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**HOUSE BILL 2915**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Pollet, Robinson, Tarleton, Cody, Fey, Valdez, Doglio, Slatter, Davis, Frame, Gregerson, Riccelli, Macri, Orwall, Callan, Fitzgibbon, J. Johnson, Stonier, and Ryu

Read first time 01/31/20. Referred to Committee on Finance.

1 AN ACT Relating to increasing the relevant taxes to fully fund  
2 the foundational public health services account; amending RCW  
3 82.25.010 and 82.25.015; adding a new section to chapter 82.04 RCW;  
4 and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the board  
7 of health enacted an emergency rule in October 2019 to address the  
8 epidemic level of adolescent and young adult use of vapor products  
9 addicting a new generation to nicotine, and to address the lung  
10 illness and fatalities associated with vapor product use. This action  
11 was based on an extensive health impact review conducted by the board  
12 of health, which has been updated, finding that there is very strong  
13 evidence that reducing youth initiation of use of vapor products will  
14 improve health outcomes for adolescents and young adults. This  
15 included finding very strong evidence that decreasing young adult and  
16 adolescent use of vapor products will decrease use of cigarettes,  
17 which will also improve health outcomes. The healthy youth survey  
18 found that in 2018, thirty percent of high school seniors in  
19 Washington state used vapor products in the prior month. The  
20 legislature finds that tobacco and vapor product use contribute to

1 myriad adverse health outcomes and impose tremendous costs on  
2 Washington state's health systems and taxpayers.

3 (2) The legislature finds that there is inadequate support to  
4 prevent youth and adults from becoming addicted to nicotine, to  
5 assist youth and adults in ceasing to use nicotine vapor and tobacco  
6 products, to educate youth and adults regarding nicotine addiction  
7 and potential adverse health effects from use of vapor products as  
8 well as other tobacco products, and inadequate support for our  
9 enforcement programs to prevent underage purchase of tobacco and  
10 vapor products. There are also inadequate resources for foundational  
11 public health services, which are integrally related to responding to  
12 or preventing the adverse health outcomes related to nicotine  
13 addiction and use of vapor or tobacco products.

14 (3) The legislature finds that increasing taxes is an effective  
15 public health strategy to reduce the use of vapor and tobacco  
16 products among youth.

17 (4) The foundational public health services account provides  
18 vital resources for prevention, education, cessation, and enforcement  
19 related to vapor and tobacco products, as well as resources for  
20 responding to the myriad adverse health outcomes associated with use  
21 of these products. However, the legislature finds that current  
22 resources are inadequate to meet the dire needs of youth and adults  
23 addicted to nicotine, and to meet these needs.

24 (5) The legislature finds that the manufacturers and distributors  
25 of all nicotine, tobacco, and vapor products profit from business  
26 that increases the health care costs and adverse health outcomes for  
27 Washington state, while paying business and occupation tax rates  
28 which are intended to favor manufacturing and other business  
29 activities that do not result in adverse health outcomes and  
30 increased health care costs.

31 (6) Therefore, the legislature intends to reduce youth and adult  
32 usage of tobacco and vapor products; and to generate dedicated  
33 funding for prevention, cessation, education, training, enforcement,  
34 and foundational public health services by funding the foundational  
35 public health services account through increasing the business and  
36 occupation taxes of manufacturers and distributors of all tobacco and  
37 vapor products; placing all new realized revenues into the  
38 foundational public health services account from new tobacco  
39 products, including heated tobacco products, which recently have been  
40 or may be approved for marketing in the United States by the federal

1 food and drug administration; and adjusting the vapor product tax to  
2 more effectively discourage underage purchases and more effectively  
3 tax the type of vapor products which are most often used by youth.

4 **Sec. 2.** RCW 82.25.010 and 2019 c 445 s 102 are each amended to  
5 read as follows:

6 (1) ~~((a))~~ There is levied and collected a tax upon the sale,  
7 use, consumption, handling, possession, or distribution of all vapor  
8 products in this state ~~((as follows:~~

9 ~~(i) All vapor products other than those taxed under (a)(ii) of~~  
10 ~~this subsection are taxed at a rate equal to twenty-seven cents per~~  
11 ~~milliliter of solution, regardless of whether it contains nicotine,~~  
12 ~~and a proportionate tax at the like rate on all fractional parts of a~~  
13 ~~milliliter thereof.~~

14 ~~(ii) Any accessible container of solution, regardless of whether~~  
15 ~~it contains nicotine, that is greater than five milliliters, is taxed~~  
16 ~~at a rate equal to nine cents per milliliter of solution and a~~  
17 ~~proportionate tax at the like rate on all fractional parts of a~~  
18 ~~milliliter thereof.~~

19 ~~(b) The tax in this section must be imposed based on the volume~~  
20 ~~of the solution as listed by the manufacturer)) equal to forty-five~~  
21 ~~percent of the taxable sales price.~~

22 (2) (a) The tax under this section must be collected at the time  
23 the distributor: (i) Brings, or causes to be brought, into this state  
24 from without the state vapor products for sale; (ii) makes,  
25 manufactures, fabricates, or stores vapor products in this state for  
26 sale in this state; (iii) ships or transports vapor products to  
27 retailers or consumers in this state; or (iv) handles for sale any  
28 vapor products that are within this state but upon which tax has not  
29 been imposed.

