



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date:	01/13/14	Bill No:	Assembly Bill 1500
Tax Program:	Cigarette & Tobacco Products	Author:	Dickinson
Sponsor:	Author	Sections:	BPC 22963; HSC 119406; RTC 30101.7
Related Bills:		Effective:	01/01/15

BILL SUMMARY

Among other things, this measure:

- Authorizes the State Board of Equalization (BOE) to seize cigarettes and tobacco products (tobacco products) and electronic cigarettes (e-cigarettes) shipped or transported in violation of specified conditions; and
- Deems forfeited all seized tobacco products and e-cigarettes pursuant to the Cigarette and Tobacco Products Tax Law’s seizure and forfeiture provisions.

ANALYSIS

CURRENT LAW

Cigarette and Tobacco Products Tax Law¹ (CTPTL). Revenue and Taxation Code (RTC) Section 30451 specifically provides that the BOE shall enforce the provisions of the CTPTL and may prescribe, adopt, and enforce rules and regulations relating to its administration and enforcement.

Existing law imposes an 87-cent per package of 20 (43 ½ mills per cigarette) cigarette tax. The CTPTL requires tax payment through the use of stamps or meter impressions that a distributor affixes on each cigarette package prior to the distribution.

The BOE annually determines the tobacco products tax based on the March 1 cigarette wholesale cost. The fiscal year 2013-14 surcharge rate is 29.82%. Distributors pay the tobacco products tax through the use of a tax return that reports the wholesale cost of the tobacco products distributed and calculates the tax due.

Face-to-Face Sale. RTC Section 30101.7 prohibits a person from making a delivery sale of tobacco products, excluding cigars and pipe tobacco, to a California consumer unless the delivery seller: (1) fully complies with the Federal Jenkins Act,² as amended by the Prevent All Cigarette Trafficking Act (PACT Act), (2) obtains and maintains a Cigarette and Tobacco Products Licensing Act (Licensing Act) license, (3) complies with the Model Statute,³ and (4) reports its delivery sales to the Attorney General. A “delivery sale” means the sale of cigarettes or tobacco products into and in this state in either of the following cases:

¹ Part 13 commencing with Section 30001) of Division 2 of the Revenue and Taxation Code.

² Chapter 10A of Title 15 of the United States Code.

³ Article 3 (commencing with Section 104555), Chapter 1, Part 3, Division 103 of the Health and Safety Code.

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- The consumer submits the sales order by telephone or other voice transmission method, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the consumer when the request for purchase or order is made.
- A common carrier, private delivery service, or other method of remote delivery delivers the cigarettes and tobacco products to the consumer, or the seller is not in the physical presence of the consumer when the consumer obtains possession of the cigarettes or tobacco products.

Section 30101.7 authorizes the BOE to provide to the Attorney General information relative to a seller's failure or attempt to comply with the Federal Jenkins Act, as amended by the PACT Act). The section requires the BOE to enforce **only** the licensing and tax provisions.

Sales and Use Tax Law⁴. Current law imposes a sales tax on the retail sale of tangible personal property (TPP) in this state. Current law also imposes use tax on the storage, use or other consumption in this state of TPP purchased from any retailer. The sales or use tax is computed on the retailer's gross receipts or sales price unless the law provides a specific exemption or exclusion. Currently, retail sales of tobacco products and e-cigarettes are subject to the tax in the same manner as any other sale of tangible personal property.

The total combined sales and use tax rates range from 7.5% to 10% based on the location of the sale. The statewide sales and use tax rate totals 7.5% and is comprised of state and local taxes. Rates may be higher than 7.5% in some areas depending on district taxes that apply.

Cigarette and Tobacco Products Licensing Act of 2003⁵ (Licensing Act). The Legislature created a statewide licensure program for the sales of cigarettes and tobacco products to address the unlawful distribution and untaxed sales of cigarettes and tobacco products. Among other things, the Licensing Act⁶ requires every retailer to maintain a license to engage in the sale of cigarettes or tobacco products.

Stop Tobacco Access to Kids Enforcement (STAKE) Act⁷ established a statewide enforcement program to take action against businesses that illegally sell tobacco to minors. BPC Section 22963 prohibits tobacco products sales, distribution, or non-sale distribution to any person less than 18 years of age through the United States Postal Service or through any other public or private postal or package delivery service (mail). The section outlines what the seller must do before they sell, distribute, or engage in the non-sale tobacco products distribution through the mail. Violations of these requirements subject the seller to specified civil penalties.

