect 14		\$ 21,600
56	Vapor Product Retailer (all)	4,043	\$ -	\$ 1,000	(36)	\$ 4,007,000	Sect 15		\$ 4,007,000
	- Combo retailers	3,936	\$ 75	\$ -		\$ (295,200)	Sect 15		\$ (295,200)
	- Standalone retailers	107	\$ 175	\$ -		\$ (18,725)	Sect 15		\$ (18,725)
59	Vapor Product Delivery Sales	123	\$ 250	\$ 1,000		\$ 92,250	Sect 16		\$ 92,250
Total Annual Revenue increase						\$ 4,034,725	By Fund	\$ -	\$ 4,034,725

Enforcement Field Increment (FI) Calculator				
5803 SB "Tobacco and Nicotine Products" (FY26+)				
	Number of events	Time Factor	Staffing Factor	FI Total
Vapor Audit	80	20	1.3	2090
Tobacco/Vape Premises checks	519	2	1.3	1350
Non RVP Member Support and Education	779	7	1.3	7088
Complaint Investigations Other Tobacco Product	102	15	1.3	1989
Complex Investigations	20	40	1.3	1040
Tobacco/Vape Seizure	0	10	1.3	0
Surveillance Operations	5	10	3	153
Tobacco Audit	89	20	1.3	2317

Total FI's	16,028
Total Field Increments per FTE	4,220
FTE's required	3.80
Round	4.00

<u>Factors</u>	<u>Values</u>
Vapor Audit	15%
Tobacco/Vape Premises checks	10%
Non RVP Member Support and Education	15%
Complaint Investigations Other Tobacco Product	102
Complex Investigations	20
Tobacco/Vape Seizure	0%
Surveillance Operations	5%
Tobacco Audit	15%

of license count  
of premises  
checks  
Historical  
Historical  
Historical

<u>License Count</u>
5193

<u>Stand alone vapor</u>
107

<u>Average vapor Audits</u>
536

<u>Average Tobacco Audits</u>
594



# Multiple Agency Ten-Year Analysis Summary

<b>Bill Number</b> 5803 SB	<b>Title</b> Tobacco & nicotine products
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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

	<b>Fiscal Year 2026</b>	<b>Fiscal Year 2027</b>	<b>Fiscal Year 2028</b>	<b>Fiscal Year 2029</b>	<b>Fiscal Year 2030</b>	<b>Fiscal Year 2031</b>	<b>Fiscal Year 2032</b>	<b>Fiscal Year 2033</b>	<b>Fiscal Year 2034</b>	<b>Fiscal Year 2035</b>	<b>2026-35 TOTAL</b>
Department of Revenue	0	62,300,000	-87,800,000	-81,600,000	-75,800,000	-72,900,000	-70,100,000	-67,600,000	-65,300,000	-63,100,000	-521,900,000
Liquor and Cannabis Board	4,034,725	4,034,725	4,034,725	4,034,725	4,034,725	4,034,725	4,034,725	4,034,725	4,034,725	4,034,725	40,347,250
<b>Total</b>	<b>4,034,725</b>	<b>66,334,725</b>	<b>-83,765,275</b>	<b>-77,565,275</b>	<b>-71,765,275</b>	<b>-68,865,275</b>	<b>-66,065,275</b>	<b>-63,565,275</b>	<b>-61,265,275</b>	<b>-59,065,275</b>	<b>-481,552,750</b>



# Ten-Year Analysis

<b>Bill Number</b> 5803 SB	<b>Title</b> Tobacco & nicotine products	<b>Agency</b> 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**

## Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	Fiscal Year 2034	Fiscal Year 2035	2026-35 TOTAL
Business and Occupation Tax	001		(200,000)	(3,200,000)	(3,200,000)	(3,200,000)	(3,200,000)	(3,300,000)	(3,400,000)	(3,500,000)	(3,600,000)	(26,800,000)
Cigarette Tax	001		37,500,000	(32,100,000)	(27,400,000)	(23,000,000)	(21,300,000)	(19,600,000)	(18,100,000)	(16,800,000)	(15,500,000)	(136,300,000)
Cigarette Tax	828		5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	45,000,000
<b>Total Cigarette Tax</b>			<b>42,500,000</b>	<b>(27,100,000)</b>	<b>(22,400,000)</b>	<b>(18,000,000)</b>	<b>(16,300,000)</b>	<b>(14,600,000)</b>	<b>(13,100,000)</b>	<b>(11,800,000)</b>	<b>(10,500,000)</b>	<b>(91,300,000)</b>
Other Taxes	19V		800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	7,200,000
Other Taxes	24B		5,800,000	2,700,000	2,700,000	2,700,000	2,700,000	2,700,000	2,700,000	2,700,000	2,700,000	27,400,000
<b>Total Other Taxes</b>			<b>6,600,000</b>	<b>3,500,000</b>	<b>3,500,000</b>	<b>3,500,000</b>	<b>3,500,000</b>	<b>3,500,000</b>	<b>3,500,000</b>	<b>3,500,000</b>	<b>3,500,000</b>	<b>34,600,000</b>
Other Tobacco Products Tax	001		20,700,000	(15,800,000)	(14,400,000)	(12,900,000)	(11,200,000)	(9,300,000)	(7,200,000)	(4,900,000)	(2,300,000)	(57,300,000)
Retail Sales Tax	001		(7,300,000)	(45,100,000)	(45,000,000)	(45,100,000)	(45,600,000)	(46,300,000)	(47,300,000)	(48,500,000)	(50,100,000)	(380,300,000)
Retail Sales Tax	553			(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)	(800,000)
<b>Total Retail Sales Tax</b>			<b>(7,300,000)</b>	<b>(45,200,000)</b>	<b>(45,100,000)</b>	<b>(45,200,000)</b>	<b>(45,700,000)</b>	<b>(46,400,000)</b>	<b>(47,400,000)</b>	<b>(48,600,000)</b>	<b>(50,200,000)</b>	<b>(381,100,000)</b>
<b>Total</b>			<b>62,300,000</b>	<b>(87,800,000)</b>	<b>(81,600,000)</b>	<b>(75,800,000)</b>	<b>(72,900,000)</b>	<b>(70,100,000)</b>	<b>(67,600,000)</b>	<b>(65,300,000)</b>	<b>(63,100,000)</b>	<b>(521,900,000)</b>
<b>Biennial Totals</b>			<b>62,300,000</b>	<b>(169,400,000)</b>	<b>(148,700,000)</b>	<b>(137,700,000)</b>	<b>(128,400,000)</b>	<b>(521,900,000)</b>				

## Narrative Explanation (Required for Indeterminate Cash Receipts)

CURRENT LAW:



# Ten-Year Analysis

Bill Number	Title	Agency
5803 SB	Tobacco & nicotine products	140 Department of Revenue

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>.

## Narrative Explanation (Required for Indeterminate Cash Receipts)

In Washington, tobacco and nicotine products fall into one of three categories:

- Cigarettes
- Vapor products
- Other tobacco products (OTP)

There is no prohibition on selling flavored tobacco or nicotine products or entertainment vapor products at retail.

### CIGARETTES

The cigarette tax is a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes in Washington. The tax rate equals \$3.025 per pack of 20 cigarettes.

The law deposits cigarette taxes in the General Fund.

### VAPOR PRODUCTS

The volume of solution and type of container determine the vapor product tax rate. The tax rate for accessible containers of solution of more than 5 mL is \$0.09/mL and the tax rate for all others is \$0.27/mL.

The law deposits vapor taxes as follows:

- 50% into the Andy Hill Cancer Research Endowment Fund Match Transfer Account.
- 50% into the Foundational Public Health Services Account.

