

HB0337S02

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1

Nicotine Product Tax Amendments
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Tyler Clancy
Senate Sponsor: Jerry W Stevenson

General Description:

Highlighted Provisions:

- increases the ~~rate~~ rates of the ~~tax~~ taxes levied on cigarettes, electronic cigarettes, and therapeutic nicotine devices;

- ~~{replaces a weight-based tax rate for moist snuff and alternative nicotine products with}~~ applies a tax rate based on a percentage of the manufacturer's sales price~~;~~ to moist snuff and alternative nicotine products; and

- {~~repeals provisions providing for a tax rate reduction for certain modified risk tobacco products;~~}

- {provides for an annual distribution of a portion of the money deposited into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account to fund certain law enforcement officer positions;}

▶

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~~{includes coordination clauses to incorporate changes made to Section 59-14-807 with changes made to that section in H.B. 229, Restricted Account Modifications, and S.B. 98, Substance Use Rehabilitation Amendments; and}~~

- makes technical ~~{and conforming}~~ changes.

Money Appropriated in this Bill:

▸ {

~~This bill appropriates \$2,000,000 in operating and capital budgets for fiscal year 2027, all~~

~~of which is from the various sources as detailed in this bill.~~

}

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

~~59-14-204 {(Effective 07/01/26)},~~ as last amended by Laws of Utah 2016, Chapter 168

~~59-14-302 {(Effective 07/01/26)},~~ as last amended by Laws of Utah 2020, Chapter 347

~~59-14-804 {(Effective 07/01/26)},~~ as last amended by Laws of Utah 2023, Chapter 300

~~{59-14-807 (Effective 07/01/26) (Partially Repealed 07/01/30), as last amended by Laws of Utah 2025, Chapters 173, 366}~~

REPEALS:

~~{59-14-104 (Effective 07/01/26), as enacted by Laws of Utah 2020, Chapter 347}~~

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~59-14-204~~ is amended to read:

~~59-14-204. {(Effective 07/01/26)}~~ Tax basis -- Rate -- Future increase -- Cigarette Tax
Restricted Account -- Appropriation and expenditure of revenues.

(1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax upon the sale, use, storage, or distribution of cigarettes in the state.

(2) The ~~[rates of the tax levied under Subsection (1) are, beginning on July 1, 2010:]~~ rate of the tax levied under Subsection (1) is ~~{17.25}~~ 15 cents on each cigarette.

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- 47 ~~[(a) 8.5 cents on each cigarette, for all cigarettes weighing not more than three pounds per thousand~~
 ~~cigarettes; and]~~
- 49 ~~[(b) 9.963 cents on each cigarette, for all cigarettes weighing in excess of three pounds per thousand~~
 ~~cigarettes.]~~
- 51 (3) Except as otherwise provided under this chapter, the tax levied under Subsection (1) shall be paid
 by any person who is the manufacturer, jobber, importer, distributor, wholesaler, retailer, user, or
 consumer.
- 54 (4) The tax rates specified in this section shall be increased by the commission by the same amount as
 any future reduction in the federal excise tax on cigarettes.
- 56 (5)
- (a) There is created within the General Fund a restricted account known as the "Cigarette Tax Restricted
 Account."
- 58 (b) The Cigarette Tax Restricted Account consists of:
- 59 (i) the first \$7,950,000 of the revenues collected from a tax under this section; and
- 60 (ii) any other appropriations the Legislature makes to the Cigarette Tax Restricted Account.
- 62 (c) For each fiscal year beginning with fiscal year 2011-12 and subject to appropriation by the
 Legislature, the Division of Finance shall distribute money from the Cigarette Tax Restricted
 Account as follows:
- 65 (i) \$250,000 to the Department of Health to be expended for a tobacco prevention and control media
 campaign targeted towards children;
- 67 (ii) \$2,900,000 to the Department of Health to be expended for tobacco prevention, reduction, cessation,
 and control programs;
- 69 (iii) \$2,000,000 to the University of Utah Health Sciences Center for the Huntsman Cancer Institute to
 be expended for cancer research; and
- 71 (iv) \$2,800,000 to the University of Utah Health Sciences Center to be expended for medical education
 at the University of Utah School of Medicine.
- 73 (d) In determining how to appropriate revenue deposited into the Cigarette Tax Restricted Account
 that is not otherwise appropriated under Subsection (5)(c), the Legislature shall give particular
 consideration to enhancing Medicaid provider reimbursement rates and medical coverage for the
 uninsured.
- 61 Section 2. Section **59-14-302** is amended to read:

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59-14-302. ~~{{Effective 07/01/26}}~~ Tax basis -- Rates.

(1) As used in this section:

(a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco product charges after subtracting a discount.

(b) "Manufacturer's sales price" includes an original Utah destination freight charge, regardless of:

(i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

(ii) who pays the original Utah destination freight charge.

