

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4482

**FISCAL
NOTE**

By Delegates McCormick, Kyle, Riley, Akers, and

Maynor

[Introduced January 16, 2026; referred to the

Committee on Finance]

1 A BILL to amend and reenact §11-17-4b of the Code of West Virginia, 1931, as amended, relating
2 to updating the state tax rates relating to e-cigarettes, e-cigarette liquids, vapor products,
3 vaping systems, and components or accessories for such devices and increasing
4 penalties for violations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. TOBACCO PRODUCTS EXCISE TAX ACT.

§11-17-4b. Levy of tax on e-cigarette liquid e-cigarettes, vapor products, vaping systems, and associated liquids; definitions; rate; invoice; report; payment; authority of the Tax Commissioner to inspect and examine witnesses; presumption; bond.

1 (a) *Definitions.* — When used in this section, words, terms and phrases defined in this
2 subsection, and any variations thereof required by the context, have the meaning ascribed to them
3 in this subsection, except where the context indicates a different meaning is intended.

4 (1) "E-cigarette" means an electrical or electronic device that provides a smoke, vapor, fog,
5 mist, gas or aerosol suspension of nicotine or another substance that, when used or inhaled,
6 simulates the activity of smoking. The term e-cigarette includes, but is not limited to, a device any
7 noncombustible product that is composed of a heating element, battery, power source, or
8 electrical or electronic circuit, or a combination of heating element, battery and electrical or
9 electronic circuit, other electronic, chemical, or mechanical means, regardless of shape or size
10 and including the component parts and accessories thereto, which works in combination with e-
11 liquid to produce an inhalable product that uses a refillable or non-refillable liquid solution to deliver
12 vaporized or aerosolized nicotine, non-nicotine substances, or other materials which users may be
13 inhaling from the product, regardless of whether marketed as such. The term e-cigarette includes,
14 but is not limited to, any so designed, or similarly designed, product that is manufactured,
15 distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or under any other name or
16 descriptor. The term "simulates the activity of smoking", in the context of this definition, means
17 replicating, mimicking or reproducing an experience similar to inhaling, or otherwise drawing into

18 the mouth or nose, or exhaling the smoke or combustion product of burning tobacco or any other
19 product or material that can be used in a similar fashion.

20 (2) "E-cigarette liquid" means any of the liquids or liquid mixtures used in e-cigarettes open
21 vaping systems or closed vaping systems, and is also known as by such terms, including but not
22 limited to, e-juice, e-fluid, e-liquid or e-liquid product. E-cigarette liquid includes e-cigarette liquid
23 mixing kits and e-cigarette liquid mixing kit components. When used in, or with, an e-cigarette, e-
24 cigarette liquid is vaporized or otherwise converted into an inhalable product. E-cigarette liquid
25 may or may not include, without limitation, propylene glycol, vegetable glycerin, nicotine from any
26 source or flavorings.

27 (3) "Closed vapor cartridge" means a pre-filled disposable cartridge that is intended to be
28 used with or in a noncombustible product that employs a heating element, battery, power
29 source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape
30 or size, to deliver vaporized or aerosolized nicotine, non-nicotine substances, or other materials to
31 users that may be inhaling from the product such as any e-
32 cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar product or device
33 and every variation thereof, regardless of whether marketed as such; and contains nicotine or non-
34 nicotine substances or other material consumed during the process of vaporization or
35 aerosolization: Provided, That "closed vaping system" does not include any product regulated as
36 a drug or device by the United States Food and Drug Administration under Chapter V of the Food,
37 Drug, and Cosmetic Act.

38 (4) "Open vaping system" means any noncombustible product that employs a heating
39 element, battery, power source, electronic circuit, or other electronic, chemical, or mechanical
40 means, regardless of shape or size and including the component parts and accessories thereto,
41 that uses a refillable liquid solution to deliver vaporized or aerosolized nicotine, non-nicotine
42 substances, or other materials to users that may be inhaling from the product such as any e-
43 cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and

44 every variation thereof, regardless of whether marketed as such; and any liquid solution that is
45 intended to be used with an e-cigarette: Provided, That "open vaping system" does not include
46 any product regulated as a drug or device by the United States Food and Drug Administration
47 under Chapter V of the Food, Drug, and Cosmetic Act.

48 (5) "Vapor products" means any closed vapor cartridge or an open vaping system which
49 functions in a manner consistent with an e-cigarette liquid and for the purposes of this section of
50 the tax code are legally considered to be e-cigarettes for taxation, regulation and enforcement
51 purposes.

52 (b) *Levy of tax; rate.* —

53 (1) On and after July 1, 2016 2026:

54 (A) An excise tax rate of 50 percent of the taxable sale of the price for e-cigarettes and any
55 and all electronic open vaping system or closed vaping system devices; and

56 (B) An excise tax is levied and imposed on sales of e-cigarette, closed vapor cartridge
57 or open vaping system liquid at the rate of 7.5 cents per milliliter or fraction thereof following rates:

58 (i) Upon closed vapor cartridges, 50 percent of the taxable sale price per cartridge;

59 (ii) Upon e-cigarette, closed vapor cartridge, or open vaping system liquid sold separately,
60 50 percent of the taxable sale price for which the distributor sells such liquid.

