

# OFFICE OF FISCAL ANALYSIS

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SB-367

## AN ACT CONCERNING ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS.

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Revenue Serv., Dept.	GF - Revenue Loss	1.4 million	2.7 million
Mental Health & Addiction Serv., Dept.	GF - Cost	At least 32,960	At least 65,901
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	At least 13,360	At least 26,710
Revenue Serv., Dept.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill, which bans certain vapor products and increases various penalties associated with the illegal sale of cigarettes, tobacco products, e-cigarettes, and vapor products, results in: 1) a General Fund revenue loss of \$1.4 million in FY 23 (partial year) and \$2.7 million in FY 24, 2) a cost to the Department of Mental Health and Addiction Services (DMHAS) of at least \$46,320 in FY 23 (partial year) and at least \$92,611 in FY 24, inclusive of fringe benefit costs, and 3) a potential revenue gain to the General Fund from increased civil penalties and fines.

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.53% of payroll in FY 23.

### ***Revenue Impact***

The revenue loss of \$1.4 million in FY 23 and \$2.7 million in FY 24 assumes a 55% drop in vapor product tax revenue.<sup>2</sup> These estimates are based on information from the United States Department of Health and Human Services Centers for Disease Control and Prevention indicating that flavored products comprise just over half the vapor product market.

The bill also results in a potential General Fund revenue gain by raising the maximum fines and penalties that may be imposed on someone who sells, gives, or delivers tobacco or vapor products to someone under the legal age. Revenue from penalties and fines levied by the Department of Revenue Services (DRS) averaged approximately \$65,000 over the past five full fiscal years (FY 17 to FY 21).

### ***Cost Impact***

The cost of at least \$32,960 in FY 23 and \$65,910 in FY 24 (with associated fringe benefit costs of \$13,360 and \$26,710, respectively) to DMHAS is to support at least one Special Investigator to comply with the unannounced compliance checks required under the bill.

It is anticipated that DRS and the Department of Consumer Protection can handle the enforcement and penalty provisions of the bill without the need for additional resources.

### ***The Out Years***

The annualized ongoing cost impact identified above would continue into the future subject to inflation; the annualized ongoing revenue impacts identified above would continue into the future subject to growth in the overall vapor product market and the number of cigarette, tobacco product, e-cigarette, and vapor product sales violations found.

*Sources: US Department of Health and Human Services Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report*

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<sup>2</sup> Electronic cigarette products tax revenue totaled \$5.2 million in FY 21.

