SENATE COMMITTEE ON APPROPRIATIONS
Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

AB 762 (Irwin) - Disposable, battery-embedded vapor inhalation device: prohibition and penalties

Version: June 30, 2026
Urgency: No
Hearing Date: August 3, 2026

Policy Vote: E.Q. 5 - 2, REV. & TAX. 4 - 0
Mandate: Yes
Consultant: Ashley Ames

Bill Summary: This bill would ban the use of disposable, battery-embedded vapor inhalation devices.

Fiscal Impact:

- Revenue losses:
  - The California Department of Tax and Fee Administration (CDTFA) estimates revenue losses for the partial fiscal year of 2027-28 of $3.3 million in Sales and Use Tax, $4.6 million in California Electronic Cigarette Excise Tax (CECET), and $9.6 million in other tobacco products (OTP); totaling $17.4 million. However, AB 762's revenue impact is complex and uncertain.
  - Potential loss in license renewal fee revenue to CDTFA (Cigarette and Tobacco Products Compliance Fund) and DCC (Cannabis Control Fund) of an unknown amount. It is difficult to estimate the revenue loss because it is unknown how many licenses will be suspended or revoked under the requirements of the bill.
- Costs incurred by state agencies:
  - CDTFA anticipates ongoing costs ranging from $408,000 to $732,000 (General Fund) to notify licensees of the prohibition, seize and destroy prohibited products, issue civil penalties, suspend or revoke retailer licenses for repeat violations, handle appeals, and perform collections..
  - DCC anticipates any costs associated with suspending or revoking cannabis product licenses to be absorbable within existing resources (Cannabis Control Fund).
  - The Department of Justice anticipates minor and absorbable costs.
    - This bill would require costs incurred by a state agency in carrying out these provisions to be recoverable by the Attorney General, upon the request of the agency, from the liable person or persons.
- Cost pressures (Trial Court Trust Fund, General Fund) of an unknown amount to the courts to adjudicate actions brought by the Attorney General (AG) and public prosecutors to enforce violations. Actual costs would depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately $1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund.

The Governor's January budget proposal for fiscal year 2026-27 provides $70 million ongoing General Fund to the Trial Court Trust Fund for court operations.

- Civil penalty and fine revenue of an unknown amount.
    - This bill would require any civil penalties collected to be paid to whichever office brought the action, as specified, and authorize the Attorney General to expend any penalties it collects, upon appropriation by the Legislature, to enforce these provisions.

Background: The Cigarette and Tobacco Products Licensing Act (AB 71, Horton, 2003) requires manufacturers, distributors, wholesalers, importers, and retailers to hold and annually renew a license, originally administered by the Board of Equalization and transferred to CDTFA by AB 102 (2017). Selling without a valid license, or after suspension or revocation, is a misdemeanor punishable by a fine up to $5,000, up to one year in county jail, or both. Retailers hold one of two license types depending on whether their products are subject to the Cigarette and Tobacco Products Tax. CDTFA must give at least ten days' notice and an opportunity to appeal before suspension or revocation; a second violation triggers mandatory revocation, with reapplication permitted after six months. CDTFA may also seize unstamped cigarette packages, which are then forfeited to the state.

SB 793 (Hill, 2020) banned most flavored tobacco products, including flavored e-cigarettes and menthol cigarettes, and voters upheld it through Proposition 31 (2022); violations are infractions carrying a $250 fine. Three follow-up bills strengthened enforcement: AB 935 (Connolly, 2024) authorized civil penalties by CDPH and other agencies and requires CDTFA, on CDPH notification, to impose a $250 civil penalty and suspend or revoke a license on the third, fourth, or fifth violation; AB 3218 (Wood, 2024) created the Attorney General's "Unflavored Tobacco List," deemed any product not on it to be flavored, and authorized seizures, $50-per-package civil penalties, suspension on a second violation, and revocation on a third; and SB 1230 (Rubio) provided similar seizure authority.

Cigarettes are taxed at $2.87 per pack of 20, collected through tax stamps purchased by distributors. The rate reflects a $0.10 base tax in place since 1967 flowing to the General Fund, plus four dedicated measures: Proposition 99 (1988, $0.25 for health education, research, hospital care, fire prevention, and conservation), AB 478 (Friedman, 1993, $0.02 for breast cancer research and early detection), Proposition 10 (1998, $0.50 for First 5 early childhood programs), and Proposition 56 (2016, $2.00, which also extended the definition of tobacco products to nicotine-containing e-cigarettes and liquids and funds backfill for revenue losses at the other programs caused by reduced consumption). Other tobacco products are taxed at an equivalent rate set by CDTFA — 51.08% of wholesale cost for 2025-26. Separately, the HOPE Act (SB 395, Caballero, 2021) imposed the 12.5% California Electronic Cigarette Excise Tax on the retail price of nicotine e-cigarettes, levied on purchasers but collected and remitted by retailers, including out-of-state sellers.

The Hazardous Waste Control Law bars battery disposal in trash or household recycling and makes transfer stations, landfills, and recycling centers that find them hazardous waste generators subject to enforcement and liability. The Electronic Waste Recycling Act of 2003 was expanded in 2022 to cover battery-embedded products, and AB 2440

(Irwin, 2022) requires producers of covered batteries to run stewardship programs. Two fees support this system: the variable Covered Electronic Waste Recycling Fee based on screen size (SB 20, Sher, 2004), and, effective January 1, 2026, the covered battery-embedded waste recycling fee (SB 1215, Newman, 2022), set by CalRecycle at 1.5% of the retail sale price, capped at $15, and collected by retailers registered with CDTFA.