Health and Safety Code (HSC). To the extent not preempted by federal law, HSC Section 119405 makes it unlawful for a person to sell or furnish an e-cigarette to a person under 18 years of age. The section defines "e-cigarette" to mean a device that provides an inhalable dose of nicotine by delivering a vaporized solution.

⁴ Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

⁵ Business and Professions Code (BPC) Division 8.6 (commencing with Section 22970).

⁶ Commencing with BPC Section 22972.

⁷ BPC Division 8.5 (commencing with Section 22950).

PROPOSED LAW

This measure repeals RTC Section 30101.7 and BPC Section 22963. The measure also adds BPC Section 22963 and HSC Section 11940 to prohibit any person who engages in tobacco products and e-cigarette sales or distribution from shipping or causing to be shipped such products to any person in this state except for the following:

- A retailer licensed pursuant to the Licensing Act.
- An export warehouse proprietor as defined in Section 5702 of Title 26 of the United States Code.
- An operator of a customs bonded warehouse as described in Section 1311 or 1555 of Title 19 of the United States Code.
- A person who is an officer, employee, or agent of the federal government, or of this state or of a department, agency, instrumentality, or political subdivision of the federal government or this state, when the person is acting in accordance with his or her official duties.

The measure also makes it unlawful for any common or contract carrier to knowingly transport tobacco products or e-cigarettes to any person the carrier reasonably believes to be other than a licensed retailer, export warehouse proprietor, customs bonded warehouse operator, or specified government official.

The BOE or a law enforcement agency is authorized to seize and take possession of tobacco products or e-cigarettes found to violate the bill's shipment or transportation provisions. The bill further deems tobacco products or e-cigarettes forfeited to the state upon seizure by, or delivery to, the BOE. The BOE must comply with the CTPTL's seizure and forfeiture provisions.

Additionally, the measure authorizes a district attorney, city attorney, or the Attorney General to assess specified penalties against any person, firm, corporation, or other entity that violates BPC Section 22963 or HSC Section 119406.

Definitions. The bill defines the following terms:

- "Cigarette" has the same meaning as in the Model Statute, HSC 104556, which provides that "cigarette" means:

Any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (2) tobacco, in any form, that is functional in the product, which because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in this section. "Cigarette" also includes "roll-your-own" tobacco, meaning any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

- “Tobacco products” has the same meaning as in the STAKE Act, BPC Section 22962, which provides that “tobacco product” means:
 - Any product containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.
- “E-cigarette” means a device designed to look like a cigarette, cigar, pipe, or other smoking device, or any other nicotine delivery device that is used for the purpose of creating a vapor inhaled by the user, including cartridges, accessories, or liquids used with the device.

Operative Date. The bill becomes operative January 1, 2015.

IN GENERAL

Tobacco Products. In 1992, Congress passed Section 1926 of Title XIX of the Federal Public Health Service Act, commonly called the "Synar Amendment." The Synar Amendment requires each state to:

- Have in effect a law prohibiting any manufacturer, retailer or distributor of tobacco products from selling or distributing such products to any individual under the age of 18.
- Enforce such laws in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.
- Conduct annual random, unannounced inspections to ensure compliance with the law. These inspections are to be conducted in such a way as to provide a valid sample of outlets accessible to youth.
- Develop a strategy and timeframe for achieving an inspection failure rate of less than 20 percent of outlets accessible to youth.
- Failure to meet the terms and conditions of the Synar Amendment could result in reductions (up to 40 percent) in the amount of Substance Abuse Prevention and Treatment (SAPT) block grant funds allocated to California for alcohol and other drug prevention and treatment programs.

To comply with the Synar Amendment, the Legislature passed Senate Bill 1927 (Stats. 1994, Ch. 1009), which established the STAKE Act. The STAKE Act created a new statewide enforcement program to take regulating action against businesses that illegally sell tobacco products to minors. Enforcement and program implementation responsibility was delegated to the California Department of Public Health (CDPH), Food and Drug Branch.

