
SENATE COMMITTEE ON REVENUE AND TAXATION

Senator Jerry McNerney, Chair
2025 - 2026 Regular

Bill No:	AB 762	Hearing Date:	6/24/26
Author:	Irwin	Tax Levy:	No
Version:	6/22/26 Amended	Fiscal:	Yes
Consultant:	Grinnell		

DISPOSABLE, BATTERY-EMBEDDED VAPOR INHALATION DEVICE: PROHIBITION

Bans the use of disposable, battery-embedded vapor inhalation devices.

Background

Tobacco Products Licensing. In 2003, the Cigarette and Tobacco Products Licensing Act (AB 71, Horton, 2003) required the Board of Equalization (BOE) to license manufacturers, distributors, wholesalers, importers, and retailers of cigarette or tobacco products who are engaged in business in California. In 2017, the Legislature enacted AB 102 (Committee on Budget), which transferred duties, powers, and responsibilities related to the administration of taxes and fees from BOE to the California Department of Tax and Fee Administration (CDTFA). CDTFA also administers the Cigarette and Tobacco Products Tax.

Under the Licensing Act, retailers, distributors, manufacturers, wholesalers, and importers must have and maintain a license. A person or entity that engages in the business of selling cigarettes or tobacco products in this state either without a valid license or after a license suspension or revocation, and each officer of any corporation that so engages in this business, is guilty of a misdemeanor punishable by a fine not to exceed \$5,000, or imprisonment not exceeding one year in a county jail, or both.

For retailers, there are two kinds of licenses: one for those who sell tobacco products subject to the Cigarette and Tobacco Products Tax, and one for those whose products are *not* subject to that tax, such as retailers of electronic delivery devices not containing or sold with nicotine and certain accessories, such as zero-nicotine vaporized liquids. Licenses are valid for one year and must be renewed annually. Last year, the Legislature increased license fees on both sets of tobacco retailers from \$265 to \$450, for new or renewed licenses applied for on or after July 1, 2026 (AB 573, Rogers). AB 573 also permits CDTFA to increase the license fee, by regulation, to an amount necessary to maintain the Compliance Fund to cover its reasonable costs, not to exceed \$600.

CDTFA may suspend a retailer's license under the Licensing Act or the Cigarette and Tobacco Products Tax Law for a first or subsequent license violation. CDTFA must provide a tobacco product licensee with at least ten days' written notice of a pending suspension or revocation and an opportunity to appeal. Upon a second violation, CDTFA must revoke the license; however, retailers can reapply six months after revocation.

Funds from license fees, along with penalties and fines, are deposited into the Cigarette and Tobacco Products License Fund, which pays for CDTFA's compliance efforts. These compliance efforts include regular inspections of businesses selling cigarettes and tobacco products, including retailers, wholesalers, and distributors, to ensure compliance with cigarette and tobacco product tax and licensing laws. Approximately 29,000 cigarette and tobacco product retail locations are licensed to sell cigarettes and tobacco products in California. CDTFA annually conducts about 3,318 inspections of licensed cigarette and tobacco product retailers to ensure compliance with the Licensing Act and applicable tax laws. When CDTFA discovers that a retailer, or any of its agents or employees, sells or offers to sell unstamped cigarette packages, it can seize the packages. (Similar authority exists for CDTFA to seize cannabis products under specified circumstances). When seized, the law treats the products as forfeited to the state.

Flavored Tobacco Ban. In 2020, the Legislature prohibited the sale of most flavored tobacco products, including flavored e-cigarettes and menthol cigarettes, as well as tobacco product flavor enhancers, in retail locations, including stores and vending machines (SB 793, Hill). Voters upheld the ban in a referendum measure (Proposition 31, 2022). SB 793 provided that violations were punishable as infractions, with a fine of \$250 per violation. The Legislature subsequently enacted three bills to enforce the ban, among other compliance measures.

