

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3824H.011  
 Bill No.: HB 2211  
 Subject: Tobacco Products; Department of Public Safety; Merchandising Practices;  
 Business and Commerce  
 Type: Original  
 Date: February 14, 2024

Bill Summary: This proposal establishes provisions relating to the creation of a vapor product directory.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
General Revenue	Less than (\$95,440)	Less than (\$76,305)	Less than (\$77,520)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Less than (\$95,440)</b>	<b>Less than (\$76,305)</b>	<b>Less than (\$77,520)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
General Revenue Fund	1 FTE	1 FTE	1 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>	<b>1 FTE</b>

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Section 196.1202 - Vapor Products Directory

Officials from the **Attorney General's Office** did not respond to **Oversight's** request for fiscal impact for this proposal.

Officials from the **Office of Administration - Budget and Planning (B&P)** note Section 196.1202.2 requires every vapor product manufacturer conducting sales of their vapor product in Missouri to certify to the Department of Revenue that their product meets certain United States Food and Drug Administration requirements. The manufacturer must submit this certification for each vapor product sold in the state on an annual basis. Per the legislation, the manufacturer must submit a payment of two-hundred dollars for each annual vapor product certification submitted to the Department of Revenue. These payments could increase total state revenue by an unknown amount. B&P defers to DOR for specific estimates.

Section 196.1202.10 outlines penalties for manufacturers, wholesalers, distributors, or retailers who sell or offer for sale a vapor product in Missouri that is not included in the Department of Revenue's vapor product directory. Violators of this section shall be subject to a civil penalty of five-hundred dollars per day for each product offered for sale in violation of this section until the offending product is removed from the market or until the offending product is properly listed in the Department of Revenue's directory. In so far as penalty payments are deposited into the state treasury, total state revenue may increase by an unknown amount. B&P defers to DOR for specific estimates.

Section 196.1202.10 also states any manufacturer of vapor products that falsely represents any of the information in their certifications submitted to the Department of Revenue shall be guilty of a class C misdemeanor for each false representation. This legislation creates a new crime in which fines can be imposed as a punishment. In so far as such fines are deposited into the state treasury, these fines will impact total state revenue.

Officials from the **Department of Revenue (DOR)** note starting January 1, 2025, this requires all manufacturers of vapor products wanting to sell any of those products in Missouri to be registered with DOR by filing an annual certification form with DOR. Those manufacturers must report or supply:

- Proof of marketing authorization by the U.S. Food and Drug Administration for each product.
- List of all products sold in the state.
- \$200 per vapor product.

Each year thereafter they must refile the certification form and any time they change their vapor products or bring new products to market they must update their certification.

Starting June 1, 2025, DOR is required to maintain a publicly available vapor directory website with all this information on it. No retailer in the state is allowed to sell a product that is not listed in the vapor directory. Penalties can be assessed for selling a product not listed.

It should be noted that due to the Tobacco Master Settlement Agreement, DOR established a MO Tobacco Directory for all licensed manufacturers of cigarettes and OTP products. This directory is free for the participants to use. Due to the rules regarding cigarettes and OTP being different than vapor products DOR believes 2 separate databases is best. The cost of a new system is estimated at \$20,000.

This proposal will require the need for at least one (1) FTE Associate Customer Service Representatives (\$35,880). Additional, FTE may be needed based on the volume of certification forms filed annually. It will also require notification being sent to the manufacturers and vendors alerting them of the new reporting requirements. This is estimated to cost \$10,000.

DOR notes this proposal requires the payment of a \$200 fee per product. This proposal also says the fees are to be used for the administration of this proposal. However, this proposal did not specify a fund for the deposit of the fees. DOR will assume for fiscal note purposes only, that the fees are to be deposited into general revenue. Additionally, DOR will show all administrative costs as being paid by general revenue.

**Oversight** does not have any information to the contrary. Therefore, Oversight will show the FTE as assumed by the DOR. Oversight will reflect the 1 FTE to the General Revenue Fund.

**Oversight** notes this proposal provides a \$200 annual fee per product for manufacturers to certify their authorization to market their vapor products from the FDA. Oversight assumes this provision will result in an unknown increase in general revenue.

**Oversight** notes this proposal provides various penalties for manufacturers who violate the proposed provisions.

**Oversight** notes as of January 2024, the [FDA](#) authorized 23 e-cigarette products between three manufacturers. Oversight does not anticipate the fiscal impact to reach the \$250,000 threshold.

Officials from the **Department of Corrections** note misdemeanors fall outside the purview of the Department of Corrections, this legislation will have no impact on the department. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Public Safety - Alcohol and Tobacco Control** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
<b>GENERAL REVENUE</b>			
<u>Revenue Gain</u> - §196.1202.4 (2) - Collection of annual vapor product certification fee	Unknown	Unknown	Unknown
<u>Revenue Gain</u> - §196.1202 - Collection of vapor product directory penalties	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs - DOR</u>			
Personnel Service	(\$29,900)	(\$36,598)	(\$37,330)
Fringe Benefits	(\$23,896)	(\$28,937)	(\$29,204)
Expense & Equipment	(\$41,644)	(\$10,770)	(\$10,986)
<u>Total Costs -</u>	<u>(\$95,440)</u>	<u>(\$76,305)</u>	<u>(\$77,520)</u>
FTE Change	1 FTE	1 FTE	1 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>Less than (\$95,440)</u></b>	<b><u>Less than (\$76,305)</u></b>	<b><u>Less than (\$77,520)</u></b>

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
Estimated Net FTE Change on General Revenue	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Certain small businesses that manufacture vapor products could be impacted by this proposal.

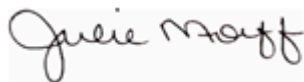
FISCAL DESCRIPTION

The proposed legislation establishes provisions relating to the creation of a vapor product directory.

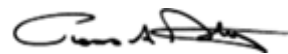
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Budget and Planning  
 Department of Revenue  
 Department of Public Safety - Alcohol and Tobacco Control  
 Department of Corrections  
 Office of the Secretary of State  
 Joint Committee on Administrative Rules



Julie Morff  
 Director  
 February 14, 2024



Ross Strobe  
 Assistant Director  
 February 14, 2024