E-Cigarettes. The California’s Attorney General’s Office [Tobacco Highlights](#) include e-cigarette information:

Electronic cigarettes are battery powered devices designed to look and feel like regular cigarettes, but they emit water vapor rather than smoke. The cartridges contain liquid nicotine and various flavors. Known as e-cigarettes or e-cigs, the products have become popular in the past couple of years. The U.S. Food and Drug Administration consider e-cigarettes “drugs or devices” and claims the products must be approved by the FDA before they can be sold in the U.S. To date, no e-cigarettes have been approved by the FDA. Preliminary tests by the FDA found that e-cigarettes contain many impurities and some contain dangerous

chemicals. FDA's jurisdiction to regulate e-cigarettes is in litigation, however. E-cigarettes are not governed by the Master Settlement Agreement or by many of California's tobacco laws.

The California Attorney General's Office is concerned that e-cigarettes are being sold in the state without appropriate quality control and with many false or misleading claims about their safety or effectiveness. Many are also in violation of California's Proposition 65 which requires health warnings about dangerous chemicals.

California passed a statute prohibiting the sale of electronic cigarettes to minors. (Health & Safety Code §119405). The office is investigating a number of electronic cigarette companies selling e-cigarette products on the Internet to ensure compliance with the statute as well as other consumer protection provisions. Many companies are coming into compliance voluntarily.

BACKGROUND

In 2001, [SB 1766](#) (Ortiz, Ch. 686) added RTC Section 30101.7 to require vendor-assisted, face-to-face retail cigarette sales in California, unless (1) all applicable taxes due are paid; or (2) the seller includes a prominent cigarette package notice that indicates the purchaser's applicable California cigarette tax responsibility. The Legislature intended the bill to facilitate tax collection from consumers on cigarettes sold to California residents via the Internet or by mail order.

In 2002, [SB 2082](#) (Bowen) would have required cigarette sellers subject to the Jenkins Act and who advertises on the Internet to conspicuously disclose in that advertisement a purchaser's tax responsibility and tax amounts due. This bill would have also required the cigarette seller to file an invoice copy to the BOE for each shipment into California. That bill failed to pass out of the Assembly Revenue and Taxation Committee.

In 2003, [SB 1016](#) (Bowen, Ch. 603) amended RTC Section 30101.7 to require every retail sale of cigarettes in California to be a vendor-assisted, face-to-face sale, unless:

- The seller has fully complied with all of the requirements of the Jenkins Act, and
- The seller has either paid all applicable taxes due on the sale, or the seller includes a prominent notice on the package indicating that the purchaser is responsible for any applicable California taxes on the cigarettes.

That bill also requires the BOE to provide information relative to a seller's failure or attempt to comply with the Jenkins Act to the Attorney General.

In 2005, [AB 1029](#) (J. Horton) would have amended RTC Section 30101.7 to revise the conditions under which a person may engage in a non-face-to-face sale of cigarettes to a person in California. However, the June 1, 2005, version of that measure deleted those provisions.

In 2006, the Legislature passed [SB 1208](#) (Ortiz), a bill substantially similar to the previous year's AB 1029. However, the Governor vetoed SB 1208, writing:

"This bill would prohibit cigarette sales via the Internet to individual California consumers and only permit shipping of cigarettes via the Internet to state of California tobacco licensed businesses. Existing law reduces youth access to cigarettes over the Internet by requiring Internet sellers and shippers to verify the age of the purchaser, similar rules that apply to alcohol sales and shipments. In addition, the Board of Equalization is currently uses [sic] the federal Jenkins Act

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to recover excise taxes from Californians that have purchased cigarettes via out-of-state Internet websites.”

In 2007, the Legislature passed [AB 1617](#), which contained provisions similar to this measure for tobacco products. Governor Schwarzenegger returned AB 1617 without his signature and the following veto message:

“This bill would prohibit cigarette sales via the Internet to individual California consumers and only permit shipping of cigarettes via the Internet to certain licensed businesses.

This bill is intended to help curb smoking by minors and also help the state collect all applicable taxes on tobacco. In vetoing nearly identical legislation last year, I noted that the federal Jenkins Act, which requires the sale of tobacco across state lines to be reported to the Board of Equalization, is already in place to help identify taxable sales of tobacco. Further, existing law reduces youth access to cigarettes over the Internet by requiring Internet sellers and shippers to verify the age of the purchaser. Proponents should address any perceived deficiencies in these laws rather than seeking an outright prohibition that will be difficult to enforce.”

