
Finance Committee

HB 1676

Brief Description: Using the taxation of vapor products to fund additional tobacco and vapor use prevention and cessation programs and services.

Sponsors: Representatives Harris, Pollet, Leavitt, Ryu, Chopp, Senn, Duerr and Valdez.

Brief Summary of Bill

- Replaces the variable milliliter tax on vapor products distributors with a vapor product excise tax of 33 percent of the selling price.
- Modifies the account distribution for receipts of vapor products tax revenues.

Hearing Date: 1/13/22

Staff: Rachelle Harris

Background:

Vapor Products Tax.

The sale, use, consumption, handling, possession, or distribution of vapor products is subject to taxation as follows:

- 9 cents per milliliter of liquid or solution for accessible containers of liquid solution that are larger than 5 milliliters; or
- 27 cents per milliliter of liquid solution for all other vapor products.

"Vapor products" are any noncombustible product containing a solution or other consumable substance, regardless of whether it contains nicotine, which employs a mechanical heating element, battery, or electronic circuit that can be used to produce vapor from the solution or other substance. For purposes of taxation, vapor products do not include: tobacco cessation products;

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component ingredients in vapor products; or marijuana or tobacco products. The distributor is responsible for the payment of the tax, but the tax may be imposed on the consumer if it was not previously collected.

Foundational Public Health Services Account.

The Foundational Public Health Services Account (FPHS) is an account in the State Treasury. Fifty percent of the funds generated by the vapor products tax is deposited into the FPHS. The FPHS may be used to fund foundational health services, tobacco, vapor product, and nicotine control and prevention, to support increased access and training of public health professionals at public health programs, and for enforcement by the Liquor and Cannabis Board.

Andy Hill Cancer Research Endowment Fund Match Transfer Account.

The Andy Hill Cancer Research Endowment Fund Match Transfer Account (Andy Hill Account) is an account in the State Treasury. Fifty percent of the vapor product tax revenues are deposited into the Andy Hill Account. The Andy Hill Account is used to fund the cancer research endowment program. The purpose of the program is to make grants to public and private entities to fund promotion of cancer research.

Trust Fund Taxes.

The Department of Revenue (DOR) has authority to pursue collection of unpaid trust fund taxes, including penalties and interest. Individuals held liable for unpaid trust funds are subject to the normal tax collection process unless payment is voluntarily made. The individuals liable may include corporate officers, bookkeepers, accountants, or any other person who made the decision to not pay the tax to the DOR. Retail sales and use taxes, liquor taxes, and heavy equipment rental taxes are trust fund taxes.

Summary of Bill:

The variable milliliter tax imposed on vapor products distributors is eliminated.

Beginning January 1, 2023, a vapor products excise tax is imposed at retail equal to 33 percent of the selling price of vapor products. The tax must be separately itemized from state and local retail sales tax on sales receipts. The tax must be reflected in the price list or quoted shelf price in the vapor products retail store, on the website or sales platform of a delivery seller, and in any advertising of vapor products that includes prices for vapor products. A bundled transaction that includes a vapor product is subject to the excise tax on the entire selling price.

Moneys collected from the vapor products tax are distributed as follows:

- The first \$30 million is split evenly between:
 - the Andy Hill Account;
 - the Department of Health (DOH) to be used exclusively for tobacco and vapor product use prevention and cessation; and
 - the FPHS.

- The remaining revenue is split evenly between:
 - the DOH to be used exclusively for tobacco and vapor product use prevention and cessation; and
 - the FPHS.

The vapor products tax is added to the category of trust fund taxes.

Appropriation: None.

Fiscal Note: Requested on January 3, 2022.

Effective Date: The bill takes effect on January 1, 2023.