

Vermont Legislative Joint Fiscal Office

One Baldwin Street • Montpelier, VT 05633-5701 • (802) 828-2295 • Fax: (802) 828-2483

DRAFT FISCAL NOTE

Date: January 29, 2020

Prepared by: Graham Campbell and Nolan Langweil

S.288– An act relating to banning flavored tobacco products and e-liquids

Bill Summary

This bill proposes to ban the sale of all flavored tobacco products in Vermont. This includes banning the sale of:

- Flavored cigarettes of any kind
- Other tobacco-based products including cigars, cigarillos, chewing tobacco, snuff, and dipping tobacco.
- Flavored electronic cigarettes of any kind. Since the Federal government preemptively began enforcement actions on some flavored e-cigarettes (fruit and mint) in early January 2020. The ban in this bill would largely apply to menthol-flavored e-cigarettes.

The bill is effective on passage.

Fiscal Impact

This bill is estimated to result in a direct revenue loss of \$5.45 million in Fiscal Year (FY) 2021. This revenue loss will be split between the General Fund and Education Fund:

- \$4.76 million to the General Fund from reduced cigarette and tobacco tax revenue.
- \$690,000 to the Education Fund from reduced sales and use tax revenues.

This revenue loss is projected to decline modestly over the next three years as cigarette usage continues to decline (Table 1)

Fiscal Year	FY2021	FY2022	FY2023
Total	-\$5.45	-\$5.36	-\$5.28
Of which: General Fund	-\$4.76	\$-4.68	\$-4.61
Of which: Education Fund	-\$0.69	-\$0.68	-\$0.67

The majority of this reduction in revenues is attributable to the banning of menthol cigarettes. Over the period of 2011-2015, it is estimated that menthol cigarette composed 18.8% of total

cigarette sales in Vermont.¹ Total cigarette tax revenues are estimated to generate approximately \$55 million in revenue in FY 2021.

Revenues from the sale of e-cigarettes and other tobacco products for FY 2021 are estimated to be \$12.4 million in FY 2021. It is estimated that between 20% to 40% the sales of these products are flavored.²

An important variable in this estimate is the degree to which current users quit using tobacco because of the ban. It is also the variable that is most difficult to predict. For adult users, evidence from surveys and analysis from municipalities that have banned flavored tobacco indicate that between 30% and 65% of users would quit altogether. For youth tobacco users, surveys have indicated much higher quit rates, upwards of 60 to 75%.

JFO's estimate is informed by the literature, however, it should be emphasized that there is a considerable level of uncertainty surrounding this variable. Even a small change in the assumed quit rate could lead to significant changes in the revenue estimate.

Finally, the long-term public health benefits of reducing tobacco use are undeniable and while there would also be significant long-term fiscal benefits from this, they are difficult to estimate.

Medicaid Impacts:

Prior to FY 2019, all revenues from cigarette and tobacco taxes were deposited into the State Health Care Resources Fund and used to draw down federal matching dollars. As such cigarette and tobacco revenue estimates also accounted for the gains and/or losses of federal match dollars to fund Medicaid programs. Act 6 of 2019 (Budget Adjustment) transitioned all cigarette and tobacco tax revenues to the General Fund. As such, JFO revenues estimates no longer account for Medicaid match impacts.

Sources:

January 2020 Consensus Revenue Forecast

Kuiper NM, Loomis BR, Falvey KT, Gammon DG, King BA, Wang TW, et al. *Trends in Unit Sales of Flavored and Menthol Electronic Cigarettes in the United States, 2012–2016*. *Prev Chronic Dis* 2018;15. https://www.cdc.gov/pcd/issues/2018/17_0576.htm

Kuiper, Nicole M et al. "Trends in Sales of Flavored and Menthol Tobacco Products in the United States During 2011-2015." *Nicotine & tobacco research : Official Journal of the Society*

¹ Kuiper et al. "Trends in Sales of Flavored and Menthol Tobacco Products in the United States during 2011–2015." <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5711620/>

² See list of references and sources

for *Research on Nicotine and Tobacco*. vol. 20,6 (2018): 698-706.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5711620/pdf/nihms882705.pdf>

Wang, Teresa W et al. "Consumption of Combustible and Smokeless Tobacco - United States, 2000-2015." *Morbidity and mortality. Weekly Report*. vol. 65,48 1357-1363. 9 Dec. 2016.

https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5584068/#_ffn_sectitle

"State Excise And Sales Taxes Per Pack Of Cigarettes: Total Amounts & State Rankings" Campaign for Tobacco-Free Kids. <https://www.tobaccofreekids.org/assets/factsheets/0202.pdf>

O'Connor, Richard J et al. "What would menthol smokers do if menthol in cigarettes were banned? Behavioral intentions and simulated demand." *Addiction* (Abingdon, England) vol. 107,7 (2012): 1330-8. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3370153/?report=classic>

Wackowski, Olivia A et al. "Young adults' behavioral intentions surrounding a potential menthol cigarette ban." *Nicotine & Tobacco Research : Official Journal Of The Society For Research On Nicotine And Tobacco*. vol. 16,6 (2014): 876-80.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4015098/>

Buckell, J., Marti, J. and Sindelar, J. "Should Flavors be Banned in E-cigarettes? Evidence on Adult Smokers and Recent Quitters from a Discrete Choice Experiment". *National Bureau of Economic Research*. September 2017. <https://www.nber.org/papers/w23865>

Farley, S., Johns, M. "New York City Flavoured Tobacco Product Sales Ban Evaluation." 20 April 2015. <https://tobaccocontrol.bmj.com/content/tobaccocontrol/26/1/78.full.pdf>

Harrell, Melissa B et al. "Flavored Tobacco Product Use among Youth and Young Adults: What if Flavors Didn't Exist?." *Tobacco Regulatory Science*. vol. 3,2 (2017): 168-173.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5536860/>

Oliver, Andrew J et al. "Flavored and nonflavored smokeless tobacco products: rate, pattern of use, and effects." *Nicotine & Tobacco Research: Official Journal of The Society For Research On Nicotine And Tobacco*. vol. 15,1 (2013): 88-92.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3524058/>