

Senator Curtis S. Bramble proposes the following substitute bill:

**ELECTRONIC CIGARETTE AND OTHER NICOTINE
PRODUCT TAX AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies tax provisions in the Electronic Cigarette and Nicotine Product Taxation and Licensing Act.

Highlighted Provisions:

This bill:

- ▶ provides for proportional reductions in the amounts distributed from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account (the account) if the revenue deposited into the account is insufficient to fund the statutory amounts;
- ▶ extends the use of the account revenue to include funding compliance personnel within the State Tax Commission; and
- ▶ requires the State Tax Commission to:
 - increase enforcement of the collection of the electronic cigarette and nicotine product tax;
 - conduct a study on enforcement and collection of the electronic cigarette and nicotine product tax; and
 - report the State Tax Commission's findings and recommendations to the Revenue and Taxation Interim Committee.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-14-807**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

33 ENACTS:

34 **59-14-809**, Utah Code Annotated 1953



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

37 Section 1. Section **59-14-807** is amended to read:

38 **59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted**
39 **Account.**

40 (1) There is created within the General Fund a restricted account known as the
41 "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

42 (2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account
43 consists of:

44 (a) ~~[revenues]~~ revenue collected from the tax imposed by Section **59-14-804**; and

45 (b) amounts appropriated by the Legislature.

46 (3) (a) For each fiscal year~~[-beginning with fiscal year 2021]~~, and subject to
47 appropriation by the Legislature, the Division of Finance shall distribute from the Electronic
48 Cigarette Substance and Nicotine Product Tax Restricted Account:

49 ~~[(a)]~~ (i) \$2,000,000, which shall be allocated to the local health departments by the
50 Department of Health using the formula created in accordance with Section **26A-1-116**;

51 ~~[(b)]~~ (ii) \$2,000,000 to the Department of Health for statewide cessation programs and
52 prevention education;

53 ~~[(c)]~~ (iii) \$1,180,000 to the Department of Public Safety for law enforcement officers
54 aimed at disrupting organizations and networks that provide tobacco products, electronic
55 cigarette products, nicotine products, and other illegal controlled substances to minors;

56 ~~[(d)]~~ (iv) \$3,000,000, which shall be allocated to the local health departments by the

57 Department of Health using the formula created in accordance with Section 26A-1-116;
58 ~~[(e)]~~ (v) \$5,084,200 to the State Board of Education for school-based prevention
59 programs; and

60 ~~[(f)]~~ (vi) \$2,000,000 to the Department of Health for alcohol, tobacco, and other drug
61 prevention, reduction, cessation, and control programs that promote unified messages and
62 make use of media outlets, including radio, newspaper, billboards, and television.

63 (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Tax
64 Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the
65 distribution amounts shall be adjusted proportionately.

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

- 68 (i) the regulation provisions described in Section 26-57-103;
- 69 (ii) the labeling requirement described in Section 26-57-104; and
- 70 (iii) the penalty provisions described in Section 26-62-305.

71 (b) The Department of Health shall use the money received in accordance with
72 Subsection ~~[(3)(b)]~~ (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana, and Other Drug
73 Prevention Program created in Section 26-7-10.

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

77 (d) The State Board of Education shall use the money received in accordance with
78 Subsection ~~[(3)(e)]~~ (3)(a)(v) to distribute to local education agencies to pay for:

- 79 (i) stipends for positive behaviors specialists as described in Subsection
80 53G-10-407(4)(a)(i);
- 81 (ii) the cost of administering the positive behaviors plan as described in Subsection
82 53G-10-407(4)(a)(ii); and
- 83 (iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention
84 Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).

85 (5) (a) The fund shall earn interest.

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

87 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette

88 Substance and Nicotine Product Tax Restricted Account after the distribution described in
89 Subsection (3) may only be used for:

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

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

94 Section 2. Section **59-14-809** is enacted to read:

95 **59-14-809. Commission study on enforcement and collection of tax.**

96 (1) The commission shall:

97 (a) implement increased enforcement of the tax imposed by this part; and

98 (b) study issues related to increased enforcement and compliance with the requirements
99 of this part.

100 (2) The study shall include a review of:

101 (a) the impact of increased enforcement on collections of the tax imposed by this part;

102 (b) options for long-term funding of increased enforcement of the tax imposed by this
103 part;

104 (c) the sufficiency of collections of the tax imposed by this part to fund distributions
105 from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account under
106 Section [59-14-807](#);

107 (d) impacts of a lack of federal regulation of electronic cigarettes on enforcement and
108 compliance efforts; and

109 (e) potential impacts on compliance of changing the incidence of taxation to a tax
110 imposed on the retail sale of an electronic cigarette substance or prefilled electronic cigarette.

111 (3) The commission shall annually report the commission's findings and
112 recommendations on the study items described in Subsections (2)(a) through (d) to the
113 Revenue and Taxation Interim Committee on or before the September interim meeting.

114 (4) The commission shall report the commission's findings and recommendations on
115 the study item described in Subsection (2)(e) to the Revenue and Taxation Interim Committee
116 on or before the September 2023 interim meeting.

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