[AB 2496](#) (Nava, Ch. 265) amended RTC Section 30101.7 to incorporate additional non-face-to-face sale restrictions. The section provides legislative intent to facilitate collection of applicable state surtaxes, sales or use taxes, and escrow and other payment obligations on cigarettes sold to residents of the state and to ensure compliance with the PACT Act. Since the amendments incorporated non-tax administrative provisions, Section 30101.7 also included language to clarify that the BOE’s enforcement responsibilities pertain only to the licensing and tax provisions of the section. The other provisions (escrow and other payment obligations and the PACT Act) are to be enforced by the Attorney General.

COMMENTS

1. **Sponsor and purpose.** This measure is author-sponsored and intended to safeguard against minors having access to tobacco products and e-cigarettes.
2. **Cigarettes and tobacco products definitions contradictory.** The BOE-administered CTPTL and Licensing Act include definitions for “cigarette” and “tobacco products.” These definitions are different than those used in this measure. This measure instead defines cigarettes and tobacco products by reference to the Model Statute and STAKE Act, respectfully.

Also, this measure’s “tobacco product” definition specifically includes “cigarettes” by reference to the STAKE Act’s “tobacco product” definition; however, the bill contains a new and separate definition for “cigarette.”

The use of different and contradictory cigarette and tobacco product definitions (1) conflicts with the definition of those terms pursuant to the CTPTL’s seizure and forfeiture procedures, under which this bill requires the BOE to comply, (2) creates an additional multiple “cigarette” definitions for STAKE Act purposes by referencing the Model Statute definition, and (3) could likely cause cigarette seller confusion.

3. **Tobacco product distribution chain.** The Licensing Act requires the licensure of persons that engage in tobacco products sales. These persons include tobacco products retailers, wholesalers, distributors and manufacturers. In general, the Licensing Act requires licensees to sell and purchase only from other licensees.

This bill prohibits any person that engages in tobacco products sales from shipping or causing to be shipped such products. The bill provides a shipment exception to: (1) a licensed retailer, (2) an export warehouse, (3) a customs operator, or (4) certain governmental agencies. Accordingly, the bill prohibits tobacco products shipments by a manufacturer to a distributor, and a distributor to a wholesaler. These are customary and routine shipments within the current tobacco products distribution chain.

To allow manufacturers and distributors to ship tobacco products to other distributors and wholesalers, the BOE staff suggests amending BPC Section 22963(a)(1) to read “A person licensed pursuant to Division 8.6 (commencing with Section 22970).”

E-cigarettes do not fall within the purview of the CTPTL or Licensing Act since such products are not tobacco products, as defined in those statutes. As such, the e-cigarette distribution chain is unknown to BOE staff.

4. **BOE’s Mission Statement.** The BOE’s mission is to serve the public through fair, effective, and efficient *tax administration*. This bill’s provisions represent a departure from the BOE’s traditional tax collection functions.

The CDPH primarily enforces the STAKE Act. The STAKE Act also authorizes another “enforcing agency” to conduct inspections and assess penalties for STAKE violations. The STAKE Act defines an “enforcing agency” to mean the CDPH, another state agency, including, but not limited to, the office of the Attorney General, or a local law enforcement agency, including, but not limited to, a city attorney, district attorney, or county counsel.

While it appears logical to specifically authorize the BOE to seize tobacco products shipped in violation of the STAKE Act, the BOE does not conduct STAKE Act inspections. The BOE also does not conduct carrier or consumer inspections. As a tax agency, the BOE’s Licensing Act inspection program involves tobacco products retailers, distributors, wholesalers and manufacturers and focuses on tax collection and enforcement. Although the measure’s inspection authority is permissive, BOE staff suggests an amendment to authorize “the CDPH and another enforcing agency” (which by definition includes the BOE) to seize tobacco products shipped in violation of the STAKE Act.