- AB 935 (Connolly, 2024) made violations of the ban enforceable by the California Department of Public Health (CDPH) and other enforcing agencies through the imposition of civil penalties. AB 935 also required CDTFA, upon notification by CDPH, to impose a \$250 civil penalty and suspend or revoke a retailer's cigarette and tobacco products license upon a third, fourth, or fifth violation.
- AB 3218 (Wood, 2024) requires the California Attorney General to establish and maintain on its website a list of tobacco product brand styles that lack a characterizing flavor, known as the "Unflavored Tobacco List," and deemed a product not on the list a flavored tobacco product for purposes of the ban. AB 3218 also allowed CDTFA or a law enforcement agency to seize flavored tobacco products from the retailer or wholesaler, issue civil penalties of \$50 per package, and suspend licenses on the second violation, or revoke them on a third violation.
- SB 1230 (Rubio) contained similar authority for CDTFA to seize products. In 2025, CDTFA performed 648 seizures of 809,513 products with a retail value of \$8.5 million. CDTFA expects to issue approximately \$40 million in penalties.

The California Cigarette and Tobacco Products Tax Law. The California Cigarette and Tobacco Products Tax Law imposes a tax of \$2.87 per package of 20 cigarettes. Distributors pay the tax by purchasing tax stamps from CDTFA, which are then affixed to a cigarette package. While a base tax rate of \$0.10 per pack of 20 cigarettes has been in place since 1967, with revenue flowing to the General Fund, the Legislature and voters have adopted four tobacco tax measures directing revenue for specific programs:

- In 1988, voters approved Proposition 99, which imposed a surtax of \$0.25 cents per package and created an equivalent tax on tobacco products. Proceeds from the tax fund health education, disease research, hospital care, fire prevention, and environmental conservation.
- Assembly Bill 478 (Friedman, 1993) added an excise tax of \$0.02 per packet of 20 cigarettes for breast cancer research and early detection services.

- In 1998, California voters approved Proposition 10, which imposed an additional surtax of \$0.50 per pack and created a proportionately larger increase in the tax on tobacco products. The revenues are used to fund early childhood development programs, often called “First 5.”
- In 2016, voters approved Proposition 56, which imposed an additional surtax of \$2 per pack and expanded the definition of “tobacco products” to include electronic cigarettes, also known as e-cigarettes, when sold in combination with nicotine for a single price, and liquids containing nicotine used in those products. The additional tax revenues are deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund, which is used to backfill revenue losses for the above programs that result from reduced consumption due to the increased tax rate.

Other tobacco products (OTP) are subject to the above taxes, but unlike cigarettes, do not come in packs of 20. CDTFA determines the OTP rate by dividing the tax rate imposed on cigarettes by the average wholesale cost of cigarettes, currently 51.08% for 2025-26. Tobacco products distributors calculate tax due by applying the tobacco products tax rate to the wholesale cost of OTP distributed in California.

E-Cigarette Tax. In 2021, the Legislature enacted the Healthy Outcomes and Prevention Education (HOPE Act), which imposed the California Electronic Cigarette Excise Tax (CECET) at the rate of 12.5% of the retail selling price of electronic cigarettes containing or sold with nicotine (SB 395, Caballero). The tax is imposed on purchasers, but must be collected and remitted by retailers, including out of state sellers, and is included in addition to the sales and use tax. SB 395 programmed funds to fund essential safety net services and provide grants to students from disadvantaged backgrounds pursuing an education in the health field to combat the long-term negative impacts of tobacco products.

Regulation of Batteries. The Hazardous Waste Control Law (HWCL) provides the Department of Toxic Substances Control with responsibility for overseeing the management of hazardous waste in California. HWCL also prohibits the disposal of batteries in the trash or household recycling collection bins intended to receive other non-hazardous waste and/or recyclable materials. If batteries end up in the trash or a recycling bin, owners and operators of solid waste transfer stations, municipal landfills, and recycling centers who discover the batteries are required to remove and manage the batteries separately. The facility then becomes a generator of hazardous waste batteries and must comply with the applicable regulations. Facilities that do not properly manage hazardous waste may be subject to regulatory enforcement and liabilities.