(2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

(3)

(a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

(b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling machine shall be paid by the cigarette rolling machine operator.

(4) For tobacco products except for ~~{{ moist snuff }}~~ a little cigar ~~{{ }}~~ or a cigarette produced from a cigarette rolling machine, the amount of the tax under this section is .86 multiplied by the manufacturer's sales price.

(5) The amount of the tax under this section on moist snuff is .56 multiplied by the manufacturer's sales price.

~~[(5)~~

~~(a) Subject to Subsection (5)(b), the tax under this section on moist snuff is imposed:]~~

~~[(i) at a rate of \$1.83 per ounce; and]~~

~~[(ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.]~~

~~[(b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection (5)(a) is imposed:]~~

~~[(i) on that fractional part of one ounce; and]~~

~~[(ii) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

~~{{(6)}} {{(5)}}~~

(a) A little cigar is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

(b)

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(i) Subject to Subsection ~~{{(6)(b)(ii){}}~~ (5)(b)(ii)}, a cigarette produced from a cigarette rolling machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

(ii) A tax under this Subsection ~~{{(6)(b){}}~~ (5)(b) is imposed on the date the cigarette is produced from the cigarette rolling machine.

~~{{(7){}}~~ {{(6)}}}

(a) Moisture content of a tobacco product is determined at the time of packaging.

(b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

(i) for a period of three years after the last day on which the manufacturer distributes the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of the tobacco product available for review by the commission, upon demand; and

(ii) provide a document, to the person described in Subsection (3) to whom the manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco product, as verified by the scientific evidence described in Subsection ~~{{(7)(b)(i){}}~~ (6)(b)(i)}.

(c) A manufacturer who fails to comply with the requirements of Subsection ~~{{(7)(b){}}~~ (6)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product by a person who relies, in good faith, on the document described in Subsection ~~{{(7)(b)(ii){}}~~ (6)(b)(ii)}.

(d) A person described in Subsection (3) who is required to pay tax on a tobacco product:

(i) shall, for a period of three years after the last day on which the person pays the tax on the tobacco product, keep the document described in Subsection ~~{{(7)(b)(ii){}}~~ (6)(b)(ii)} available for review by the commission, upon demand; and

(ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due to the person's good faith reliance on the document described in Subsection ~~{{(7)(b)(ii){}}~~ (6)(b)(ii)}.

Section 3. Section 59-14-804 is amended to read:

59-14-804. ~~{{(Effective 07/01/26)}} Taxation of electronic cigarette substance, prefilled electronic cigarette, alternative nicotine product, nontherapeutic nicotine device substance, and prefilled nontherapeutic nicotine device.~~

(1)

(a) Beginning on July 1, 2020, a tax is imposed upon the following:

(i) an electronic cigarette substance; and

(ii) a prefilled electronic cigarette.

(b) Beginning on July 1, 2021, a tax is imposed upon the following:

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- 138 (i) a nontherapeutic nicotine device substance; and
139 (ii) a prefilled nontherapeutic nicotine device.
140 (c) Beginning on July 1, 2021, a tax is imposed upon an alternative nicotine product.
141 (2)
142 ~~{(a)}~~ The amount of tax imposed under ~~{Subsections (1)(a) and (b)}~~ ~~Subsection (1)}~~ is ~~\$.56~~ .71
multiplied by the manufacturer's sales price.
128 (b) The amount of tax imposed under Subsection (1)(c) on an alternative nicotine product is .56
multiplied by the manufacturer's sales price.
143 [(b)
144 (i) ~~The tax under Subsection (1)(c) on an alternative nicotine product is imposed:]~~
145 ~~[(A) at a rate of \$1.83 per ounce; and]~~
146 ~~[(B) on the basis of the net weight of the alternative nicotine product as listed by the manufacturer.]~~
147 ~~[(ii) If the net weight of the alternative nicotine product is in a quantity that is a fractional part of one~~
~~ounce, a proportionate amount of the tax described in Subsection (2)(b)(i)(A) is imposed:]~~
148 ~~[(A) on that fractional part of one ounce; and]~~
149 ~~[(B) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah~~
~~Administrative Rulemaking Act.]~~
150 (3) If a product is sold in the same package as a product that is taxed under Subsection (1), the tax
described in Subsection (2) shall apply to the wholesale manufacturer's sale price of the entire
packaged product.
156 (4)
(a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall pay the tax levied
under Subsection (1) at the time that an electronic cigarette substance, a prefilled electronic
cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled
nontherapeutic nicotine device is first received in the state.
161 (b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not resell an
electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a
nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to another
distributor, another retailer, or a consumer before paying the tax levied under Subsection (1).
166 (5)

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- (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall remit the taxes collected in accordance with this section to the commission.
- (b) The commission shall deposit revenues generated by the tax imposed by this section into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account created in Section 59-14-807.

