SENATE BILL REPORT
ESSB 6129

As Passed Senate, February 28, 2026

Title: An act relating to the taxation of cigarettes, vapor products, and other products containing tobacco or nicotine.

Brief Description: Concerning the taxation of cigarettes, vapor products, and other products containing tobacco or nicotine.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Robinson, Dhingra, Nobles, Saldaña, Trudeau and Valdez).

Brief History:

Committee Activity: Ways & Means: 1/22/26, 2/19/26 [DPS, DNP].

Floor Activity: Passed Senate: 2/28/26, 26-22.

Brief Summary of Engrossed First Substitute Bill

- Replaces the various tax rates imposed on tobacco products with a single rate of 95 percent of the taxable sales price for all products containing nicotine except for cigarettes.
- Repeals the tax on vapor products.
- Increases the cigarette tax to $5 per package of 20 cigarettes.
- Reinstates and modifies vapor product tax revenue distributions to the Andy Hill Cancer Research Endowment Fund Match Transfer Account and the Foundational Public Health Services Account.
- Dedicates the first $10 million collected on the additional cigarette tax each fiscal year to the Youth Tobacco and Vapor Products Prevention Account.
- Authorizes the Governor to renegotiate tribal tax compacts for cigarettes and vapor products.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6129 be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Pedersen, Riccelli, Saldaña, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Boehnke, Braun, Hasegawa, Kauffman, Muzzall, Wagoner and Warnick.

Staff: Alia Kennedy (786-7405)

Background: Other Tobacco Products Tax. Taxes are imposed on the sale, handling, or distribution of all tobacco products at the following rates:

- for cigars except little cigars, 95 percent of the taxable sales price of cigars, not to exceed $0.65 per cigar;
- for little cigars, $0.15125 per stick;
- for moist snuff:
    1. cans that weigh 1.2 ounces or less, $2.526 per can; or
    2. cans that weigh more than 1.2 ounces, $2.105 per ounce; and
- for all other tobacco products, 95 percent of the taxable sales price.

Beginning January 1, 2026, the definition of tobacco products for purposes of the other tobacco products (OTP) tax includes any product containing tobacco or nicotine, whether derived from tobacco or created synthetically, except for cigarettes.

The OTP tax is deposited into the state general fund. The OTP tax is in addition to retail sales and use, business and occupation (B&O), and litter taxes that may apply.

Vapor Products Tax. A bifurcated per milliliter tax is levied on the sale, use, consumption, handling, possession, or distribution of vapor products as follows:

- $0.09 per milliliter of liquid or solution for accessible containers of liquid solution that are larger than five milliliters; or
- $0.27 per milliliter of liquid solution for all other vapor products.

Beginning January 1, 2026, the vapor products tax applies only to vapor products that do not contain nicotine. The tax is in addition to retail sales and use, and B&O taxes that may apply.

Vapor products include electronic cigarettes, cigars, cigarillos, pipes, or similar products or devices, cartridges or containers of liquid nicotine, solution, or other consumable

substances, regardless of whether the products contain nicotine.

Vapor Product Tax Distributions. All revenue from the vapor products tax is split evenly between the Andy Hill Cancer Research Endowment Fund Match Transfer Account (match transfer account) and the Foundational Public Health Services (FPHS) Account until distributions to the match transfer account reach $10 million each fiscal year—at which time any remaining revenue is deposited to the FPHS account.

Cigarette Tax. The sale, use, consumption, handling, possession, or distribution of cigarettes is subject to a total state tax rate of $0.15125 per cigarette or $3.025 per package of 20 cigarettes. All revenue from the cigarette tax is deposited in the state general fund. The tax is in addition to retail sales and use, B&O, and litter taxes that may apply.

Andy Hill Cancer Research Endowment Fund Match Transfer Account. The purpose of the match transfer account is to provide matching funds to the Andy Hill Cancer Research Endowment. The endowment was established to make grants to public and private entities, including commercial entities, for the promotion of cancer research in Washington. Moneys in the account primarily consist of legislative appropriations of vapor product tax revenue. Legislative appropriations of vapor tax revenue to the account may not exceed $10 million each fiscal year.

Foundational Public Health Services Account. The purpose of the FPHS account is to fund foundational public health services administered by the Washington State Department of Health. Moneys in the account consist of legislative appropriations of revenue from the tax on vapor products.

Youth Tobacco and Vapor Products Prevention Account. Funds in the Youth Tobacco and Vapor Products Prevention Account consist of licensing fees and enforcement penalties collected on tobacco and vapor products. Up to 30 percent of the moneys in the account may be used for Liquor and Cannabis Board enforcement costs. The Department of Health is directed to use the remaining 70 percent of account funds to provide grants to local health departments or other local community agencies to develop and implement coordinated tobacco and vapor product intervention strategies to prevent and reduce tobacco and vapor product use by youth.