The Electronic Waste Recycling Act of 2003 provides for a program for consumers to return, recycle, and ensure the safe and environmentally sound disposal of electronic waste, which was expanded in 2022 to include covered battery-embedded products. The Legislature also enacted AB 2440 (Irwin), the Responsible Battery Recycling Act of 2022, which requires producers of covered batteries to establish a stewardship program for the collection and recycling of those covered batteries.

eWaste Fee. The Covered Electronic Waste Recycling Fee, imposed on the purchase or lease of “covered electronic devices,” which are video display products that the Department of Toxic Substances Control has determined to be hazardous when discarded (SB 20, Sher, 2004). The fee is variable, depending on screen size. Revenues from the fee are used to safely recycle the products covered by the fee.

Covered Battery-Embedded Waste Recycling Fee. Effective January 1, 2026, retailers of covered battery-embedded (CBE) products must register with CDTFA and collect and remit the CBE waste recycling fee (SB 1215, Newman, 2022). The fee is imposed on consumers and collected by retailers at the time of the retail sale or lease of certain new or refurbished CBE products. The Department of Resources Recycling and Recovery sets the fee, which is currently 1.5% of the retail sale for each CBE product, not to exceed \$15.

Vaping has grown rapidly in recent years to become the most popular form of tobacco use. According to surveys conducted by the CDPH, 4.4 percent of adults reported using vape products, a rate more than double that of cigarette smokers, making vaping the most common form of tobacco use among adults. This is similarly the case for tobacco use by youths, with 5.9 percent of youth reporting current use of vape products according to the CDPH's surveys. Seeking to reduce battery waste and advance public health, the author wants to prohibit specific vaping devices.

Proposed Law

Assembly Bill 762 bans the use of disposable, battery-embedded vapor inhalation devices. Specifically, the ban applies to:

- The import or manufacture for sale in this state of a new or refurbished disposable, battery-embedded vapor inhalation device on and after January 1, 2027.
- The sale, distribution, or offer for sale of a new or refurbished disposable, battery-embedded vapor inhalation device in this state on and after January 1, 2028.

Local agencies can enforce the ban by imposing civil liability on a person or entity in violation of the ban in the amount of:

- \$500 for the first violation,
- \$1,000 for the second violation, and
- \$2,000 for the third and any subsequent violations.

Civil penalties must be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action. Those in violation of the ban are also guilty of an infraction, punishable by a fine of up to \$500. CDTFA may also revoke or suspend the license of a tobacco retailer in violation of the ban.

The bill provides that the above penalties are in addition to other penalties prescribed by law, or other remedies under the state's unfair competition law. State agency costs are also recoverable by the Attorney General from the person violating the ban. The bill contains a severability clause, and defines several terms, including "disposable, battery-embedded vapor inhalation devices" to mean a vaporization device that contains a tobacco product, but not cannabis or a cannabis product, that is not designed or intended to be reused, and includes any vaporization device that meets one or more of the following requirements:

- The vaporization device is not refillable, meaning that it is not a single-use container that is separately available and can be replaced, a container that can be refilled, or a coil that is not intended to be replaced by an individual user in the normal course of use, including

any coil that is contained in a single-use cartridge or pod that is not separately available and cannot be replaced.

- The vaporization device is not rechargeable, meaning if it is designed to contain a battery that cannot be recharged.
- It is not a device defined in federal law for certain medical devices.

State Revenue Impact

AB 762 affects three different forms of tax revenue: sales and use tax, CECET, and OTP. CDTFA estimates revenue losses for the partial fiscal year of 2027-28 of \$3.2 million in Sales and Use Tax, \$4.5 million in CECET, and \$9.5 million in OTP; however, AB 762's revenue impact is complex and uncertain. CDTFA estimated a partial-year (six-month) impact for AB 762 for the 2027-28 fiscal year, which captures the first six months after the January 1, 2028, effective date of the retail sale ban. Further estimates beyond that point are highly uncertain because current consumers are likely to shift to other forms of tobacco consumption that are subject to tax or continue to consume tobacco through a disposable inhalation device acquired illicitly that evade tax.

