



**HB0073**

**Nicotine products-taxation.**

Sponsored By: Joint Revenue Interim Committee

AN ACT relating to taxation; imposing taxes on nicotine products as specified; providing for collection and distribution of the taxes imposed; requiring a license to sell nicotine products; requiring reporting of nicotine products sold; providing penalties; providing for state preemption of the taxation of nicotine products as specified; making conforming amendments; and providing for an effective date.

1/28/2020 Bill Number Assigned  
2/7/2020 H Received for Introduction  
2/10/2020 H Introduced and Referred to H03 - Revenue 44-15-1-0-0

**ROLL CALL**

**Ayes:** Representative(s) Barlow, Blackburn, Blake, Brown, Burkhart, Burlingame, Clausen, Clem, Clifford, Connolly, Crank, Dayton-Selman, Duncan, Eklund, Eyre, Flitner, Freeman, Furphy, Haley, Hallinan, Harshman, Henderson, Kinner, Kirkbride, Larsen Lloyd, Laursen Dan, Macguire, Newsome, Nicholas, Northrup, Obermueller, Paxton, Pelkey, Pownall, Roscoe, Schwartz, Simpson, Sommers, Stith, Sweeney, Walters, Wilson, Yin, Zwonitzer

**Nays:** Representative(s) Edwards, Gray, Hunt, Jennings, Lindholm, Loucks, Miller, Olsen, Piiparinen, Salazar, Styvar, Tass, Washut, Western, Winter

**Excused:** Representative Greear

**Ayes 44 Nays 15 Excused 1 Absent 0 Conflicts 0**

2/17/2020 H03 - Revenue:Recommend Amend and Do Pass 8-1-0-0-0

**ROLL CALL**

**Ayes:** Representative(s) Blackburn, Connolly, Dayton, Hallinan, Laursen, Roscoe, Sweeney, Zwonitzer

**Nays:** Representative Western

**Ayes 8 Nays 1 Excused 0 Absent 0 Conflicts 0**

2/17/2020 H Placed on General File

**HB0073HS001.01/ADOPTED [DIVIDED AMENDMENT]  
(CORRECTED COPY)**

Page 1-line 2 After "collection" insert "and distribution".

Page 2-line 1 After "39-18-108(c)(ii)(A), (vi)" insert  
", (vii)".

Page 13-after line 3 Insert:

"(vii) Any person who does any act prohibited by this article, or omits, neglects or refuses to comply with any duty imposed upon him by this article, or causes not to be done any of the things required by this article, or does any act prohibited by this article, may, in addition to any other penalty provided by this article, be liable for a penalty of not to exceed one thousand dollars (\$1,000.00) or five (5)

times the retail value of the ~~tobacco~~-nicotine product at issue, whichever is lesser, to be recovered in a civil action;". ZWONITZER, CHAIRMAN

**HB0073HS001.02/FAILED** [DIVIDED AMENDMENT]  
(CORRECTED COPY)

Page 8-line 17 Delete "fifteen percent (15%)" and insert "seven and one-half percent (7.5%)". ZWONITZER, CHAIRMAN

**HB0073HW001/ADOPTED** (CORRECTED COPY)

Page 1-line 5 After "penalties;" insert "providing for state preemption of nicotine products as specified;".

Page 1-line 13 After "(vi)," insert "(b) and".

Page 2-line 1 After "(c)(i)" insert "(intro)".

Page 7-after line 15 Insert:

"(b) Basis of tax. The state preempts the field of imposing taxes on ~~cigarettes~~-nicotine products and no city, town or county shall impose, levy or collect taxes upon the sale, occupation or privilege of selling ~~cigarettes~~ nicotine products. This subsection shall not be construed to prevent a city, town or county from regulating the public use of nicotine products.". SWEENEY

2/20/2020 H COW:Passed  
2/21/2020 H 2nd Reading:Passed  
2/24/2020 H 3rd Reading:Passed 41-16-3-0-0