Tribal Compacting. The Governor is authorized by statute to enter into compacts with federally recognized Indian tribes in Washington regarding the sale and taxation of cigarettes and vapor products. The Governor may delegate power to negotiate cigarette tax contracts to the Department of Revenue (DOR). In general, cigarettes and vapor products sold on Indian lands during a contract term are subject to a tribal tax equal to the total combined rate of the state cigarette or vapor products tax and state and local sales and use taxes. Cigarettes and vapor products sold on Indian land are exempt from state excises taxes imposed on such products, and from state sales and use taxes.

Summary of Engrossed First Substitute Bill: Taxation of Nicotine Products. Beginning January 1, 2027, the various OTP tax rates and the vapor products tax are each repealed and replaced with a single tax rate of 95 percent of the taxable selling price for all nicotine products.

"Nicotine product" means any product that contains nicotine or a nicotine analogue, whether derived from tobacco or created synthetically, and is intended for human consumption or placement in the oral or nasal cavity or absorption into the human body by any other means. The term does not include cigarettes or therapeutic nicotine cessation products approved by the United States Food and Drug Administration.

"Nicotine analogue" means a substance that has a chemical structure substantially similar to the chemical structure of nicotine or which has, or is represented to have, an effect on the central nervous system that is similar to or greater than the effect on the central nervous system of nicotine.

Vapor Product Tax Revenue Distributions. Revenue from the tax on vapor products must be deposited as follows:

- 50 percent to the match transfer account and 50 percent into the FPHS account until distributions to the match transfer account reach $10 million each fiscal year;
- any additional revenue collected from the tax on vapor products must be deposited to the FPHS account until the total amount of distributions to the account reach $20 million each fiscal year; and
- the remainder of revenue collected from the tax on vapor products each fiscal year must be deposited into the state general fund.

Beginning January 1, 2029, DOR must annually adjust for inflation distribution amounts to the match transfer account and the FPHS account using the consumer price index for the Seattle area as calculated by the United States Bureau of Labor Statistics or its successor agency. The inflationary adjustment may not result in a distribution amount that is less than the distribution amount for the prior year.

Preexisting Inventories. The nicotine products tax established in the bill does not apply to any nicotine product for which the OTP tax was paid by the distributor prior to July 1, 2027.

Cigarette Tax. Beginning January 1, 2028, an additional tax is imposed on the sale, use, consumption, handling, possession, or distribution of cigarettes at a rate of $0.09875 per cigarette. The additional tax on cigarettes results in a total tax rate of $5 per package of 20 cigarettes.

Beginning January 1, 2032, the additional tax on cigarettes must be adjusted for inflation once every four years using the consumer price index for the Seattle area as calculated by the United States Bureau of Labor Statistics or its successor agency.

DOR may not adjust the tax rate if the adjustment would result in a tax rate that is lower than the applicable tax rate for the prior year.

All revenue from the additional taxes on cigarettes must be deposited to the state general fund.

Tribal Compacting. The Governor may seek government-to-government consultations with federally recognized Indian tribes to renegotiate cigarette and vapor product tax compacts to include the taxation of flavored nicotine products and flavored cigarettes. Any tribal tax imposed on flavored nicotine products or flavored cigarettes must be equal to the state rate imposed on such products. The Governor may delegate the authority to renegotiate cigarette and vapor product tax contracts with federally recognized Indian tribes to DOR.

Section 301, Chapter 422, Laws of 2025. The OTP tax does not apply to any vapor products for which the vapor products tax was paid by a distributor or retailer before January 1, 2026. The provision applies retroactively to January 1, 2026, and expires July 1, 2027.

Appropriation: None.

Fiscal Note: Requested on January 14, 2026.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This proposal expands the scope of taxable nicotine products, clarifies regulatory expectations, and restores funding to foundational public health services. The bill provides a comprehensive and modernized approach that addresses multiple public health concerns. A stronger, and more responsive, governmental public health system relies on stable revenue sources to enable prevention, early intervention, and community health protection. An earlier effective date would more quickly restore funding to public health services and cancer research. A prolonged implementation date means layoffs and interruption of services. The tax structure in this bill is game-changing for tobacco and nicotine use in this state. Raising the tax on cigarettes and other nicotine products reduces use and, in turn, the devastating health effects caused by those products. The bill is a win for the state budget because, despite declining consumption, the higher tax rate will raise revenue for years to come while also reducing healthcare and Medicaid costs. The issue of border sales and changes in shopping habits will be short lived for most people. The American Academy of Pediatrics has high quality evidence indicating that price increases to tobacco and nicotine products helps protect youth from the health harms of these products. Increasing the price of these products is one of the most effective methods to prevent and reduce youth tobacco use. Tobacco and nicotine related health outcomes are one of the most expensive and preventable healthcare costs in

