

CONCURRENCE IN SENATE AMENDMENTS

AB 762 (Irwin)

As Amended August 20, 2026

Majority vote

SUMMARY

Prohibits, on and after January 1, 2027, a person from importing or manufacturing for sale in this state a new or refurbished disposable, battery-embedded vapor inhalation device (vape), and beginning January 1, 2028, a person from selling, distributing, or offering for sale a new or refurbished disposable, battery-embedded vape in this state. Prohibits a retailer, beginning January 1, 2028, from selling a disposable battery-embedded vape containing a tobacco product.

Senate Amendments

- 1) Within the definition of "disposable battery-embedded vapor inhalation device" delete "nicotine" and replace it with "tobacco product".
- 2) Prohibit a retailer, beginning January 1, 2028, from selling a disposable battery-embedded vapor inhalation device containing a tobacco product.
- 3) Add chaptering amendments with AB 2667 (Hadwick) of the current legislative session.

COMMENTS

Regulation of batteries: State law, the Hazardous Waste Control Law, prohibits the disposal of batteries in the trash or household recycling collection bins intended to receive other non-hazardous waste and/or recyclable materials. Many types of batteries, regardless of size, exhibit hazardous characteristics and are considered hazardous waste when they are discarded. These include single use alkaline and lithium batteries and rechargeable lithium metal, nickel cadmium, and nickel metal hydride batteries of various sizes (AAA, AA, C, D, button cell, 9-Volt, and small sealed lead-acid batteries).

Many batteries are sold within products, such as lithium-ion batteries in portable electronics like laptops, smart phones, digital cameras, game consoles, and cordless power tools. Single use vape devices usually contain a lithium-ion battery, making them hazardous waste at the end of life of the product.

If batteries end up in the trash or a recycling bin, owners/operators of solid waste transfer stations, municipal landfills, and recycling centers who discover batteries in the waste or recyclable materials are required to remove and manage the batteries separately. The facility that removes the batteries from the municipal solid waste stream or recyclable materials becomes the generator of the hazardous waste batteries and must comply with hazardous waste management regulations. Facilities that do not properly manage hazardous waste may be subject to regulatory enforcement and may be liable for monetary penalties.

Lithium-ion batteries: Lithium-ion batteries, which are widely used in portable electronics like laptops, smart phones, digital cameras, game consoles, and cordless power tools, are also widely used as vehicle batteries in zero emission vehicles.

Fire risks: Because lithium-ion batteries contain hazardous and corrosive materials, they also pose a fire risk if not stored or disposed of properly. Therefore, any program to manage used lithium-ion batteries needs to account for this possible fire risk.

Electronic Waste Recycling Act (EWRA): SB 20 (Sher) Chapter 526, Statutes of 2003) enacted the EWRA to ensure the safe management of electronic waste (e-waste). E-waste is a hazardous waste. Disposing of e-waste in landfills may harm both human health and the environment. It is hazardous because it may contain materials such as lead and mercury. E-waste is any unwanted electronic device. In 2022, EWRA was amended to include battery-embedded products.

Covered Battery-Embedded Products: In 2022, SB 1215 (Newman) Chapter 370, Statutes of 2022) expanded the scope of the EWRA to include covered battery-embedded products (CBEP). "Covered battery-embedded product" means a product that contains a battery that is not designed to be easily removed by the user with common household tools. CBEPs do not include certain medical devices; existing covered electronic devices (video display devices); certain energy storage systems; or, electronic nicotine delivery systems (e.g., e-cigarettes, vape pens).

Environmental impacts of disposable vapes: In the 2023 report, "Vape waste: The environmental harms of disposable vapes," the United States Public Interest Research Group Education Fund states:

"Disposable vapes are single-use products powered by the same rechargeable lithium-ion batteries used in electric cars and iPhones. However, unlike traditional vapes, they're designed to be thrown out after use. That's because while some can be recharged with a USB cable, once they run out of the included e-liquid they can't be refilled.

After the Food and Drug Administration's (FDA) February 2020 crackdown on flavored nicotine e-liquid cartridges for reusable vapes, sales of disposable brands increased 196.2% by March 2023, according to the Center for Disease Control and Prevention (CDC) Foundation. The FDA's decision prohibited the sale of flavored pre-filled nicotine vape cartridges exemplified by popular brand JUUL, but didn't mention disposable vapes. This sin of omission created a gray market and by March [2023] sales of disposable products increased to 11.9 million units a month and have overtaken cartridges market share at 53% of vape sales. At this rate, we throw out 4.5 disposable vapes per second.

