



ELECTRONIC CIGARETTE AND OTHER NICOTINE PRODUCT AMENDMENTS WHAT THE BILL DOES AND WHY

Electronic cigarette use and vaping by youths ages 13 - 17 is at epidemic levels and increasing in Utah. Projections are 18.3% or nearly 41,800 Utah youth ages 13 to 17 currently use e-cigarettes and vaping products on a daily basis. Strong anecdotal evidence indicates that many of them, along with others, also use or will use currently unregulated nicotine products.

The primary focus of the bill is to cause adolescents to stop or not take up e-cigarette, vaping and other nicotine products use; deter them from taking-up tobacco and marijuana use resulting from e-cigarette, vaping and nicotine product use; and to reduce or eliminate healthcare, productivity and social costs associated with that use that most Utahns pay, even though they don't use the products.

WHAT THE BILL DOES (WTBD) AND WHY

WTBD. The bill levies an excise tax of 86% of manufacturer's price on the sale of electronic cigarette substance (whether it contains nicotine or not) and prefilled electronic cigarettes, alternative nicotine products, nontherapeutic nicotine device substance, and prefilled nontherapeutic nicotine devices, except for products approved by the FDA as nicotine replacement therapy.

WHY. Raising the price by levying an excise tax is the most effective way to cause youths to quit or avoid use of e-cigarettes, vaping, and nicotine products.

The microeconomic theory of Price Elasticity of Demand, coupled with evidence-based research, confirms that since they are not extremely addicted to nicotine and have little disposable income, youth users are highly sensitive to price increases for e-cigarettes and nicotine products, and at least 15% of regular youth users will quit for every 10% increase in price for those products.

WTBD. The bill defines alternative and non-therapeutic nicotine products and devices and extends all electronic cigarette and tobacco products restrictions, regulations and penalties to those products.

WHY. Currently, numerous unregulated nicotine products are sold in Utah, either through brick and mortar establishments or via the internet. None are age restricted for kids and youths of any age can purchase them. Products include dissolvable nicotine, nicotine candy, nicotine-laced chewing gum, nicotine water, nicotine toothpicks, edible products containing nicotine, nicotine nasal and throat sprays, and bulk liquid and powder nicotine.

WTBD. The bill broadens the definition of nicotine in state code to be "a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants."

WHY. Nicotine is currently defined in code as being derived only from tobacco. Accordingly, products containing nicotine, such as e-cigarettes and vaping products, are regulated as tobacco products. To avoid regulation as tobacco products, the vaping industry is using non-tobacco nicotine in their products. Amending the definition of nicotine to include non-tobacco nicotine closes this loophole.

WTBD. The bill restricts electronic cigarette, vaping, or nicotine product manufacturers, wholesalers or retailers from selling or offering to sell or furnish any electronic cigarette, vaping or nicotine product for less than 90% of the cost of the product to the manufacturer, wholesaler or retailer.

WHY. Manufacturers, wholesalers and retailers of electronic cigarette, vaping or nicotine products are known to reduce the impact of a price increase on their products from an excise tax, by reducing the pretax price of their products to the point the increase in price for the product resulting from the excise tax is negated.

WTBD. The bill restricts manufacturers, wholesalers or retailers from giving, distributing, selling, offering for sale, or furnishing any electronic cigarette, vaping or nicotine product for free or at a lower price because the recipient of the electronic cigarette, vaping or nicotine product makes another purchase.

WHY. Manufacturers, wholesalers and retailers of electronic cigarette, vaping or nicotine products are known to circumvent excise taxes on their products by selling a product not taxed with an excise tax to a customer and giving them the excise-taxed product for free as a part of the transaction.

WTBD. The bill bans the sale of electronic cigarette paraphernalia such as unfilled e-cigarette kits, mods, atomizers, cartomizers, tanks, mouth pieces, bubblers and unfilled cartridges to youth younger than 21 and bans the purchase of those products by persons in that age category.

WHY. Currently, code does not age-restrict the sale or purchase of these products. Youth of any age are free to purchase these products and retailers are free to sell them to youth. Typically, youth who acquire these products “build” vaping mechanisms with which they consume e-cigarette, vaping or nicotine liquids, some of which they make themselves from raw materials, following recipes on the internet.

WTBD. The bill directs \$2 M of revenue generated by the tax annually to local health departments for enforcement of regulations and penalty provisions for electronic cigarettes, tobacco, and nicotine products; development and administration of evidence-based, youth only, tobacco, electronic cigarette and nicotine product cessation programs; and to develop and provide tobacco, electronic cigarette, and nicotine product use prevention education programs.

WHY. Strong enforcement of regulations and penalty provisions, coupled with new and improved cessation and prevention education programs, will enhance efforts to stop youth from using or taking-up the use of tobacco, e-cigarette and nicotine products.

WTBD. The bill incorporates nicotine products into every section of code that regulate and restrict sales, purchase, and use of e-cigarettes and vaping products; such as new age 21 restrictions and juvenile justice modifications and restorative justice program regulations.

WHY. Doing so ensures that regulations and restrictions for nicotine products are consistent with all other state codes that regulate and restrict e-cigarette and tobacco products.