30 (b) The tax imposed under this section must also be collected by  
31 the department from the consumer of vapor products where the tax  
32 imposed under this section was not paid by the distributor on such  
33 vapor products.

34 (3) ~~((a))~~ The moneys collected under this section must be  
35 deposited ~~((as follows:~~

36 ~~(i) Fifty percent into the Andy Hill cancer research endowment~~  
37 ~~fund match transfer account created in RCW 43.348.080; and~~

38 ~~(ii) Fifty percent))~~ into the foundational public health services  
39 account created in RCW 82.25.015. ~~((b))~~ The funding provided under

1 this subsection is intended to supplement and not supplant general  
2 fund investments in cancer research and foundational public health  
3 services.

4 **Sec. 3.** RCW 82.25.015 and 2019 c 445 s 103 are each amended to  
5 read as follows:

6 (1) The foundational public health services account is created in  
7 the state treasury. ((Half of all))

8 (a) All of the moneys collected from the tax imposed on vapor  
9 products under ((RCW 66.44.010)) RCW 82.25.010 must be deposited into  
10 the account.

11 (b) All moneys collected from taxes imposed pursuant to this  
12 chapter on any heated tobacco products, or any other tobacco  
13 products, initially approved for sale by the United States food and  
14 drug administration after April 1, 2019, must be deposited into the  
15 account. For the purposes of this subsection, "heated tobacco  
16 products" means a product containing tobacco that produces an  
17 inhalable aerosol by heating the tobacco by means of an electronic  
18 device without combustion of tobacco, or by heat generated from a  
19 combustion source that only primarily heats rather than burns the  
20 tobacco.

21 (c) All moneys collected from taxes imposed pursuant to section 4  
22 of this act must be deposited into the account.

23 (2) Moneys in the account may be spent only after appropriation.  
24 Moneys in the account are to be ((used for the following purposes))  
25 distributed as follows:

26 ((1)) (a) Fifty percent of the funds, up to five million  
27 dollars per fiscal year, must be transferred to the Andy Hill cancer  
28 research endowment fund match transfer account created in RCW  
29 43.348.080; however, the minimum distributions for purposes of  
30 nicotine cessation, prevention, education, and training as required  
31 by (b) of this subsection must be funded prior to such transfer; and

32 (b) The remainder of the funds must be used for foundational  
33 public health-related purposes, including:

34 (i) To fund foundational health services. In ((the 2019-2021  
35 biennium)) fiscal year 2021, at least ((twelve)) six million dollars

36 of the funds deposited into the account must be appropriated for this

37 purpose. Beginning in the 2021-2023 biennium, fifty percent of the

38 funds deposited into the account for foundational public health

1 purposes, but not less than twelve million dollars each biennium, are  
2 to be used for this purpose;

3 ~~((2))~~ (ii) To fund tobacco, vapor product, and nicotine control  
4 and prevention, and other substance use prevention and education.  
5 Beginning in the 2021-2023 biennium, seventeen percent of the funds  
6 deposited into the account are to be used for this purpose;

7 ~~((3))~~ (iii) To support increased access and training of public  
8 health professionals at public health programs at accredited public  
9 institutions of higher education in Washington. Beginning in the  
10 2021-2023 biennium, five percent of the funds deposited into the  
11 account are to be used for this purpose;

12 ~~((4))~~ (iv) To fund enforcement by the state liquor and cannabis  
13 board of the provisions of this chapter to prevent sales of vapor  
14 products to minors and related provisions for control of marketing  
15 and product safety, provided that no more than eight percent of the  
16 funds deposited into the account may be appropriated for these  
17 enforcement purposes.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04  
19 RCW to read as follows:

20 (1) Beginning with business activities occurring on or after July  
21 1, 2020, a vapor products surcharge is imposed as follows:

22 (a) Upon every person engaging within this state in business as a  
23 manufacturer of vapor products, in addition to the tax imposed under  
24 RCW 82.04.240, a surcharge equal to the value of the manufactured  
25 vapor products, including by-products, multiplied by the rate of four  
26 and four-tenths percent;

27 (b) Upon every person engaging within this state in business as a  
28 vapor product distributor licensed under RCW 70.345.020, in addition  
29 to the tax imposed under RCW 82.04.240, a surcharge equal to the  
30 value of the manufactured vapor products, including by-products,  
31 multiplied by the rate of four and four-tenths percent.

32 (2) Beginning with business activities occurring on or after July  
33 1, 2020, a tobacco products surcharge is imposed as follows:

34 (a) Upon every person engaging within this state in business as a  
35 manufacturer of tobacco products, in addition to the tax imposed  
36 under RCW 82.04.240, a surcharge equal to the value of the  
37 manufactured tobacco products, including by-products, multiplied by  
38 the rate of four and four-tenths percent;

1           (b) Upon every person engaging within this state in business as a  
2 tobacco product distributor licensed under RCW 82.26.190, in addition  
3 to the tax imposed under RCW 82.04.240, a surcharge equal to the  
4 value of the manufactured tobacco products, including by-products,  
5 multiplied by the rate of four and four-tenths percent.

--- **END** ---