

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 587 - A7

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office*Only Impacts on Original or Engrossed
Versions are Considered Official*Prepared by: Michael Graham
Reviewed by: Zane Potter, Julie Neburka, Laurie Byerly, Tom MacDonald, John Borden
Date: June 11, 2021**Measure Description:**

Requires the Department of Revenue to issue license to qualified retailers of tobacco products and inhalant delivery systems that do not hold a license or other authorization issued by a city or local public health authority. Increases the expenditure limitation for the Department of Revenue and the Oregon Health Authority.

Government Unit(s) Affected:

Department of Revenue (DOR), Oregon Health Authority (OHA), Oregon Judicial Department (OJD), Department of Justice (DOJ), Oregon State Police (OSP), Counties, Cities

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Summary of Expenditure Impact:

	2021-23 Biennium	2023-25 Biennium
Department of Revenue (DOR)		
Other Funds		
Personal Services	681,669	855,718
Services and Supplies	455,807	221,228
Capital Outlay	36,570	
Total Other Funds - DOR	\$1,174,046	\$1,076,946
Positions - DOR	5	5
FTE - DOR	4.50	5.00
Oregon Health Authority (OHA)		
Other Funds		
Personal Services	1,803,924	2,000,572
Services and Supplies	257,802	169,602
Total Other Funds - OHA	\$2,061,726	\$2,170,174
Positions - OHA	12	11
FTE - OHA	7.74	8.64
TOTAL FISCAL IMPACT		
TOTAL OTHER FUNDS	\$3,235,772	\$3,247,120
TOTAL POSITIONS	17	16
TOTAL FTE	12.24	13.64

Analysis:

Senate Bill 587, as amended by the -A7 amendments, prohibits a person from making retail sale of a tobacco product or an inhalant delivery system at or from premises located in Oregon, unless the person sells the tobacco product or inhalant delivery system at or from a premise licensed by the Department of Revenue (DOR). The measure requires DOR to issue licenses to, and annually renew licenses for, a person that makes retail sales of tobacco products or inhalant delivery systems at qualified premises. The measure requires DOR to publish a list that includes the name of each person to which a license has been issued, the address of each premises for which

a license has been issued, and any other information that DOR determines is relevant to the public with respect to the retail sale of tobacco products and inhalant delivery systems. The measure authorizes DOR to establish fees, impose civil penalties, and to share licensing information with the Department of Justice (DOJ), the Oregon Health Authority (OHA) and local public health authorities. The measure allows DOR to revoke, suspend, or refuse to issue or renew a license under certain circumstances specified in the measure. DOR is authorized to seize contraband inhalant delivery systems and tobacco products. The measure authorizes OHA to establish fees to enforce regulation of tobacco products and inhalant delivery. The measure authorizes OHA and DOR to enter into an agreement for DOR to collect fees and transfer fee moneys to OHA. OHA is required to ensure that a retailer is inspected at least once a year. The measure authorizes local public authorities to enforce standards for regulating the retail sale of tobacco products and inhalant delivery systems. The measure increases DOR's expenditure limitation by \$1,174,046 Other Funds in the 2021-23 biennium and increases OHA's expenditure limitation by \$2,061,726 Other Funds in the 2021-23 biennium. The measure takes effect 91 days after adjournment *sine die* and its substantive changes become operative on January 1, 2022.

Department of Revenue

The measure would have a fiscal impact on DOR. DOR estimates the fiscal impact of this measure to be \$1,174,046 Other Funds, 5 positions (4.50 FTE) for the 2021-23 biennium and \$1,076,946 Other Funds, 5 positions (5.00 FTE) for the 2023-25 biennium. DOR's licensure fees would pay for this new program. The costs include capital outlay for furniture and equipment, legal costs, salary and related expenses for the following permanent full-time positions:

- Two Compliance Specialist 1 positions to investigate licensed retailers for compliance with existing state, federal and local tobacco retail sales laws and to seize contraband inhalant delivery system and tobacco products.
- One Program Analyst 1 position to perform license maintenance and respond to requests for information from retailers regarding the retailer licensing program.
- Two Public Service Representative 4 positions to handle suspended payments, assist with Revenue Online Registration and outreach, handle account maintenance, process new applications, and test new GenTax configuration of licensing and retail dealer accounts.