Electronic waste produced from disposable vapes includes both the circuit boards and lithium ion batteries that power the device. These boards contain some of the heavy metals mentioned above, which can leach into the groundwater. Due to the nicotine e-liquid used in these products, vape waste can't be recycled with other plastics because the substance is defined by the [US] Environmental Protection Agency (EPA) as an acute hazardous waste."

This bill: AB 762 prohibits, on and after January 1, 2027, a person from importing or manufacturing for sale in this state a new or refurbished disposable, battery-embedded vape, and beginning January 1, 2028, a person from selling, distributing, or offering for sale a new or refurbished disposable, battery-embedded vape in this state. The prohibition in the bill applies to disposable vapes that contain a tobacco product but not vapes that contain cannabis.

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."

Arguments in Support

According to a coalition of organizations including Californians Against Waste, California Product Stewardship Council, California Public Interest Research Group, and Rethink Waste:

"We write in strong support of AB 762, which seeks to ban the sale of single-use disposable vaporizer products in California. This critical legislation addresses the alarming environmental, safety, and public health risks posed by these hazardous products, protecting our communities, waste infrastructure, and natural ecosystems from their destructive impact.

Single-use vapes contain embedded lithium-ion batteries, making them not only an unsustainable source of electronic waste but also a significant fire hazard. When improperly discarded—as is often the case—these devices ignite fires in garbage cans, collection trucks, and material recovery facilities (MRFs). These lithium-ion battery fires can reach temperatures of up to 1200°C—equivalent to a welding torch—causing rapid and uncontrollable blazes. The U.K. has already linked disposable vape waste to a staggering 77% increase in waste facility fires over the last year alone. California waste and recycling operators are facing a similar crisis, with escalating fire risks and increased costs in managing this hazardous waste.

Disposable vapes are rapidly becoming a dominant form of electronic litter, contaminating highways, parks, and beaches. The Marine Conservation Society reports that these products are now routinely found along coastlines, where they pose an immediate threat to marine life. Unlike cigarette butts, which take up to ten years to degrade, single-use vapes introduce long-lasting toxic pollutants into ecosystems, including residual nicotine, lead, and mercury, which can leach into soil and waterways.

California has long been a leader in environmental protection and consumer safety, and this bill aligns with global momentum to eliminate single-use disposable vapes."

Arguments in Opposition

According to the California Distributors Association (CDA):

"While we appreciate the public health intent behind AB 762, the bill is unnecessary and duplicative of existing laws already enacted in California. In 2020, SB 793 (Hill) prohibited the sale of flavored tobacco products. More recently, AB 3218 (Wood) created a product registry and clarified enforcement authority to ensure all stakeholders, including distributors, have clear and enforceable guidelines for compliance. Importantly, the state also dedicated \$28.5 million in Proposition 56 funds to support local enforcement efforts, which only took effect last year.

Effective enforcement of existing statutes offers a more fiscally responsible path to protecting public health while preserving legitimate revenue streams. For these reasons,

CDA opposes AB 762 and respectfully urges your "no" vote. Thank you for your consideration."

FISCAL COMMENTS

According to the Senate Appropriations Committee, enactment of this bill could cost the Department of Tax and Fee Administration (CDTFA) approximately \$408,000 to \$732,000 annually, and CDTFA estimates potential revenue loss in the low tens of millions of dollars annually.

VOTES:

ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 4-1-2

YES: Connolly, Hart, Lee, Papan

NO: Castillo

ABS, ABST OR NV: Hadwick, McKinnor

ASM BUSINESS AND PROFESSIONS: 10-5-3

YES: Berman, Ahrens, Bains, Bauer-Kahan, Caloza, Elhawary, Haney, Irwin, Lowenthal, Pellerin

NO: Johnson, Alanis, Chen, Hadwick, Macedo

ABS, ABST OR NV: Jackson, Krell, Nguyen

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Stefani, Calderon, Caloza, Fong, Mark González, Krell, Bauer-Kahan, Pacheco, Pellerin, Solache

NO: Hoover, Dixon, Ta, Tangipa

ASSEMBLY FLOOR: 50-17-13

YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Dixon, Elhawary, Fong, Gabriel, Garcia, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Lee, Lowenthal, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rogers, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ward, Wicks, Zbur, Rivas

NO: Alanis, Ávila Farías, Chen, DeMaio, Ellis, Flora, Jeff Gonzalez, Hadwick, Hoover, Johnson, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis

ABS, ABST OR NV: Arambula, Castillo, Davies, Gallagher, Gipson, Krell, Nguyen, Ransom, Celeste Rodriguez, Michelle Rodriguez, Blanca Rubio, Valencia, Wilson

UPDATED

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