**ROLL CALL**

**Ayes:** Representative(s) Barlow, Blake, Brown, Burkhart, Burlingame, Clausen, Clem, Clifford, Connolly, Crank, Dayton-Selman, Eklund, Eyre, Flitner, Freeman, Furphy, Haley, Hallinan, Harshman, Henderson, Kinner, Kirkbride, Larsen Lloyd, Loucks, Macguire, Newsome, Northrup, Obermueller, Paxton, Pelkey, Pownall, Roscoe, Schwartz, Simpson, Stith, Sweeney, Walters, Wilson, Winter, Yin, Zwonitzer

**Nays:** Representative(s) Duncan, Edwards, Gray, Hunt, Jennings, Laursen Dan, Lindholm, Miller, Olsen, Piiparinen, Salazar, Sommers, Styvar, Tass, Washut, Western

**Excused:** Representative(s) Blackburn, Greear, Nicholas

**Ayes** 41    **Nays** 16    **Excused** 3    **Absent** 0    **Conflicts** 0

2/25/2020 S Received for Introduction  
2/26/2020 S Introduced and Referred to S03 - Revenue  
2/28/2020 S03 - Revenue:Recommend Amend and Do Pass 4-1-0-0-0

**ROLL CALL**

**Ayes:** Senator(s) Baldwin, Case, Driskill, Ellis

**Nays:** Senator Biteman

**Ayes** 4    **Nays** 1    **Excused** 0    **Absent** 0    **Conflicts** 0

2/28/2020 S Placed on General File

**HB0073SS001/ADOPTED** (TO ENGROSSED COPY)

Page 1-line 6 Before "nicotine" insert "the taxation of".  
Page 1-line 11 After "39-15-107(a)(i)," insert "39-16-107(a)(i),".  
Page 1-line 13 Delete "(xi)" and insert "(xiii)".  
Page 4-after line 11 Insert:

**"39-16-107. Compliance; collection procedures.**

(a) Returns, reports and preservation of records. The following shall apply:

(i) Every vendor shall collect the tax imposed by this article and is liable for the entire amount of taxes imposed. The taxes are due and payable on the last day of the month following the month in which they were collected or as required by the department and each vendor shall on or before the last day of each month file a return showing the total sales of tangible personal property subject to the tax imposed by this article sold during the preceding month and remit all taxes due to the department. The returns shall contain such information required by the department. Any vendor shall report whether the vendor sells ~~cigarettes, cigars, snuff or other tobacco~~ nicotine products, as defined by W.S. 39-18-101(a)(xiii), in this state to the department in the form and manner required by the department. The department may reject any report required under this paragraph of any vendor who does not comply with the ~~tobacco~~ nicotine sales reporting requirements. If the total tax to be remitted by a vendor is less than one hundred fifty dollars (\$150.00) a quarterly or annual return as authorized by the department, and remittance in lieu of the monthly return may be made on or before the last day of the month following the end of the quarter or year for which the tax is collected. Returns shall be signed by the vendor or his agent;".

Page 6-after line 9 Insert:

"(xi) "Closed-system vapor material" means any vapor material within a single-use, pre-filled, disposable cartridge intended to be used with an electronic cigarette. "Closed-system vapor material" includes any vapor material within a single-use, prefilled, disposable electronic cigarette;

(xii) "Open-system vapor material" means any vapor material, other than closed-system vapor material, that is in the final packaging intended for retail sale and consumer use;".

Page 6-line 11 Delete "(xi)" and insert "(xiii)".  
Page-7-line 6 Delete "electronic cigarettes and".  
Page 7-line 12 Delete "electronic cigarettes and".  
Page 7-line 18 After stricken "cigarettes" insert "and regulating the sale of".  
Page 8-line 7 Delete "electronic cigarettes and".  
Page 8-line 13 Delete "electronic cigarettes and".  
Page 8-line 21 Delete "," and insert ": (i)"; delete "electronic".

Page 8-line 22 Delete "cigarettes and" and insert "open-system".

Page 9-line 2 Delete "electronic cigarettes and" and insert "open-system".

Page 9-line 3 Delete "are" and insert "is".