22963(c) Notwithstanding any other provision of this division, upon discovery by the ~~State Board of Equalization or a law~~ department or another enforcement agency of any cigarettes or tobacco products that have been, or are being, shipped or transported in violation of this section, the ~~State Board of Equalization or the law~~ department or another enforcement agency may seize and take possession of the cigarettes or tobacco products. Any cigarettes or tobacco products seized by a law enforcement agency shall be delivered to the ~~department~~ State Board of Equalization, or its designee, within seven days, unless the cigarettes or tobacco products are otherwise required to be used as evidence in an administrative, criminal, or civil proceeding, or as part of an ongoing law enforcement operation.

BOE staff further recommends similar amendments to proposed HSC Section 119406 with respect to e-cigarettes. The BOE does not conduct e-cigarette inspections as part of its tobacco products tax enforcement as sales of such product do not require licensure under the Licensing Act.

5. **Forfeiture provisions.** This measure requires a law enforcement agency to deliver seized tobacco products or e-cigarettes to the BOE, unless specified. The measure further forfeits to the state any tobacco product or e-cigarette seized or delivered to the BOE, in compliance with the forfeiture procedures set forth in Chapter 7.5 (commencing with RTC Section 30435) of the CTPTL.

In general, Chapter 7.5 requires a seizure and forfeiture notice, which allows persons claiming interest in the property to file a petition with the BOE for release, requires the BOE to review that petition and make a determination, affords a BOE hearing to persons claiming interest in the property, and provides for the destruction of seized property.

This bill's tobacco products and e-cigarette seizures result from a STAKE Act shipment violation. As such, it seems inconsistent to have those seizures comply with CTPTL forfeiture procedures. CTPTL forfeiture procedures require the BOE to, in part: (1) determine whether the seizure was erroneous or illegal under the STAKE Act, and (2) hear CTPTL forfeiture appeals.

BOE staff suggests an amendment to instead require tobacco products and e-cigarettes seized be delivered to the CDPH for due process and destruction as the agency primarily charged with enforcing the sales ban of tobacco products to a person under 18 years of age.

6. **Funding.** As previously noted, this bill forfeits to the state any tobacco products or e-cigarettes seized by, or delivered to, the BOE for a STAKE Act shipment violation. The bill further requires the BOE to comply with the CTPTL's seizure and forfeiture procedures.

What fund or account will reimburse the BOE's administrative costs related to this bill? Since the measure requires the BOE to comply with the CTPTL's seizure and forfeiture provisions, would those costs be paid by cigarette and tobacco products taxes fund recipients? Cigarette and tobacco products tax funds include the General Fund, Breast Cancer Fund, Cigarette and Tobacco Products Surtax Fund (Proposition 99), and the California Children and Families Trust Fund (Proposition 10). Should these funds be used to reimburse administrative costs related to tobacco product sales to minors?

7. **E-cigarette retailer licensure.** This measure makes it unlawful for any person engaged in the business of selling or distributing e-cigarettes to ship or cause to be shipped such products to any person other than, in part, a retailer licensed pursuant to the Licensing Act.

E-cigarettes do not fall within the Licensing Act's definition of "cigarette" or "tobacco products." Accordingly, retailers that do not sell cigarettes or tobacco products that are licensed pursuant to the Licensing Act cannot have e-cigarettes shipped to them. It does not appear reasonable for the BOE to license persons that only sell e-cigarettes, as that would increase the BOE's workload and administrative costs related to registration and inspections. The Licensing Act is funded by the licensing fees and penalties, which are deposited into the Cigarette and Tobacco Products Compliance Fund (Fund). The Fund runs a deficit, and requires backfill from the

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Cigarette and Tobacco Products Tax Funds. Again, should these funds be used to reimburse administrative costs related to tobacco product sales to minors?

8. **How is this measure different from the existing non-face-to-face ban?** Existing law allows a delivery seller to make non-face-to-face cigarette sales to a California consumer if certain conditions are met. Those conditions include Jenkins Act compliance, Licensing Act licensure as if the delivery sale occurs entirely within California, Model Statute compliance, and sales reporting to the Attorney General, if required.

The Jenkins Act, as amended by the PACT Act, governs the collection of taxes and trafficking by requiring a delivery seller of *cigarettes* and *smokeless tobacco* to comply with the same laws that apply to local cigarette and tobacco retailers. In part, delivery sellers must comply with:

- Shipping requirements, such as an excise tax and tax-stamping obligation statement, weight restriction, and age verification;
- Recordkeeping requirements that includes delivery sales by State and monthly report filing;
- State and local laws applicable to tobacco products as if the delivery sale occurs entirely within the State, including State registration for excise tax collection, licensing, and tax-stamping requirements; and
- Tax collection requirements.

