H-4314.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2915**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Pollet, Robinson, Tarleton, Cody, Fey, Valdez, Doglio, Slatter, Davis, Frame, Gregerson, Riccelli, Macri, Orwall, Callan, Fitzgibbon, J. Johnson, Stonier, and Ryu

AN ACT Relating to increasing the relevant taxes to fully fund the foundational public health services account; amending RCW 82.25.010 and 82.25.015; adding a new section to chapter 82.04 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that the board of health enacted an emergency rule in October 2019 to address the epidemic level of adolescent and young adult use of vapor products addicting a new generation to nicotine, and to address the lung illness and fatalities associated with vapor product use. This action was based on an extensive health impact review conducted by the board of health, which has been updated, finding that there is very strong evidence that reducing youth initiation of use of vapor products will improve health outcomes for adolescents and young adults. This included finding very strong evidence that decreasing young adult and adolescent use of vapor products will decrease use of cigarettes, which will also improve health outcomes. The healthy youth survey found that in 2018, thirty percent of high school seniors in Washington state used vapor products in the prior month. The legislature finds that tobacco and vapor product use contribute to myriad adverse health outcomes and impose tremendous costs on Washington state's health systems and taxpayers.

(2) The legislature finds that there is inadequate support to prevent youth and adults from becoming addicted to nicotine, to assist youth and adults in ceasing to use nicotine vapor and tobacco products, to educate youth and adults regarding nicotine addiction and potential adverse health effects from use of vapor products as well as other tobacco products, and inadequate support for our enforcement programs to prevent underage purchase of tobacco and vapor products. There are also inadequate resources for foundational public health services, which are integrally related to responding to or preventing the adverse health outcomes related to nicotine addiction and use of vapor or tobacco products.

(3) The legislature finds that increasing taxes is an effective public health strategy to reduce the use of vapor and tobacco products among youth.

(4) The foundational public health services account provides vital resources for prevention, education, cessation, and enforcement related to vapor and tobacco products, as well as resources for responding to the myriad adverse health outcomes associated with use of these products. However, the legislature finds that current resources are inadequate to meet the dire needs of youth and adults addicted to nicotine, and to meet these needs.

(5) The legislature finds that the manufacturers and distributors of all nicotine, tobacco, and vapor products profit from business that increases the health care costs and adverse health outcomes for Washington state, while paying business and occupation tax rates which are intended to favor manufacturing and other business activities that do not result in adverse health outcomes and increased health care costs.

(6) Therefore, the legislature intends to reduce youth and adult usage of tobacco and vapor products; and to generate dedicated funding for prevention, cessation, education, training, enforcement, and foundational public health services by funding the foundational public health services account through increasing the business and occupation taxes of manufacturers and distributors of all tobacco and vapor products; placing all new realized revenues into the foundational public health services account from new tobacco products, including heated tobacco products, which recently have been or may be approved for marketing in the United States by the federal food and drug administration; and adjusting the vapor product tax to more effectively discourage underage purchases and more effectively tax the type of vapor products which are most often used by youth.

**Sec.**  RCW 82.25.010 and 2019 c 445 s 102 are each amended to read as follows:

(1)((~~(a)~~)) There is levied and collected a tax upon the sale, use, consumption, handling, possession, or distribution of all vapor products in this state ((~~as follows:~~

~~(i) All vapor products other than those taxed under (a)(ii) of this subsection are taxed at a rate equal to twenty-seven cents per milliliter of solution, regardless of whether it contains nicotine, and a proportionate tax at the like rate on all fractional parts of a milliliter thereof.~~

~~(ii) Any accessible container of solution, regardless of whether it contains nicotine, that is greater than five milliliters, is taxed at a rate equal to nine cents per milliliter of solution and a proportionate tax at the like rate on all fractional parts of a milliliter thereof.~~

~~(b) The tax in this section must be imposed based on the volume of the solution as listed by the manufacturer~~)) equal to forty-five percent of the taxable sales price.

(2)(a) The tax under this section must be collected at the time the distributor: (i) Brings, or causes to be brought, into this state from without the state vapor products for sale; (ii) makes, manufactures, fabricates, or stores vapor products in this state for sale in this state; (iii) ships or transports vapor products to retailers or consumers in this state; or (iv) handles for sale any vapor products that are within this state but upon which tax has not been imposed.