Page 9-after line 3 Insert:

"(ii) There is levied and assessed upon closed-system vapor material purchased or imported into this state by wholesalers for resale, an excise tax at the rate of five cents (\$.05) per milliliter of closed-system vapor material and a proportionate tax at the like rate on all fractional parts thereof. The tax on closed-system vapor material shall be imposed based on the vapor material volume as listed by the manufacturer.".

Page 9-line 7 Delete "electronic cigarettes and".

Page 9-line 9 Delete "electronic".

Page 9-line 10 Delete "cigarettes and" and insert "open-system"; after "material" insert "or at the rate of five cents (\$.05) per milliliter and a proportionate tax at the like rate on all fractional parts thereof for closed-system vapor material, whichever is applicable".

Page 9-line 12 After "paid." insert "The tax on closed-system vapor material shall be imposed based on the vapor material volume as listed by the manufacturer.". CASE, CHAIRMAN

**HB0073SW001/ADOPTED (TO ENGROSSED COPY)**

Page 6-lines 11 through 13 Delete entirely including the Senate standing committee amendment (HB0073SS001/AE) to these lines and insert:

"(xiii) "Nicotine product" means tobacco products as defined by W.S. 14-3-301(a)(i), electronic cigarettes and vapor material.". ELLIS

**HB0073SW002/ADOPTED (TO ENGROSSED COPY)**

Page 9-after line 3 In the Senate standing committee amendment (HB0073SS001/AE) to this line, in paragraph (ii) created by that amendment, delete "five cents (\$.05)" and insert "seven and one-half cents (\$.075)".

Page 9-line 10 In the Senate standing committee amendment (HB0073SS001/AE) to this line, delete "five cents (\$.05)" and insert "seven and one-half cents (\$.075)". CASE

3/2/2020 S COW:Passed

**HB0073S2001/ADOPTED (TO ENGROSSED COPY)**

Page 2-lines 9 through 15 Delete entirely and insert:

"(v) "Electronic cigarette" means ~~a product that employs any mechanical heating element, battery or electronic circuit, regardless of shape or size, that can~~

~~be used to deliver doses of nicotine vapor by means of heating a liquid nicotine solution contained in a cartridge or other delivery system. any device that can be used to deliver aerosolized or vaporized nicotine or synthetic nicotine to the person using the device and includes any component, part and accessory of the device and any vapor material intended to be aerosolized or vaporized during the use of the device. "Electronic cigarette" includes, without limitation, any electronic cigar, electronic cigarillo, electronic pipe, electronic hooka, vapor pen and any similar product or device. "Electronic cigarette" does not include a battery or battery charger if sold separately from the electronic cigarette and does not include any product regulated as a drug or device by the United States food and drug administration under subchapter V of the Food, Drug and Cosmetic Act.~~. ELLIS

**HB0073S2002/FAILED (TO ENGROSSED COPY)**

Delete the Senate standing committee amendment (HB0073SS001/AE) entirely;  
Delete the Ellis committee of the whole amendment (HB0073SW001/AE) entirely;  
Delete the Case committee of the whole amendment (HB0073SW0002/AE) entirely;  
Further amend the engrossed copy as follows:

Page 1-line 6 Before "nicotine" insert "the taxation of".

Page 1-line 11 After "39-15-107(a)(i)," insert "39-16-107(a)(i),".

Page 4-after line 11 Insert:

**"39-16-107. Compliance; collection procedures.**

(a) Returns, reports and preservation of records. The following shall apply:

(i) Every vendor shall collect the tax imposed by this article and is liable for the entire amount of taxes imposed. The taxes are due and payable on the last day of the month following the month in which they were collected or as required by the department and each vendor shall on or before the last day of each month file a return showing the total sales of tangible personal property subject to the tax imposed by this article sold during the preceding month and remit all taxes due to the department. The returns shall contain such information required by the department. Any vendor shall report whether the vendor sells ~~cigarettes, cigars, snuff or other tobacco~~ nicotine products, as defined by W.S. 39-18-101(a)(xi), in this state to the department in the form and manner required by the department. The department may reject any report required under this paragraph of any vendor who does not comply with the ~~tobacco~~ nicotine sales reporting requirements. If the total tax to be remitted by a vendor is less than one hundred fifty dollars (\$150.00) a quarterly or annual return as authorized by the department, and remittance in lieu of the monthly return may be made on or before the last day of the month following the end of the quarter or year for which the tax is collected. Returns shall be signed by the vendor or his agent;".