Accordingly, the Jenkins Act requires delivery sellers that make direct sales to California consumers to register and file monthly reports with the BOE, and apply for a California retailer and distributor Licensing Act license. The delivery seller must comply with state and local laws as if the delivery sale occurs entirely within California.

This measure, however, enacts a state law to make it unlawful to ship or transport tobacco products and e-cigarettes to any person in California, with certain exceptions.

This bill appears to duplicate the intent of the existing Federally-enforced Jenkins Act with respect to cigarettes and smokeless tobacco (the Federal Jenkins Act does not include cigars, pipe tobacco, and e-cigarettes). BOE staff also questions California's tax enforcement authority against out-of-state tobacco and e-cigarette sellers. As such, this bill results in an unknown cigarette and smokeless-related tax revenue impact.

COST ESTIMATE

This bill results in non-absorbable BOE administrative costs that includes an increase in BOE program and investigative staff presence to ensure STAKE Act shipping compliance, process tobacco products and e-cigarettes seizures, secure appropriate storage, develop and incorporate a new appeals process, and arrange for product destruction.

REVENUE ESTIMATE**BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

Three separate markets would be affected by this legislation: cigarettes, tobacco products, and e-cigarettes.

Tax-paid cigarette distributions were about 907 million packs in fiscal year (FY) 2012-13. Based on studies by the California Department of Public Health and internal administrative information, we believe that it is reasonable to assume that less than two percent of tax-paid distributions were sold over the Internet without excise or sales and use taxes paid.⁸ We estimate excise taxes and sales and use taxes associated with these cigarettes is \$18 million.

Wholesales sales of tobacco products excluding cigarettes totaled \$255 million in FY 2012-13. Since tax compliance for tobacco products is much more difficult to enforce than for cigarettes, BOE staff believes that about five percent of sales are made to individuals from out-of-state sellers over the Internet, a much higher percentage than for cigarettes. Staff estimates excise taxes and sales and use taxes associated with these sales is about \$5.7 million.

E-cigarettes are a relatively small, but fast-growing market. Industry data indicated U.S. sales of e-cigarettes totaled \$850 million in FY 2012-13.⁹ To our knowledge, no California-specific data are available for e-cigarette sales. Department of Health Services studies indicate that Californians smoke about six percent of all U.S. cigarettes.¹⁰ Since we have no data for e-cigarettes, we assume this percentage would be a reasonable estimate of California e-cigarettes sold. We estimate that sales and use taxes on e-cigarettes was about \$0.3 million in FY 2012-13. Based on industry sources, we expect these revenues to grow to \$2.3 million by FY 2015-16 as sales of e-cigarettes are expected to jump dramatically over the next couple of years.

Summing revenues from the three markets shows a combined impact of approximately \$24 million ($\$18 + 5.7 + 0.3$) in FY 2012-13. We expect this figure will grow to \$26 million by FY 2015-16, largely on the continued expected growth of e-cigarette sales.

⁸ *Two Decades of the California Tobacco Control Program: California Tobacco Survey, 1990-2008*, California Department of Public Health California Tobacco Control Program, December, 2010.
http://www.cdph.ca.gov/programs/tobacco/Documents/CDPH_CTS2008%20summary%20report_final.pdf

⁹ The Tobacco Vapor Electronic Cigarette Association, "Our Bullish E-Cigs Thesis Remains Intact"
<http://www.tveca.com/>

¹⁰ *Two Decades of the California Tobacco Control Program: California Tobacco Survey, 1990-2008*, California Department of Public Health, California Tobacco Control Program, September, 2010.
http://libraries.ucsd.edu/ssds/pub/CTS/cpc00009/CDPH_CTS2008_summary_report_final.pdf

REVENUE SUMMARY

The total potential combined excise tax and sales and use tax revenue gains from this bill could be as high as \$26 million if all sellers comply with the new law.

Qualifying Remarks. Exactly how much revenues will increase depends on the degree to which out-of-state Internet and mail order cigarette sellers comply with the new law. Another unknown factor is the extent to which users of these products will decide to quit rather than to purchase the same products in physical “bricks and mortar” California stores.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

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