

**FISCAL IMPACT OF PROPOSED LEGISLATION**

Measure: SB 1577 - A13

80th Oregon Legislative Assembly – 2020 Regular Session  
Legislative Fiscal Office*Only Impacts on Original or Engrossed  
Versions are Considered Official*Prepared by: Kim To  
Reviewed by: John Borden, Tom MacDonald, Gregory Jolivette, Julie Neburka  
Date: February 21, 2020**Measure Description:**

Prohibits distributing, selling or allowing to be sold flavored inhalant delivery system products.

**Government Unit(s) Affected:**

Department of Revenue (DOR), Oregon Health Authority (OHA), Oregon Judicial Department (OJD), Oregon State Police (OSP), Department of Justice (DOJ)

**Summary of Fiscal Impact:**

Costs related to the measure may require budgetary action - See analysis.

**Summary of Expenditure Impact:**

	2019-21 Biennium	2021-23 Biennium
<b>Department of Revenue (DOR)</b>		
Other Funds		
Personal Services	385,242	950,422
Services and Supplies	131,357	163,211
Capital Outlay	36,570	
<b>Total Other Funds - DOR</b>	<b>\$553,169</b>	<b>\$1,113,633</b>
Positions - DOR	5	5
FTE - DOR	2.50	5.00
<b>Oregon Health Authority (OHA)</b>		
Other Funds		
Personal Services	414,009	1,470,635
Services and Supplies	210,257	530,386
<b>Total Other Funds - OHA</b>	<b>\$624,266</b>	<b>\$2,001,021</b>
Positions - OHA	12	11
FTE - OHA	3.77	8.50
<b>TOTAL FISCAL IMPACT</b>		
<b>OTHER FUNDS</b>	<b>1,177,435</b>	<b>3,114,654</b>
<b>TOTAL FUNDS</b>	<b>\$1,177,435</b>	<b>\$3,114,654</b>
TOTAL POSITIONS	17	16
TOTAL FTE	6.27	13.50

**Analysis:**

SB 1577 with the -A13 amendment:

- Increases the Other Funds expenditure limitation for the Department of Revenue (DOR) by \$553,169 and the Other Fund expenditure limitation for the Oregon Health Authority (OHA) by \$624,266 for the 2019-21 biennium.
- Specifies that civil penalties collected by DOR are to be deposited into the General Fund.

- Prohibits a city or local public health authority from adopting an ordinance that prohibits premises that makes retail sales of tobacco products or inhalant delivery systems from being located at the same address as a pharmacy.
- Grandfathers in existing ordinances that prohibit premises that makes retail sales of tobacco products or inhalant delivery systems from being located at the same address as a pharmacy and allows continued enforcement of any such ordinance.

The bill prohibits a person from making retail sale of a tobacco product or an inhalant delivery system at or from premises located in Oregon unless the person sells the tobacco product or inhalant delivery system at or from a premise licensed by (DOR). The bill requires DOR to issue licenses to, and annually renew licenses for, a person that makes retail sales of tobacco products or inhalant delivery systems at qualified premises. The bill requires DOR to publish a list that includes the name of each person to which a license has been issued, the address of each premises for which a license has been issued, and any other information that DOR determines is relevant to the public with respect to the retail sale of tobacco products and inhalant delivery systems. The bill authorizes DOR to establish fees, impose civil penalties, and to share licensing information with the Department of Justice (DOJ), the Oregon Health Authority, and local public health authorities. The bill allows DOR to revoke, suspend, or refuse to issue or renew a license under certain circumstances specified in the measure. DOR is authorized to seize contraband inhalant delivery systems and tobacco products. The bill authorizes OHA to establish fees to enforce regulation of tobacco products and inhalant delivery. The bill authorizes OHA and DOR to enter into an agreement for DOR to collect fees and transfer fee moneys to OHA. OHA is required to ensure that a retailer is inspected at least once a year. The bill authorizes local public health authorities to enforce standards for regulating the retail sale of tobacco products and inhalant delivery systems.

