

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

19-0807

HB 680, relative to the definition of tobacco product for purposes of the tobacco tax and retail tobacco licensing.

House Ways & Means

Section 1 of the proposed legislation changes the definition of “tobacco products” contained in the Tobacco Tax law, namely, RSA 78:1, XIV. The proposed legislation expands the definition to specifically include: “Any device that may be used to deliver any aerosolized or vaporized substance whether or not the substance contains nicotine, to the person inhaling from the device, including, but not limited to, hookah, e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.” It also covers “any component, part, or accessory . . . , whether or not these are sold separately, including any substance consumed during the use of a device described [above], whether or not it contains nicotine.” Pursuant to RSA 78:7-c, the Tobacco Tax is imposed on any such device (and any component, part, or accessory, including any substance consumed through the device) at a rate of 65.03% of the wholesale sales price. Section 2 of the proposed legislation also changes the definition of “tobacco products” contained in RSA 175:1, LXIV-d (for retail tobacco licenses) to match the Tobacco Tax law. The proposed legislation takes effect July 1, 2019.

The fiscal impact of the proposed legislation is indeterminable. The Department has no way to know the number of devices or component parts (including the amount substance consumed through the devices) that would be sold in New Hampshire, or the wholesale sales price of any such tobacco products.

In spite of this, we have calculated a possible fiscal impact based on estimated FY 2018 revenues provided by the State of Pennsylvania. Pennsylvania similarly imposes a tax on e-cigarettes/vapor products, except at a rate of 40% of the wholesale sales price. We adjusted Pennsylvania’s estimated FY 2018 revenues from e-cigarettes/vapor products for the population difference between New Hampshire and Pennsylvania, and applied our rate of 65.03%. The answer was a possible increase of revenues in the amount of \$4.5 million.

Lastly, the Department would like to note that the proposed legislation’s effective date of July 1, 2019 likely would not allow the Department sufficient time to (1) notify taxpayers; (2) revise affected forms; (3) update the Department’s information management systems; and (4) adopt rules.