

**BILL SUMMARY**  
1<sup>st</sup> Session of the 58<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB 1054</b>
<b>Version:</b>	<b>INT</b>
<b>Request Number:</b>	<b>5758</b>
<b>Author:</b>	<b>Rep. Randleman</b>
<b>Date:</b>	<b>2/8/2021</b>
<b>Impact:</b>	<b>Tax Commission:</b>

**Revenue Impact:**  
**FY-22: Revenue Increase in Tobacco Excise:**  
**\$880,000**  
**FY-22: Revenue Decrease to Sales Tax:**  
**(\$90,000)**

**FY-23: Revenue Increase in Tobacco Excise:**  
**\$2,112,000**  
**FY-23: Revenue Decrease to Sales Tax:**  
**(\$216,000)**

**Tax Commission Administrative Costs:**  
**Beginning FY-22: \$35,000**

**Research Analysis**

HB 1054 defines *electronic smoking device* and levies a tax of 44 percent of the wholesale price of such devices.

Prepared By: Emily McPherson

**Fiscal Analysis**

From the Tax Commission:

While the Oklahoma Tax Commission is required to keep a list of electronic cigarette and vape product vendors, sales data specifically attributable to these product is not collected.

Based upon a study entitled National and State-Specific Unit Sales and Prices for Electronic Cigarettes, United States, 2012-2016, conducted in August of 2018, which outlined state sales information for rechargeable, disposable, prefilled, and e-liquids, along with estimated prices for each by unit the total amount of electronic cigarettes sales in Oklahoma for 2016 was \$4,799,176.71. Assuming similar sales for FY 22 with application of the proposed 44% wholesale tax rate results in an estimated increase of \$2,111,637 in Oklahoma excise tax.

The measure provides an effective date of January 1, 2022. An increase in tobacco excise taxes of \$879,849 and \$2,111,637 is estimated for FY 22 and FY 23, respectively.

“Electronic cigarettes” are currently subject to Oklahoma state and local sales tax. However, including them into the definition of “tobacco products” will provide an exemption under Section 1355(8) of Title 68 which excludes cigarettes and tobacco products from the sales tax levy.

Application of the state sales tax rate of 4.5% to the assumed sales amount of \$4,799,176.71 yields a decrease in state sales tax of \$215,963. Adjusting for the effective date of January 1, 2022 results in a reduction in state sales tax collections of \$89,985 for FY 22 and an estimated reduction in state sales tax collections of \$215,963 for FY 23.

Administrative cost:

The Commission anticipates minimal additional costs of \$35,000 attributable to required programing and other related items to implement the proposal.

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2 “Electronic smoking device” is defined as any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, e-cigarettes, e-cigars, e-pipes, vape pens or e-hookas. The term “electronic smoking device” is further defined to include any Req. substance intended to be aerosolized or vaporized during the use of such device, whether or not the substance contains nicotine. The term “electronic smoking device” does not include drugs, devices or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act. The term “electronic smoking device” also does not include any product that is taxed and regulated as medical marijuana under Sections 420 through 427 of Title 63 of the Oklahoma Statutes.

Prepared By: Mark Tygret

### **Other Considerations**

None.