

## HB 2056 -2 STAFF MEASURE SUMMARY

### House Committee On Revenue

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**Prepared By:** Kyle Easton, Economist

**Meeting Dates:** 3/9, 5/11

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#### WHAT THE MEASURE DOES:

Increases cigarette tax by \$0.50 per pack applicable to cigarettes distributed on or after January 1, 2018. Applies commensurate floor tax to existing inventories of retailers and distributors. Distribution of tax receipts largely proportionate to existing distribution of receipts in ORS 323.031. Receipts resulting from floor tax distributed to General Fund. Increases rate of taxation on other tobacco products (OTP) effective on the 91st day after adjournment sine die. Taxation on cigars increased from 65% to 90% of wholesale sales price, existing cigar cap of \$0.50 remains unchanged. Taxation on moist snuff increased from \$1.78 per ounce to \$2.46, with minimum tax per container increased from \$2.14 to \$2.96. Increases rate of taxation for all products that are not cigars or moist snuff from 65% to 90% of wholesale sales price. Distribution of OTP tax receipts remain unchanged. Sets a tax rate of 0.05 cents per milligram per milliliter of vapor products.

#### ISSUES DISCUSSED:

Note on issues discussed: The House Committee on Revenue simultaneously opened public hearings for HBs: 2037, 2056, 2062, 2084, 2119, 2662. The issues discussed listed below were discussed during the opened public hearings and may not directly relate to the contents of every individual bill.

- Tobacco taxation and use of subsequent tax receipts to support various programs including but not limited to: public health, Oregon Health Plan, tobacco cessation programs
- From taxation standpoint, potential of treating cannabis similar to cigarettes/other tobacco products
- Health implications of cigarette/tobacco/vapor use
- Existing consumers of combustible cigarettes moving towards consumption of vaping products as a replacement product
- Potential tax amount that could be levied on vapor products without jeopardizing sales or physical industry presence in Oregon
- Medical costs related to consumers of tobacco products and adverse medical outcomes
- Link between price and consumption of tobacco products
- Disproportionate consumption of tobacco products by race, socioeconomic status, etc. and potential to mitigate regressivity of tax through expenditures of tax receipts
- Tobacco products as a percentage of business for Plaid Pantry
- Differences in potential health outcomes for individuals who use vapor products as compared to combustible tobacco products
- Potential to adversely affect sales of vapor products, dependent upon the rate of taxation
- Cost changes for premium cigars per box as compared to cigars purchased online where tax is largely not remitted
- Differing health effects of cigar use as compared to other tobacco products
- Columbia University Study: Unraveling the Smoking Conundrum, Age, gender, race and taxes all play a role (April, 2003)
- Ranking various tobacco products in terms of most unhealthy to least unhealthy
- Does nicotine cause cancer?
- To date, FDA has not approved vapor products as cessation products
- Comprehensive tobacco use prevention programs (e.g. - indoor smoking bans, prohibiting smoking in parks, education, etc.)

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- HB 2084 violates federal preemptive statutes.

### EFFECT OF AMENDMENT:

-2 Replaces content of measure. Eliminates statutory prohibition on county or municipal taxes on the sale or use of cigarettes or tobacco products. Allows state agency or department to enter into agreements with political divisions of state for the collection, enforcement, administration and distribution of local taxes imposed on cigarettes or tobacco products. Takes effect on 91st day following adjournment sine die.

### BACKGROUND:

Excise taxes are imposed on distribution of all tobacco products in Oregon. Taxes are levied on each cigarette and as a percent of wholesale price of other tobacco products. As of January 1, 2017 the tax rate on cigarettes is 66 mills per cigarette or \$1.32 per pack of 20 cigarettes. Under current law the tax is scheduled to increase to \$1.33 beginning January 1, 2018. Distribution of tax revenue per pack of cigarettes is as follows:

\$0.86 - Oregon Health Plan | \$0.22 - General Fund | \$0.14 - OHA Mental Health | \$0.03 TURA | \$0.02 (each) - Cities, Counties and DOR Elderly Transportation (note: totals do not sum due to rounding)

The Other Tobacco Products (OTP) tax is applied slightly differently depending upon the product. Moist snuff is taxed at \$1.78 per ounce with a minimum tax of \$2.14 per retail container. Cigars are taxed at 65% of their wholesale sales price but the tax is capped at \$0.50 per individual cigar. All other tobacco products not taxed as moist snuff or cigars are taxed at 65% of their wholesale sales price. Distribution of tax revenue from OTP taxation is as follows:

53.84% - General Fund | 41.54% - OR Health Plan | 4.62% - TURA

Under current law, inhalant deliver systems (e-cigarettes and other vapor products) are not subject to established cigarette or other tobacco products taxes. At the tax rate of 0.05 cents per milligram per milliliter, the rate of tax on liquid with 12 mg of nicotine per mL would be 0.6 cents per mL. For a concentration of 18 mg of nicotine per mL, the tax rate would be 0.9 cents per mL.