(b) The tax imposed under this section must also be collected by the department from the consumer of vapor products where the tax imposed under this section was not paid by the distributor on such vapor products.

(3)((~~(a)~~)) The moneys collected under this section must be deposited ((~~as follows:~~

~~(i) Fifty percent into the Andy Hill cancer research endowment fund match transfer account created in RCW 43.348.080; and~~

~~(ii) Fifty percent~~)) into the foundational public health services account created in RCW 82.25.015. ((~~(b)~~)) The funding provided under this subsection is intended to supplement and not supplant general fund investments in cancer research and foundational public health services.

**Sec.**  RCW 82.25.015 and 2019 c 445 s 103 are each amended to read as follows:

(1) The foundational public health services account is created in the state treasury. ((~~Half of all~~))

(a) All of the moneys collected from the tax imposed on vapor products under ((~~RCW 66.44.010~~)) RCW 82.25.010 must be deposited into the account.

(b) All moneys collected from taxes imposed pursuant to this chapter on any heated tobacco products, or any other tobacco products, initially approved for sale by the United States food and drug administration after April 1, 2019, must be deposited into the account. For the purposes of this subsection, "heated tobacco products" means a product containing tobacco that produces an inhalable aerosol by heating the tobacco by means of an electronic device without combustion of tobacco, or by heat generated from a combustion source that only primarily heats rather than burns the tobacco.

(c) All moneys collected from taxes imposed pursuant to section 4 of this act must be deposited into the account.

(2) Moneys in the account may be spent only after appropriation. Moneys in the account are to be ((~~used for the following purposes~~)) distributed as follows:

((~~(1)~~)) (a) Fifty percent of the funds, up to five million dollars per fiscal year, must be transferred to the Andy Hill cancer research endowment fund match transfer account created in RCW 43.348.080; however, the minimum distributions for purposes of nicotine cessation, prevention, education, and training as required by (b) of this subsection must be funded prior to such transfer; and

(b) The remainder of the funds must be used for foundational public health-related purposes, including:

(i) To fund foundational health services. In ((~~the 2019-2021 biennium~~)) fiscal year 2021, at least ((~~twelve~~)) six million dollars of the funds deposited into the account must be appropriated for this purpose. Beginning in the 2021-2023 biennium, fifty percent of the funds deposited into the account for foundational public health purposes, but not less than twelve million dollars each biennium, are to be used for this purpose;

((~~(2)~~)) (ii) To fund tobacco, vapor product, and nicotine control and prevention, and other substance use prevention and education. Beginning in the 2021-2023 biennium, seventeen percent of the funds deposited into the account are to be used for this purpose;

((~~(3)~~)) (iii) To support increased access and training of public health professionals at public health programs at accredited public institutions of higher education in Washington. Beginning in the 2021-2023 biennium, five percent of the funds deposited into the account are to be used for this purpose;

((~~(4)~~)) (iv) To fund enforcement by the state liquor and cannabis board of the provisions of this chapter to prevent sales of vapor products to minors and related provisions for control of marketing and product safety, provided that no more than eight percent of the funds deposited into the account may be appropriated for these enforcement purposes.

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to read as follows:

(1) Beginning with business activities occurring on or after July 1, 2020, a vapor products surcharge is imposed as follows:

(a) Upon every person engaging within this state in business as a manufacturer of vapor products, in addition to the tax imposed under RCW 82.04.240, a surcharge equal to the value of the manufactured vapor products, including by-products, multiplied by the rate of four and four-tenths percent;

(b) Upon every person engaging within this state in business as a vapor product distributor licensed under RCW 70.345.020, in addition to the tax imposed under RCW 82.04.240, a surcharge equal to the value of the manufactured vapor products, including by-products, multiplied by the rate of four and four-tenths percent.

(2) Beginning with business activities occurring on or after July 1, 2020, a tobacco products surcharge is imposed as follows:

(a) Upon every person engaging within this state in business as a manufacturer of tobacco products, in addition to the tax imposed under RCW 82.04.240, a surcharge equal to the value of the manufactured tobacco products, including by-products, multiplied by the rate of four and four-tenths percent;

(b) Upon every person engaging within this state in business as a tobacco product distributor licensed under RCW 82.26.190, in addition to the tax imposed under RCW 82.04.240, a surcharge equal to the value of the manufactured tobacco products, including by-products, multiplied by the rate of four and four-tenths percent.

**--- END ---**