Comments

1. Purpose of the bill. According to the author, "Single-use vapes pose a significant threat to California's environment as well as to our public health. These devices contain highly flammable lithium-ion batteries that cannot be removed, and are designed to be thrown away after just a week or two of use. Without a standardized way to recycle single-use vapes, they are sent to material recovery facilities and landfills, where they can ignite dangerous and costly fires. Not only is this dangerous, it is unsafe for workers and costly to local governments to clean up. Long after these devices have been used and discarded, both the battery and the residual nicotine liquid can continue to pose a toxic threat to our marine and terrestrial environments."

2. Sure, but will it work? AB 762's supporters point to several problems caused by the disposal of disposable, battery-embedded vapor inhalation devices, including that they can neither be recycled nor disposed of in the trash, given current hazardous waste laws. Local governments must find disposal options, which can be costly. Supporters also argue that the lithium-ion batteries in these devices cause fires, resulting in damage and additional costs. However, these products are clearly popular, so banning them outright might lead those who want them away from the regulated stream of tobacco product commerce to less legitimate options, predominantly supplied from overseas. If so, there will be a likely loss in tobacco tax revenues as noted above. Additionally, the Legislature and voters banned flavored tobacco products, and local agencies and CDTFA have ample authority and tools to enforce the current ban, and AB 762 doesn't apply to devices that contain cannabis.

3. Enforcement. AB 762 currently authorizes local agencies to impose civil penalties on manufacturers and retailers, and CDTFA can revoke or suspend a retail tobacco license upon violation of the bill's provisions. However, CDTFA's tobacco inspection program results in more than 3,000 physical inspections of tobacco retailers each year. Additionally, CDTFA has the authority to seize unstamped cigarettes, flavored tobacco, and cannabis products that haven't been entered into the Track and Trace system or are being offered for sale by an unlicensed retailer. The Committee may wish to consider adding similar authority for CDTFA to enhance enforcement and compliance.

4. Tobacco, not cannabis. As introduced, AB 762's provisions applied to devices as defined, without specifying the product in the device. Recent amendments specify that the bill's prohibition applies to devices that contain a tobacco product but not cannabis or a cannabis product.

5. Related legislation. The Committee will also consider AB 2667 (Hadwick) at its 6/24 hearing, which prohibits the sale, distribution, and advertising of vape products in this state that imitate a product that is not a vape product to conceal the nature of the vape product from parents, teachers, or other adults, among other changes. Earlier this year, the Committee and the Senate approved two measures that also expanded CDTFA's enforcement of the Cigarette and Tobacco Products Licensing Act:

- SB 1124 (Archuleta), which requires the CDPH to develop signage for lung cancer screening and requires licensed tobacco retailers to display the signage or be subject to a civil penalty. The measure is currently pending in the Assembly Health Committee.
- SB 1314 (Menjivar), which enacts the Youth Over Smoke Act, which limits the location and operation of smoke shops, as defined. The measure is currently pending in the Assembly Health Committee.

6. Double-referred. On June 17th, the Committee on Environmental Quality approved AB 762 by a vote of 5 to 2. The Revenue & Taxation Committee is considering the measure as the Committee of second reference.

Assembly Actions

Assembly Environmental Safety & Toxic Materials Committee:	4-1
Assembly Business & Professions Committee:	10-5
Assembly Appropriations Committee:	11-4
Assembly Floor:	50-17

Support and Opposition (6/22/26)

Support: California Product Stewardship Council (Co-Sponsor)
 California Public Interest Research Group (Co-Sponsor)
 Californians Against Waste (Co-Sponsor)
 RethinkWaste (Co-Sponsor)
 Adam Loraine, Mayor, City of San Mateo
 Alma Beltran, Mayor, City of Parlier
 Betsy Nash, Mayor, City of Menlo Park
 Bobbie Singh-Allen, Mayor, City of Elk Grove
 Cheryl Kelly, Mayor, City of Trinidad
 Chris Herrod, Mayor, City of Healdsburg
 Christine Boles, Mayor, City of Pacifica
 Dale Byrne, Mayor, City of Carmel by the Sea
 Daniel Sauter, San Francisco County Supervisor, District 3
 David Newman, Mayor, City of Thousand Oaks
 Debbie Ruddock, Mayor, City of Half Moon Bay
 Frank J. Navarro, Mayor, City of Colton
 James Tucker, Mayor, City of Imperial