this state. Marginalized communities have long been targeted by aggressive tobacco marketing while facing systemic barriers to support. Tobacco tax increases are often the final push for people to break free from these harmful products. Every state that has enacted a meaningful cigarette tax increase has seen a notable rise in cigarette tax revenues far exceeding what they would have collected without the rate change. The bill should dedicate some revenue to tobacco prevention and cessation programs. Tobacco use remains the number one cause of preventable death in the black community. The bill corrects the unintended fund diversion, allows for inflation adjustments, and better aligns revenue with public health needs.

CON: This bill makes the state's tax code even more regressive. These tax increases fall hard on low-income Washingtonians. Policies like the ones in this bill reduce revenue during a time when the state is working to stabilize its budget. The bill directly impacts small retailers and independent store operators who rely on the sale of these products for a large portion of their revenue. Increasing the tax will cause customers to stop purchasing these products. The taxes in this bill are highly regressive and disproportionately impacts lower income consumers who are already facing rising grocery costs. The bill increases consumer costs, undermines local businesses, and reduces regulated sales. This bill will not reduce consumption of cigarettes and nicotine products but will instead encourage people to buy them in border states or from the unregulated illicit market. Application of the tax on flavored products is challenging for retailers. The bill places the financial burden squarely on African American communities by targeting menthol smokers. Many families are already burdened with high cost of living and stagnant wages. The taxes in this bill are a missed opportunity to create real change that benefits all communities. This bill impacts the most vulnerable population in this state as nearly half of menthol smokers make less than $30,000 a year. The bill hurts consumers more than it does big tobacco. People who choose to smoke deserve respect. With more than 70 percent of African Americans smoking, and preferring menthols, the tax in this bill feels like a direct attack on specific communities. There is no research that supports taxing less harmful products more than combustible cigarettes, which absolutely have negative health outcomes. The tax increase to cigars is significant. The state should provide a tax reduction for lower-risk nicotine products. Penalizing federally approved less-harmful products through higher taxation will reduce their appeal to adult smokers. This bill was developed without consulting tribes and does not align with the state's commitment to government-to-government relations. Increasing the tax on nicotine pouches punishes people who use these products to quit smoking cigarettes. The youth usage of cigarettes is at a generational low right now. The state needs to stop looking at pricing as the only option to eliminate youth usage. The tax increase is excessively regressive.

OTHER: This bill reinstates vapor tax revenue to the CARE account but eliminates funding from enforcement penalties, which reduces the amount of revenue dedicated to cancer research each year. Reducing youth access is important but this bill does not meaningfully do that and instead places the heavy burden on adult only businesses. The bill removes a longstanding distinction by taxing premium cigars the same as mass market nicotine

products. Premium cigars are hand rolled, not inhaled, and overwhelmingly used by adults. The bill harms local businesses and state revenue.

Persons Testifying: PRO: Jaime Bodden, WSALPHO; Scott Waller, Washington Association for Substance misuse And Violence Prevention (WASAVP); Megan Moore, Washington State Public Heatlh Association; Crystal Shen, Washington Chapter of the American Academy of Pediatrics; Heidi Low, Campaign for Tobacco- Free Kids; Carrie Nyssen, American Lung Association; Alex Hamasaki, American Heart Association; Dr. Yolanda Evans, Seattle Children's; Sheley Secrest, NAACP Alaska, Oregon, Washington State Area Conference; Tesia Forbes, Public Health Seattle and King County; Kelsey Beck, Kaiser Permanente.

CON: Molly Pfaffenroth, Washington Food Industry Association; Art Way, Equitable Consulting; William ROBINSON, URBAN COALITION AGAINST SUBSTANCE ABUSE; ALICIA BOONE; Lamont Robinson; rochelle bishop; rev james Neville; Mel Tonasket, Confederated Tribes of the Colville Reservation; Sara Stewart, WA Smoke-Free Association; Crystal Leatherman, WA Retail Association; Max Martin, Association of Washington Business; Ann Simons, Juul; Holly Chisa, Cigar Association of America; Ryan Neufeld, Private Citizen / Supporter of WA Small Business; Shaun D'Sylva, WASFA; Dr. Jeffrey Willet; Troy Askins; William Castro; Douglas Ball, Jacksons Food Stores; James Hoy, Northwest Fog.

OTHER: Lyset Cadena, CARE Fund; Elizabeth Sandy; Lindsey Stroud, Tobacco Harm Reduction 101.

Persons Signed In To Testify But Not Testifying: No one.