



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Final Fiscal Note

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<b>Drafting Number:</b>	LLS 24-1041	<b>Date:</b>	July 18, 2024
<b>Prime Sponsors:</b>	Rep. Herod Sen. Mullica	<b>Bill Status:</b>	Signed into Law
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**Bill Topic:**                   **SALE OF UNAUTHORIZED ELECTRONIC SMOKING DEVICES**

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<b>Summary of</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
<b>Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill creates a deceptive trade practice for the sale of electronic smoking devices to a minor. The bill increases state and local workload, and may increase or decrease state revenue, beginning in FY 2024-25.

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**Appropriation Summary:**           No appropriation is required.

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**Fiscal Note Status:**               The final fiscal note reflects the enacted bill.

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## Summary of Legislation

The bill creates a deceptive trade practice when a business sells or offers to sell an electronic smoking device that is age-restricted to a person who does not meet the age restriction.

### State Revenue

The bill has an indeterminate impact on state revenue. It may increase revenue from civil penalties and filing fees, and may decrease revenue from nicotine taxes, as discussed below.

**Civil penalties.** Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

**Filing fees.** The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

**Nicotine tax.** To the extent that the bill results in fewer sales of electronic smoking devices, revenue from the Proposition EE tax on nicotine products may be reduced, resulting in less revenue credited to the Preschool Programs Cash Fund. Revenue from the nicotine tax is exempt from TABOR as a voter-approved revenue change under Proposition EE.

## State Expenditures

The bill minimally increases workload in the Department of Law, Judicial Department, the Department of Revenue, and the Department of State as discussed below.

**Department of Law.** Workload in the Department of Law will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources. The Department of Law will also assist the Department of Revenue with any enforcement provisions. These activities can be accomplished within existing resources.

**Judicial Department.** The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that manufacturers, wholesalers and retailers will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required.

**Department of Revenue.** The Liquor Enforcement Division will have a minimal change in workload when conducting criminal investigations to verify compliance with sales of electronic smoking devices. No change in appropriations is required.

## Local Government

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

## Effective Date

The bill was signed into law by the Governor and took effect on June 3, 2024.

## State and Local Government Contacts

Counties	Judicial	Law
Municipalities	Public Health and Environment	Revenue

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).