Jan Sabriskie, Mayor, Town of Truckee
Jeff Schmidt, Councilmember, City of Menlo Park
Jim Light, Mayor, City of Redondo Beach
Kavita Tankha, Mayor, Town of Los Altos Hills
Kevin McDonnell, Mayor, Petaluma
Larry Klein, Mayor, City of Sunnyvale
Lesa Heebner, Mayor, City of Solana Beach
Lisa Gillmor, Mayor, City of Santa Clara
Manu Koenig, Supervisor, Santa Cruz County
Margaret Abe-Koga, Santa Clara County Supervisor, District 5
Margaret Clark, Mayor, City of Rosemead
Michael K. Hannon, Mayor, City of Newark
Nicol Jones, Mayor, City of Villa Park
Penny Sylvester, Mayor, City of Agoura Hills
Rex Richardson, Mayor, City of Long Beach
Robert Serrato, Mayor, City of Oxnard
Sally Meadows, Mayor, City of Los Altos
Sergio Lopez, Mayor, City of Campbell
Shanti Landon, Placer County Supervisor, District 2
Shebreh Kalantari-Johnson, Vice Mayor, City of Santa Cruz
Sue Zwahlen, Mayor, City of Modesto
Tony Ayala, Mayor, City of Norwalk
Wendy Root Askew, Monterey County Supervisor, District 4
350 Bay Area Action
350 Contra Costa Action
350 Sacramento
350 Ventura County Climate Hub
5 Gyres Institute
A Voice for Choice Advocacy
ACR Solar
Action on Smoking and Health
Active San Gabriel Valley
Alameda County Tobacco Control Coalition
Algalita Marine Research and Education
Alliance of Nurses for Healthy Environments
American Academy of Pediatrics, California
American Bird Conservancy
American Nurses Association – California
American Sustainable Business Network
Americans for Nonsmokers’ Rights
Anti-Vaping Champions of UCLA
Association of California Healthcare Districts
Atlas Disposal
Azul
Ban Single Use Plastic
Bay Area Pollution Prevention Group
Bay Area Student Activists
Blue Ocean Warriors
Breast Cancer Prevention Partners
Breathe California of the Bay Area, Golden Gate and Central Coast

Breathe Sacramento Region
Breathe Southern California
Cal Poly Center for Health Research
California Chapters of the Solid Waste Association of North America's Legislative Task Force
California Communities Against Toxics
California Electronic Asset Recovery
California Health Coalition Advocacy
California League of United Latin American Citizens
California Nurses for Environmental Health and Justice
California Optometric Association
California Professional Firefighters
California Resource Recovery Association
California State Association of Counties
California State Parent Teacher Association
California Teamsters Public Affairs Council
Castro Valley Sanitation District
Catholic Charities, Diocese of Stockton
Center for Environmental Health
Central Contra Costa Sanitary District
Central Contra Costa Solid Waste Authority
Chico Bag
Children Now
City and County of San Francisco
City of Agoura Hills
City of Alameda
City of Anderson
City of Arcadia
City of Campbell
City of Carmel-by-the-Sea
City of Colton
City of Elk Grove
City of Half Moon Bay
City of Imperial
City of Live Oak
City of Long Beach
City of Los Altos
City of Marysville
City of Mountain View
City of Norwalk
City of Oxnard
City of Pacifica
City of Parlier
City of Petaluma
City of Redondo Beach
City of Rosemead
City of Sacramento
City of San Jose
City of San Mateo
City of Santa Clara
City of Santa Cruz