#### Department of Revenue (DOR)

DOR estimates the fiscal impact of this bill to be \$553,169 Other Funds, 5 positions (2.50 FTE) for the 2019-21 biennium; and \$1,113,633 Other Funds, 5 positions (5.00 FTE) for the 2021-23 biennium. These amounts include capital outlay for furniture and equipment, legal costs, salary and related expenses for the following permanent full-time positions:

- One Principal Executive/Manager C position to manage the licensing and compliance staff, attend interagency workgroups and trade shows, assist in development of licensing program policy and procedures.
- Two Compliance Specialist 1 positions to investigate licensed retailers for compliance with existing state, federal and local tobacco retail sales laws and to seize contraband inhalant delivery system and tobacco products.
- One Program Analyst 1 position to perform license maintenance and respond to requests for information from retailers regarding the retailer licensing program.
- One Public Service Representative 4 to handle suspended payments, assist with Revenue Online Registration and outreach, handle account maintenance, process new applications, and test new GenTax configuration of licensing and retail dealer accounts.

These positions will work with existing staff to develop a communications plan to provide information to approximately 4,000 retailers of cigarette, tobacco, and inhalant delivery system products; write administrative rules; and develop and implement the licensing program.

#### Oregon Health Authority (OHA)

The anticipated fiscal impact for OHA is \$624,266 Other Funds, 12 positions (3.77 FTE) for the 2019-21 biennium. The Other Funds represents the on-going fee revenue OHA is authorized to collect to cover its enforcement of tobacco and inhalant delivery laws and other requirements of the bill. Before the fee revenue can be collected, OHA expects to incur some start-up costs based on the agency's implementation plan, which the agency anticipates supporting within existing resources. The bill requires OHA to ensure that state standards are administered and enforced consistently throughout the state. The bill directs OHA to: (1) establish a database or other mechanism for collecting information from local public health authorities and the general public regarding the regulation of the retail sale of tobacco products and inhalant delivery systems, including any information

related to complaints about a person that makes retail sales of tobacco products or inhalant delivery systems; (2) provide technical assistance to local public health authorities regarding the regulation of the retail sale of tobacco products and inhalant delivery systems; and (3) assess the effectiveness of state and local programs for regulating the retail sale of tobacco products and inhalant delivery systems. The bill authorizes local public authorities to enforce standards for regulating the retail sale of tobacco products and inhalant delivery systems. However, in the absence of local enforcement, the work falls on OHA. This fiscal analysis assumes no local public health authorities will choose to conduct the enforcement. OHA estimates that there are approximately 4,000 tobacco product and inhalant delivery system retailers operating in the state. OHA anticipates conducting 9,200 inspections annually assuming a 15% retailer violation rate. In addition to costs for the database system, ongoing training costs and legal support from the Department of Justice for the imposition of civil penalties and contested case hearings, the fiscal impact includes salary and related services and supplies for the following:

- Three permanent full-time Compliance Specialist 3 positions to conduct licensing requirement inspections and underage compliance inspections at retailers.
- Three part-time Student Office Workers positions to accompany Compliance Specialists on underage compliance inspections and provide documentation and testimony, as necessary.
- One permanent full-time Principal Executive/Manager D position to serve as a Program Manager supervising program staff, overseeing program development and manage program budget.
- One permanent full-time Program Analyst 2 position to serve as Training Coordinator to provide ongoing technical assistance to local public health authorities and OHA inspection staff, develop training for staff, and train staff for inspections.
- One permanent full-time Research Analyst 3 position to coordinate, analyze and aggregate data collated through the database system, assess the effectiveness of state and local programs for regulating the retail sale of tobacco and inhalant delivery system products, and create reports.
- One permanent full-time Program Analyst 3 position to develop inspection protocol, provide policy direction including required rulemaking, coordinate with the Department of Justice, and oversee technical assistance to local public health authorities.
- One permanent full-time Administrative Specialist 1 position to provide general support, performing administrative duties such as mailings to retailers and web support.
- One Limited Duration Program Analyst 3 position to develop materials for educational outreach to retailers and oversee media-related work such as website, print ads and earned media.

The inspectors, student office workers and program manager would all be hired effective January 2021. The remaining positions would be hired effective July 2020 to complete work necessary prior to the operative date. All positions are permanent with the exception of one Program Analyst 3 position.

The bill directs OHA to establish fees to pay these expenses. For the ongoing operation of the program, OHA would set fees in a manner that would cover all operating costs. To fulfill the database requirement, OHA would implement the HealthSpace database module that is currently utilized by other OHA Public Health programs.

Department of Justice (DOJ), Oregon Judicial Department (OJD), Oregon State Police (OSP)

The fiscal impact of this bill on DOJ, OJD, and OSP is anticipated to be minimal.