### OTHER TOBACCO PRODUCTS

The OTP tax is a tax on the sale, use, consumption, handling, or distribution of cigars, pipe tobacco, chewing tobacco, and other forms of tobacco, except cigarettes. The tax rates on these products are as follows:

- For cigars, except little cigars, 95% of the taxable sales price of cigars, but not to exceed \$0.65 per cigar.
- For tobacco products whose tax rates are not specified, 95% of the taxable sales price.
- For consumer-sized cans or packages of moist snuff with a net weight of 1.2 ounces (or less), the tax rate is either the greater of \$2.526 or 83.5% of the cigarette tax (which is currently \$3.025/pack of 20 cigarettes).
- For little cigars, the tax rate per cigar equals the cigarette tax per cigarette, which is currently \$0.15125.



# Ten-Year Analysis

Bill Number	Title	Agency
5803 SB	Tobacco & nicotine products	140 Department of Revenue

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## Narrative Explanation (Required for Indeterminate Cash Receipts)

The law deposits OTP taxes in the General Fund.

### PROPOSAL:

Starting July 1, 2027, no retailer may sell, display, market, or advertise for sale:

- Flavored tobacco or nicotine products.
- Entertainment vapor products.

A tobacco or nicotine product is any:

- Product containing, made of, or derived from tobacco or nicotine intended for human consumption or likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, or alternative nicotine product.
- Vapor product or any aerosolized or vaporized substance by such product, whether or not the substance contains nicotine.
- Component, part, or accessory of a product, regardless of whether such component, part, or accessory contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, flavor enhancers, mouthpieces, or pipes.

A flavored tobacco or nicotine product is a tobacco or nicotine product imparting a taste or smell other than the taste or smell of tobacco or a cooling or numbing sensation. Evidence as to whether the product has a cooling or numbing sensation may include, but is not limited to, the use of terms such as "cool," "chill," "ice," "fresh," "arctic," or "frost" to describe the product. However, flavored shisha is excluded if sold on premises from which people under the age of 21 are prohibited.

Flavored means including the taste or smell of fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb, or spice.

An entertainment vapor product is a vapor product that has interactive gaming or other entertainment features, including but not limited to, allowing a user to play music or audio, display photos or video, play virtual games, or display other animations on the device.

In addition to banning the sale of products described above, the bill also increases taxes on the remaining (lawful) tobacco and nicotine products.

### CIGARETTES

The bill imposes an additional tax of \$2 per pack of cigarettes.

Beginning December 2028, and every three years thereafter, the Department of Revenue (department) will adjust this additional tax amount by multiplying the current amount



# Ten-Year Analysis

Bill Number	Title	Agency
5803 SB	Tobacco & nicotine products	140 Department of Revenue

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## Narrative Explanation (Required for Indeterminate Cash Receipts)

by one plus the percentage by which the most current consumer price index (CPI) available on December 1st of the current year exceeds the CPI for the prior 36-month period. If the adjustment would reduce the applicable amounts, the department may not adjust the applicable amounts for use in the following year. The department will publish the adjusted applicable amounts on its website by December 31st. The adjusted applicable amounts calculated take effect for taxes due in the following calendar year.

This bill deposits the additional taxes as follows:

- The first \$5 million in the Youth Tobacco and Vapor Products Prevention Account.
- The remainder into the General Fund.

Consumer price index means the consumer price index for all urban consumers, all items, for the Seattle area as calculated by the U.S. Bureau of Labor Statistics or its successor agency.

### VAPOR PRODUCTS

The bill replaces the current milliliter tax with a tax based on the taxable sales price of the products. The tax rate will be 95% of the taxable sales price. In cases where the taxpayer cannot isolate the value of the vapor product, the total selling price of the product is subject to the tax.

This bill deposits vapor products taxes as follows:

- For the first \$25 million per calendar year collected:
  - 50% into the Andy Hill Cancer Research Endowment Fund Match Transfer Account
  - 50% into the Foundational Public Health Services Account.
- The rest of the taxes go into the General Fund.

### OTHER TOBACCO PRODUCTS

Except for little cigars, all OTP will now be taxed at 95% of the taxable sales price. Little cigars will be taxed at \$0.25125 per cigar.