These positions will work with existing staff to develop a communications plan to provide information to approximately 4,000 retailers of cigarette, tobacco, and inhalant delivery system products; write administrative rules; and develop and implement the licensing program.

Oregon Health Authority

The measure would have a fiscal impact on OHA. OHA estimates the fiscal impact of this measure to be up to \$2,061,726 Other Funds, 12 positions (7.74 FTE) for the 2021-23 biennium, and \$2,170,174 Other Funds, 11 positions (8.64 FTE) for the 2023-25 biennium. OHA will develop fees to support the requirements of this new licensing program; however, fees will not be charged until the measure becomes operative on January 1, 2022. For start-up and position expenditures beginning on October 1, 2021 through December 31, 2021, OHA will use Tobacco Use Reduction Account (TURA) Other Fund dollars of \$361,241. Beginning January 1, 2022 fee revenue will be used to support positions and on-going expenditures of \$1,700,485 for the remainder of the biennium. OHA's 2023-25 expenditures will be fully funded by the other-funded fees, \$2,170,174.

The measure requires OHA to ensure that state standards are administered and enforced consistently throughout the state. The measure directs OHA to: (1) establish a database or other mechanism for collecting information from local public health authorities and the general public regarding the regulation of the retail sale of tobacco products and inhalant delivery systems, including any information related to complaints about a person that makes retail sales of tobacco products or inhalant delivery systems; (2) provide technical assistance to local public health authorities regarding the regulation of the retail sale of tobacco products and inhalant delivery systems; and (3) assess the effectiveness of state and local programs for regulating the retail sale of tobacco products and inhalant delivery systems. The measure authorizes local public authorities to enforce standards for

regulating the retail sale of tobacco products and inhalant delivery systems. However, in the absence of local enforcement, the work falls on OHA. This fiscal analysis assumes no local public health authorities will choose to conduct the enforcement. OHA estimates that there are approximately 4,000 tobacco product and inhalant delivery system retailers operating in the state. OHA anticipates conducting 9,200 inspections annually assuming a 15% retailer violation rate. In addition to costs for the database system, ongoing training costs and legal support from the Department of Justice for the imposition of civil penalties and contested case hearings, the fiscal impact includes salary and related services and supplies for the following:

- Three permanent full-time Compliance Specialist 3 positions to conduct licensing requirement inspections and underage compliance inspections at retailers.
- Three part-time Student Office Workers positions to accompany Compliance Specialists on underage compliance inspections and provide documentation and testimony, as necessary.
- One permanent full-time Principal Executive/Manager D position to serve as a Program Manager supervising program staff, overseeing program development and manage program budget.
- One permanent full-time Operations and Policy Analyst 2 position to serve as Training Coordinator to provide ongoing technical assistance to local public health authorities and OHA inspection staff, develop training for staff, and train staff for inspections.
- One permanent full-time Research Analyst 3 position to coordinate, analyze and aggregate data collated through the database system, assess the effectiveness of state and local programs for regulating the retail sale of tobacco and inhalant delivery system products, and create reports.
- One permanent full-time Operations and Policy Analyst 3 position to develop inspection protocol, provide policy direction including required rulemaking, coordinate with the Department of Justice, and oversee technical assistance to local public health authorities.
- One permanent full-time Administrative Specialist 1 position to provide general support, performing administrative duties such as mailings to retailers and web support.
- One limited duration Operations and Policy Analyst 3 position to develop materials for educational outreach to retailers and oversee media-related work such as website, print ads and earned media.

The inspectors, student office workers and program manager would all be hired in January 2022. The remaining positions would be hired effective October 2021 to complete work necessary prior to the operative date. All positions are permanent, except for the one limited duration Operations and Policy Analyst 3 position.

Other State Agencies and Local Governments

The measure would have a minimal fiscal impact on the Department of Justice, Oregon State Police, Oregon Judicial Department, as well as cities and counties.