City of Sunnyvale
City of Thousand Oaks
City of Trinidad
City of Villa Park
City of Wheatland
City of Yuba City
Clean Air Orange County Coalition
Clean Earth 4 Kids
Clean Water Action
Climate Action Now
Community Environmental Council
Contra Costa Tobacco Prevention Coalition
County of Alameda
County of Contra Costa
County of Humboldt
County of Marin
County of Monterey
County of Orange
County of Sacramento
County of San Mateo
County of Santa Barbara
County of Santa Clara
County of Santa Cruz
County of Yolo
County of Yuba
Courage California
CR&R Environmental Services, Inc.
Defend Our Health
Del Norte Solid Waste Management Authority
Delta Diablo
Eco-Catalyst, Inc.
Ecology Center
Elders Climate Action: Northern California
Elders Climate Action: Southern California
Endangered Habitats League
Environmental Action Committee of West Marin
Environmental Protection Information Center
Equity and Wellness Institute
Faith in Action East Bay
Families Advocating for Chemical & Toxics Safety
Friends Committee on Legislation of California
Glendale Environmental Coalition
Global Alliance for Incinerator Alternatives
Green Science Policy Institute
Heal the Bay
Ivan's Recycling
Just Zero
League of California Cities
Little Kamper, LP
Los Angeles County Sanitation Districts

Los Angeles Waterkeeper
Marin Residents for Public Health Cannabis Policies
Marin Sanitary Services
Merced County Regional Waste Management Authority
Mill Valley Refuse Service
Mojave Desert and Mountain Recycling Authority
Monterey Waterkeeper
Napa Recycling and Waste Services
National Association of Environmental Medicine
National Stewardship Action Council
Natural Resources Defense Council
Non-Toxic Neighborhoods
Northern California Recycling Association
Oakland Recycles
Oceanic Preservation Society
Pacific Beach Coalition
Pacoima Beautiful
Parents Against Vaping
Physicians for Social Responsibility - Los Angeles
Physicians for Social Responsibility - Sacramento Chapter
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Plastic Free Future
Plastic Pollution Coalition
Plastic Soup Foundation
PlasticFreeMarin
Product Stewardship Institute
Project Ropa
Recology
Recycle1234
ReGen Monterey
Republic Services, Inc.
Resource Recovery Coalition of California
Rethink Disposable
Rural Counties Environmental Services Joint Powers Authority
Rural County Representatives of California
Salinas Valley Solid Waste Authority
Salvador E. Alvarez Institute for Non-Violence
San Diego Bird Alliance
San Diego Pediatricians for Clean Air
San Francisco Department of the Environment
San Luis Obispo County Integrated Waste Management Authority
San Luis Obispo County Tobacco Control Coalition
Santa Barbara County Resource Recovery & Waste Management Authority
Santa Clara County Recycling and Waste Reduction Commission
Santa Cruz Climate Action Network
Santa Cruz County Tobacco Education Coalition
Save Our Shores
Save the Albatross Coalition
Save the Bay
Sea Hugger

Sespe Creek Collective
Seventh Generation Advisors
Sierra Club California
Silicon Valley Youth Climate Action
Simply Recycle
Smokefree Air For Everyone
SoCal 350 Climate Action
Social Eco Education
South Tahoe Refuse & Recycling Services
Southern California Public Health Association
Stiiizy
StopWaste
Sunrise Bay Area
Surfrider Foundation
Sustainable Mill Valley
Sustainable Rossmoor
Sustainable Works
Tehama County Solid Waste Management Agency
The Last Beach Cleanup
The Last Plastic Straw
The Ocean Project
The Podium Movement
The Story of Stuff Project
Tobacco Education and Research Oversight Committee
Torus Consulting
Town of Los Altos Hills
Town of Truckee
Trash Free Trails
TRI-CED Community Recycling
Turn Climate Crisis Awareness & Action
Upstream Policy
Veolia North America
Waste Management
WasteNOT Nevada County
West Berkeley Alliance for Clean Air and Safe Jobs
Western Placer Waste Management Authority
Wilmington Recyclers
Yosemite Rivers Alliance
Youth Leadership Institute
Yuba-Sutter Regional Waste Management Authority
Zero Waste Marin Joint Powers Authority
Zero Waste San Diego
Zero Waste Sonoma

Opposition: California Chamber of Commerce
California Distributors Association
California Fuels and Convenience Alliance
California Hispanic Chambers of Commerce