



PRACTICAL STRATEGIC SOLUTIONS - UTAH

ELECTRONIC CIGARETTE AND OTHER NICOTINE PRODUCTS AMENDMENTS

What the Bill Does and Why

1. The bill levies an excise tax of 86% of manufacturer's price, which is equivalent to a 50% increase in retail price, on the sale of electronic cigarette substance (whether it contains nicotine or not); prefilled electronic cigarettes; alternative nicotine products; nontherapeutic nicotine device substance; and prefilled nontherapeutic nicotine devices.

WHY. The economic 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 a significant number of youth will quit for every 10% increase in price for those products.

2. 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. Numerous unregulated nicotine products are sold in Utah. None are age restricted for kids, and youth of any age can purchase them. Products include dissolvable nicotine, nicotine candy, nicotine toothpicks, nicotine nasal and throat sprays, and bulk liquid and powder nicotine.

3. 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.

4. The bill restricts sellers from selling or offering to sell any electronic cigarette, vape or nicotine product for less than 90% of the cost of the product to the manufacturer, wholesaler, or retailer.

WHY. Sellers of these 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 a point that negates the price increase from the tax.

5. The bill restricts sellers from giving, distributing, selling, offering for sale, or furnishing any electronic cigarette, vape or nicotine product for free or at a lower price because the recipient of the product makes another purchase.

WHY. Sellers of these 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 the customer the excise-taxed product for free as a part of the transaction.

6. The bill bans the sale of electronic cigarette and vaping 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. Current 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. Youth who acquire these products “build” vaping mechanisms with which, in many cases, they consume homemade e-cigarette or vaping liquids.

7. The bill appropriates \$1M of tax revenue annually to provide substance abuse treatment through the Department of Human Services. And \$2M annually to local health departments for enforcement of regulations; 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, 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.