License fees, penalties, and fines are deposited into the Cigarette and Tobacco Products License Fund, which underwrites CDTFA's compliance work — roughly 3,318 annual inspections across approximately 29,000 licensed retail locations. AB 573 (Rogers) raised retailer license fees from $265 to $450 for licenses applied for on or after July 1, 2026, and authorizes CDTFA to raise the fee by regulation up to $600 as needed to keep the Compliance Fund solvent, indicating that enforcement costs have been outrunning existing revenue. Enforcement itself now generates significant sums: in 2025 CDTFA conducted 648 seizures covering 809,513 products with a retail value of $8.5 million and expects to issue approximately $40 million in penalties. Because vaping is now the most common form of tobacco use — 4.4% of adults, more than double the cigarette rate, and 5.9% of youth per CDPH surveys — the author's proposal to prohibit specific vaping devices would intersect with several of these revenue streams at once, including the 12.5% e-cigarette excise tax, the tobacco products tax on nicotine e-liquids, retailer license fees, and the new covered battery-embedded recycling fee, while also bearing on Proposition 56's backfill obligations to the older tobacco-funded programs.

Proposed Law: This bill would:

1. Prohibit, beginning January 1, 2027, a person from importing or manufacturing for sale in this state a new or refurbished disposable, battery-embedded vapor inhalation device, and, beginning January 1, 2028, a person from selling, distributing, or offering for sale a new or refurbished disposable, battery-embedded vapor inhalation device in this state.

    a. Define a “disposable, battery-embedded vapor inhalation device” to mean a vaporization device that contains a tobacco product, as defined, but not cannabis or a cannabis product, as defined, and that is not designed or intended to be reused, as specified.

2. Authorize a city, a county, a city and county, or the state, to enforce this prohibition and to impose civil penalties on a person or entity in violation.

    a. Specify fine amounts, including $500 for the first violation.

    b. Require any civil penalties collected to be paid to whichever office brought the action, as specified, and authorize the Attorney General to expend any penalties it collects, upon appropriation by the Legislature, to enforce these provisions.

    c. Specify that any remedies provided pursuant to these provisions are not exclusive and are in addition to the remedies that may be available pursuant to specified provisions relating to unfair competition.

3. Make any person who violates this prohibition guilty of an infraction punishable by a fine. By expanding the scope of an infraction, this bill would impose a state-mandated local program.

    a. Specify that this penalty is in addition to the other penalties authorized by this bill.

    b. Require costs incurred by a state agency in carrying out these provisions to be recoverable by the Attorney General, upon the request of the agency, from the liable person or persons.

    c. Provide that no reimbursement is required because the only costs that could be incurred by a local agency or school district would be due to creation of a new crime or infraction within the meaning of Section 17556 of the Government Code..

4. Beginning January 1, 2028, include the unlawful sale or offering for sale, as specified, of a disposable battery-embedded vapor inhalation device containing a tobacco product by a retailer within the conduct subject to the Cigarette and Tobacco Products Licensing Act of 2003.

Related Legislation:

AB 2667 (Hadwick, 2026) would authorize permanent household hazardous waste collection facilities to mechanically disassemble vape pens and prohibit vape products that appeal to minors.

AB 2240 (Irwin, Chapter 351, Statutes of 2022) created the Responsible Battery Recycling Act of 2022, which requires producers of covered batteries, as defined, to establish a stewardship program for the collection and recycling of covered batteries.

SB 1215 (Newman, Chapter 370, Statutes of 2022) expanded EWRA to include battery embedded products.

AB 1894 (Rivas, Chapter 390, Statutes of 2022) established packaging and labeling requirements for cannabis products, including disposal requirements for integrated cannabis vaporizers.

SB 289 (Newman, 2021) would have enacted the Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021, which would have required the producers of batteries and battery-embedded products to establish a stewardship program for those products, with full implementation on or before June 30, 2025. This bill was held on the suspense file in this committee.

SB 793 (Hill, Chapter 34, Statutes of 2020) prohibited a tobacco retailer from selling, offering for sale, or possessing the intent to sell or offer for sale, a flavored tobacco product or a tobacco product flavor enhancer.

AB 1509 (Mullin, 2019) would have established, within CalRecycle, the Lithium-Ion Battery Recycling Program, which would have required manufacturers of lithium-ion batteries to provide convenient collection, transportation, and disposal of lithium-ion batteries. This bill was held in the Senate Environmental Quality Committee.

AB 2832 (Dahle, Chapter 822, Statutes of 2018) required the Secretary for the California Environmental Protection Agency to convene a research group to review and advise the Legislature on policies pertaining to the recovery and recycling of lithium-ion vehicle batteries sold with motor vehicles in the state.

AB 1125 (Pavley, Chapter 572, Statutes of 2005) enacted the Rechargeable Battery Recycling Act of 2006, and requires retailers of rechargeable batteries, by July 1, 2006, to establish a system for accepting rechargeable batteries for reuse, recycling, or proper disposal.

SB 20 (Sher, Chapter 526, Statutes of 2003) enacted EWRA to provide for the convenient recycling of covered electronic devices in California.

Staff Comments: 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.

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