NETHERCOTT, ANSELMI-DALTON

3/3/2020 S 2nd Reading:Passed

**HB0073S3001/ADOPTED (TO ENGROSSED COPY)**

Delete the Senate standing committee amendment (HB0073SS001/AE) entirely.

Delete the Case committee of the whole amendment (HB0073SW002/AE) entirely and further amend as follows:

Page 1-line 6 Before "nicotine" insert "the taxation of".

Page 1-line 11 After "39-15-107(a)(i)," insert "39-16-107(a)(i),".

Page 4-after line 11 Insert:

**"39-16-107. Compliance; collection procedures.**

(a) Returns, reports and preservation of records. The following shall apply:

(i) Every vendor shall collect the tax imposed by this article and is liable for the entire amount of taxes imposed. The taxes are due and payable on the last day of the month following the month in which they were collected or as required by the department and each vendor shall on or before the last day of each month file a return showing the total sales of tangible personal property subject to the tax imposed by this article sold during the preceding month and remit all taxes due to the department. The returns shall contain such information required by the department. Any vendor shall report whether the vendor sells ~~cigarettes, cigars, snuff or other tobacco~~ nicotine products, as defined by W.S. 39-18-101(a)(xiii), in this state to the department in the form and manner required by the department. The department may reject any report required under this paragraph of any vendor who does not comply with the ~~tobacco~~ nicotine sales reporting requirements. If the total tax to be remitted by a vendor is less than one hundred fifty dollars (\$150.00) a quarterly or annual return as authorized by the department, and remittance in lieu of the monthly return may be made on or before the last day of the month following the end of the quarter or year for which the tax is collected. Returns shall be signed by the vendor or his agent;". BITEMAN

3/4/2020 S 3rd Reading:Passed 18-11-1-0-0

**ROLL CALL**

**Ayes:** Senator(s) Anderson, Anselmi-Dalton, Baldwin, Bebout, Boner, Case, Coe, Gierau, Kost, Landen, Moniz, Pappas, Perkins, Rothfuss, Schuler, Scott, Von Flatern, Wasserburger

**Nays:** Senator(s) Agar, Biteman, Bouchard, Dockstader, Driskill, Ellis, Hicks, James, Kinskey, Nethercott, Steinmetz

**Excused:** Senator Hutchings

**Ayes 18 Nays 11 Excused 1 Absent 0 Conflicts 0**

3/4/2020 H Received for Concurrence

3/5/2020 H Concur:Passed 46-14-0-0-0

**ROLL CALL**

**Ayes:** Representative(s) Barlow, Blackburn, Blake, Brown, Burkhart, Burlingame, Clausen, Clem, Clifford, Connolly, Crank, Dayton-Selman, Eklund, Eyre, Flitner, Freeman, Furphy, Greear, Haley, Hallinan, Harshman, Hunt, Kinner, Kirkbride, Larsen Lloyd, Laursen Dan, Loucks, Macguire, Newsome, Nicholas, Northrup, Obermueller, Paxton, Pelkey, Pownall, Roscoe, Schwartz, Simpson, Sommers, Stith, Sweeney, Walters, Western, Wilson, Yin, Zwonitzer

**Nays:** Representative(s) Duncan, Edwards, Gray, Henderson, Jennings, Lindholm, Miller, Olsen, Piiparinen, Salazar, Styvar, Tass, Washut, Winter

**Ayes 46 Nays 14 Excused 0 Absent 0 Conflicts 0**

3/5/2020 Assigned Number HEA No. 0032

3/6/2020 H Speaker Signed HEA No. 0032  
3/6/2020 S President Signed HEA No. 0032  
3/10/2020 Governor Signed HEA No. 0032  
3/10/2020 Assigned Chapter Number 53

Chapter No. 53 Session Laws of Wyoming 2020