~~{Section 4. Section 59-14-807 is amended to read: }~~

59-14-807. Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

- (1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account."
- (2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account consists of:
- (a) revenue collected from the tax imposed by Section 59-14-804;
 - (b) fees and penalties collected under Section 59-14-810;
 - (c) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section 76-9-1101:
 - (i) if the total amount of the judgment, settlement, or compromise received by the state exceeds \$1,000,000; and
 - (ii) after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in this Subsection (2)(c); and
 - (d) amounts appropriated by the Legislature.
- (3)
- (a) Subject to Subsections (3)(b) and (c), for each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:
- (i) \$2,000,000 to the Department of Health and Human Services for enforcement services aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, or other illegal controlled substances to minors, which the Department of Health and Human Services shall allocate to the local health departments using the formula created in accordance with Section 26A-1-116;

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- (ii) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;
- (iii) \$1,000,000 to the Department of Health and Human Services for enforcement services aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;
- (iv) \$3,000,000 to the Department of Health and Human Services for community partner prevention programs, which the Department of Health and Human Services shall allocate to the local health departments using the formula created in accordance with Section 26A-1-116;
- (v) \$1,000,000 to the Department of Health and Human Services for statewide cessation programs and prevention education;
- (vi) \$2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television; ~~and~~
- (vii) \$5,084,200 to the State Board of Education for school-based prevention programs~~[:]~~ ; and
- (viii) \$2,000,000 to the Department of Public Safety, in addition to the distribution described in Subsection (3)(a)(ii), for law enforcement officers:
- (A) of the law enforcement agency of a city that is the seat of government for a county of the first class; and
- (B) aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors.
- (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the Division of Finance shall make the distributions under Subsection (3)(a):
- (i) sequentially in the order of priority the distributions are listed under Subsection (3)(a);
- (ii) in full or, if insufficient funds are available to satisfy the next distribution in the sequence, in part; and
- (iii) until the available funds in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account are exhausted.

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(c) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the funds deposited under Section 59-14-810 into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

(i) to the commission, in an amount equal to the amount necessary to create and maintain the registry described in Section 59-14-810;

(ii) to the Department of Health and Human Services, in an amount necessary for completing duties described in Section 59-14-810; and

(iii) to the Department of Health and Human Services, the remainder to be divided among the local health departments for inspection and enforcement described in Sections 26A-1-131 and 59-14-810.

(4)

(a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26B-7-505;

(ii) the labeling requirement described in Section 26B-7-505; and

(iii) the penalty provisions described in Section 26B-7-518.

(b) The Department of Health and Human Services shall use the money received in accordance with Subsection (3)(a)(v) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26B-1-428.

(c) The local health departments shall use the money received in accordance with Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection (3)(a)(vii) to distribute to local education agencies to pay for:

(i)

(A) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(B) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(C) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b); or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.

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(e) The Department of Public Safety shall distribute the money received in accordance with Subsection (3)(a)(viii) to the law enforcement agency of a city that is the seat of government for a county of the first class to fund 10 law enforcement officer positions responsible for conducting the operations described in Subsection (3)(a)(viii)(B).

(5)

(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account after the distribution described in Subsection (3) may only be used for:

(a) funding commission personnel to enforce compliance with the tax collection requirements of this part; and

(b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Section . **FY 2027 Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2026, and ending June 30, 2027. These are additions to amounts previously appropriated for fiscal year 2027.

Subsection 6(a). **Operating and Capital Budgets**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To Department of Public Safety - Programs & Operations

2,000,000

Schedule of Programs:

2,000,000

The Legislature intends that the appropriation under this item be used by the Department of Public Safety for the purpose described in Subsection 59-14-807(4)(e).

Section 8. **Coordinating H.B. 337 with H.B. 229.**

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If H.B. 337, Nicotine Product Tax Amendments, and H.B. 229, Restricted Account Modifications, both pass and become law, the Legislature intends that, on July 1, 2026, Subsection 59-14-807(3)(a)(viii), enacted in H.B. 337, be amended to read:

"(viii) to the Department of Public Safety, in addition to the distribution described in Subsection (3)(a)(ii), for law enforcement officers:

(A) of the law enforcement agency of a city that is the seat of government for a county of the first class; and

(B) aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors."

313 Section 9. **Coordinating H.B. 337 with S.B. 98.**

If H.B. 337, Nicotine Product Tax Amendments, and S.B. 98, Substance Use Rehabilitation Amendments, both pass and become law, the Legislature intends that, on July 1, 2026, Subsection 59-14-807(3)(a)(viii), enacted in S.B. 98, be renumbered to Subsection 59-14-807(3)(a)(ix).

158 Section 4. **Effective date.**

Effective Date.

This bill takes effect on July 1, 2026.

Section 8. **Repealer.**

This Bill Repeals:

282 Section **59-14-104, Rate reduction for modified risk tobacco products.**

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