### ADDITIONAL CHANGES

The bill also does the following:

- Increases license fees for retailers, distributors, and others.
- Adds entertainment vapor products, flavored tobacco, and flavored nicotine products to the definition of vapor product.
- Adds alternative nicotine products and flavored tobacco and nicotine products to the definition of tobacco products.





# Ten-Year Analysis

Bill Number	Title	Agency
5803 SB	Tobacco & nicotine products	140 Department of Revenue

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>.

## Narrative Explanation (Required for Indeterminate Cash Receipts)

### EFFECTIVE DATE:

The additional cigarette tax, the changes to vapor products tax base and rate, and the changes for other tobacco products take effect January 1, 2026, (Sections 21, 24, 28, 30, and 31). The rest of the bill takes effect 90 days after the final adjournment of the session.

However, due to the time it will take to program this bill's changes, the department cannot implement the provisions relevant to the department until January 1, 2027.

### ASSUMPTIONS:

- Menthol cigarettes make up 36% of all cigarettes. Taxed sales of tobacco flavored cigarettes will increase by 3.2% to account for menthol smokers buying tobacco flavo cigarettes as substitutes after the ban.
- A pack of cigarettes costs \$10.14.
- The price of a disposable vapor product is \$7.49 (small) and \$19.15 (large).
- The price of a nicotine pod is \$5.86.
- A typical alternative nicotine product costs \$7/unit.
- Washington's population is 2.4% of the U.S. population.
- Local revenue estimates use the statewide average local sales and use taxes rate of 3%.
- Currently, tribes with compacts receive a share of state sales and use taxes and certain business and occupation taxes (RCW 43.06.523). Under this legislation, the amount of revenue shared with tribes may decrease.
- The 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 revenue impacts for the state and a two-month delay revenue impacts for local jurisdictions.
- The tax rate increases will be implemented January 1, 2027, and impacts five months of state collections and four months of local collections in fiscal year 2027.
- The flavor ban will be implemented July 1, 2027, and impacts 11 months of collections in fiscal year 2028.

### DATA SOURCES:

- Department of Revenue tax returns and vapor schedules
- Economic and Revenue Forecast Council, November 2024 forecast for cigarette and other tobacco products
- Massachusetts Department of Revenue, cigarette tax collections
- Orzechowski & Walker (Consulting). "Tax Burden on Tobacco, 2021."



# Ten-Year Analysis

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## Narrative Explanation (Required for Indeterminate Cash Receipts)

- Moneyzine. "A Guide to Cigarette Prices by State, 2024."  
<https://moneyzine.com/personal-finance-resources/cigarette-prices-by-state/>
- Tax Foundation. "Massachusetts Flavored Tobacco Ban: No Impact on New England Sales."  
<https://taxfoundation.org/blog/massachusetts-flavored-tobacco-ban-sales-jama-study/>
- Nicotine and Tobacco Research. "The Impact of Menthol Cigarette Bans: A Systematic Review and Meta-Analysis, 2024".  
<https://pubmed.ncbi.nlm.nih.gov/38379278/>
- Federal Trade Commission. "Cigarette Report for 2022."  
[https://www.ftc.gov/system/files/ftc\\_gov/pdf/2022-Cigarette-Report.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2022-Cigarette-Report.pdf)
- Mitchell Hamline School of Law. "San Francisco's Flavored Tobacco Products Policy: A Case Study."  
<https://www.publichealthlawcenter.org/>
- Tobacco Insider, <https://tobaccoinsider.com>
- U.S. Census, population data
- Office of Financial Management, population data

### REVENUE ESTIMATES:

This bill increases state revenues by an estimated \$62.3 million in the five months of impacted collections in fiscal year 2027, but decreases state revenues by \$87.8 million in fiscal year 2028, the first full year of impacted collections.

This bill decreases local revenues by an estimated \$1.1 million in the four months of impacted collections in fiscal year 2027, and by \$20.4 million in fiscal year 2028, the first full year of impacted collections.

While the bill increases tax rates, the net revenue impact of the fiscal note still shows significant revenue losses starting in fiscal year 2028 because the additional revenue from the tax rate increases do not outweigh the revenue losses due to the drop in taxed sales. The drop in taxed sales is due to both the tax rate increases and the flavor ban.

Fiscal year 2027 shows a net revenue gain because the tax rate increases will start January 1, 2027, while the flavor ban will start July 1, 2027.

### TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):



# Ten-Year Analysis

Bill Number	Title	Agency
5803 SB	Tobacco & nicotine products	140 Department of Revenue

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>.

## Narrative Explanation (Required for Indeterminate Cash Receipts)

FY 2026 - \$ 0  
FY 2027 - \$ 62,300  
FY 2028 - (\$ 87,800)  
FY 2029 - (\$ 81,600)  
FY 2030 - (\$ 75,800)  
FY 2031 - (\$ 72,900)

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

FY 2026 - \$ 0  
FY 2027 - (\$ 1,100)  
FY 2028 - (\$ 20,400)  
FY 2029 - (\$ 20,400)  
FY 2030 - (\$ 20,500)  
FY 2031 - (\$ 20,700)

Agency Preparation: Van Huynh	Phone: 360-534-1512	Date: 4/6/2025 6:14:45 pm
Agency Approval: Valerie Torres	Phone: 360-534-1521	Date: 4/6/2025 6:14:45 pm
OFM Review:	Phone:	Date:



# Ten-Year Analysis

<b>Bill Number</b> 5803 SB	<b>Title</b> Tobacco & nicotine products	<b>Agency</b> 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	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	Fiscal Year 2034	Fiscal Year 2035	2026-35 TOTAL
Vapor Product Delivery Sales	235	92,250	92,250	92,250	92,250	92,250	92,250	92,250	92,250	92,250	92,250	922,500
Vapor Product Distributor	235	227,800	227,800	227,800	227,800	227,800	227,800	227,800	227,800	227,800	227,800	2,278,000
Vapor Product Distributor branch	235	21,600	21,600	21,600	21,600	21,600	21,600	21,600	21,600	21,600	21,600	216,000
Vapor Product Retailer	235	3,693,075	3,693,075	3,693,075	3,693,075	3,693,075	3,693,075	3,693,075	3,693,075	3,693,075	3,693,075	36,930,750
<b>Total</b>		<b>4,034,725</b>	<b>4,034,725</b>	<b>4,034,725</b>	<b>4,034,725</b>	<b>4,034,725</b>	<b>4,034,725</b>	<b>4,034,725</b>	<b>4,034,725</b>	<b>4,034,725</b>	<b>4,034,725</b>	<b>40,347,250</b>

<b>Biennial Totals</b>	<b>8,069,450</b>	<b>8,069,450</b>	<b>8,069,450</b>	<b>8,069,450</b>	<b>8,069,450</b>	<b>40,347,250</b>
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## Narrative Explanation (Required for Indeterminate Cash Receipts)

### VAPOR PRODUCT LICENSES

Section 14 (RCW 70.345.040) – increases the vapor product distributor’s license fee from \$150 to \$1,000. The additional location fee is increased from \$100 to \$1,000 per location.

Section 15 (RCW 70.345.050) – increases the vapor product retailer’s license fee from \$175 to \$1,000. The combo fee of \$250 is deleted (for combined tobacco/vapor license)

Section 16 (RCW 70.345.060) – increases the vapor product delivery sale license fee from \$250 to \$1,000.

The agency anticipates that 1/3 of the existing standalone vapor product retailer licenses may go out of business due to the inability to sell flavored vapor products.

Please see the attached "5803 SB Fee changes.pdf" for the breakdown of license counts and anticipated revenue from each fee. All fees from vapor product licenses are deposited into the Youth Tobacco and Vapor Products Prevention Account.



# Ten-Year Analysis

Bill Number	Title	Agency
5803 SB	Tobacco & nicotine products	195 Liquor and Cannabis Board

Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 4/4/2025 3:53:36 pm
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