61 (C) or if If not sold, then such e-cigarette, closed vapor cartridge, or open vaping system
62 liquid shall be imposed with an excise tax at the these same rate rates upon the use by the
63 wholesaler or dealer.

64 (D) For purposes of this article, any distributor, dealer, subjobber, subjobber dealer, retailer
65 or any other person that imports or transports e-cigarette liquids into this state, or that causes e-
66 cigarette liquids to be imported or transported into this state, is hereby deemed to be a wholesaler
67 for purposes of this section and is liable for the tax imposed under this article. No wholesaler or
68 other person may purchase e-cigarette liquids from any seller not approved by the Tax
69 Commissioner. E-cigarette liquid mixing kits and e-cigarette liquid mixing kit components shall be

70 taxed at a rate of 50 percent of the taxable sale price for which the distributor sells such liquid, in
71 accordance with the amount of e-cigarette liquid, in milliliters, that can be produced by or from the
72 kit or components thereof, as determined by the Tax Commissioner.

73 (2) Only one sale of e-cigarette liquid shall be used in computing the amount of tax due
74 under this section.

75 (c) *How tax paid; invoice required; reports required; due date; records to be kept.* —

76 (1) The tax imposed in this section on e-cigarettes and e-cigarette liquid shall be paid using
77 an invoice method prescribed by the Tax Commissioner.

78 (2) The tax will be paid on any and all e-cigarettes and e-cigarette liquid coming into the
79 state for the purpose of sale or use in this state on and after July 1, 2016 2026.

80 (3) *Contents of delivery ticket or invoice.* — Unless otherwise permitted in writing by the
81 Tax Commissioner, each delivery ticket or invoice for each purchase or sale of e-cigarettes and e-
82 cigarette liquid must be recorded upon a serially numbered invoice showing:

83 (A) The name and address of the seller and the purchaser;

84 (B) The point of delivery;

85 (C) The date;

86 (D) (i) The number of e-cigarettes, e-cigarette cartridges, apparatus, containers or other
87 devices; (ii) the quantity in milliliters of each cartridge, apparatus, container or other device; (iii) the
88 wholesale price of each e-cigarette cartridge, apparatus, container or other device delivered in this
89 state; or (iv) if sold outside of a cartridge or other device or container, the total quantity in milliliters
90 of e-cigarette liquid not in cartridges, apparatus or other device or container delivered in this state
91 and the wholesale price of the e-cigarette liquid;

92 (E) The invoice must either set out the amount of tax imposed by this article separately on
93 the invoice or the invoice may instead indicate that the tax imposed under this article is included in
94 the total price; and

95 (F) Any other information required by the Tax Commissioner.

106 (5) *Reports required.* — The reports prescribed in this article are required, although a tax
107 may not be due or no business transacted, for the period covered by the report. In the case of any
108 failure to file a report on the date prescribed for filing when no tax is due, unless it is shown that the
109 failure was due to reasonable cause, there is hereby imposed a penalty of \$25 \$500 for each
110 month or fraction of a month that such report is delinquent, until the report is filed, in addition to any
111 penalties imposed under section nineteen-a of this article.

117 (d) *Inspection of records and stocks; examination of witnesses; registration of e-cigarette*
118 *sellers; presumption of nontax paid.* —

119 (1) The Tax Commissioner has the authority to inspect or examine the records, books and
120 papers, and any equipment or e-cigarette apparatus, and any stock of e-cigarette liquid kept in or
121 upon the premises of persons who sell, possess or store e-cigarette liquid, for the purpose of

122 determining the quantity and value of e-cigarette liquid acquired, on hand or disbursed, to verify
123 the truth and accuracy of any statement, return, form or report and to ascertain whether the tax
124 imposed by this article has been properly paid.

125 (2) In addition to the Tax Commissioner's powers set forth in article ten of this chapter, the
126 Tax Commissioner or the Tax Commissioner's agent may examine witnesses under oath in order
127 to ascertain the amount of taxes and reports due under this article. If a witness or person fails or
128 refuses to testify or grant access to records, books, papers, equipment or e-cigarette apparatus, or
129 any stock of e-cigarette liquid, necessary or useful to ascertain the amount of taxes and reports
130 due under this article, the Tax Commissioner shall certify the facts and names to the circuit court of
131 the county having jurisdiction of the party and the court shall issue a summons to the party to
132 appear before the Tax Commissioner at a place designated within the jurisdiction of the court, on a
133 day fixed, to be continued as the occasion may require for good cause shown, to testify and give
134 evidence and to produce for inspection any books, records and papers that may be required and to
135 grant access to records, books, papers, equipment or e-cigarette apparatus, or any stock of e-
136 cigarette liquid, for the purpose of ascertaining the amount of tax and reports due, if any.

137 (3) Each wholesale dealer of e-cigarette liquid must register with the Tax Commissioner
138 and maintain a business registration certificate, showing the wholesale dealer of e-cigarette liquid
139 to be registered as a seller of tobacco products or seller of both cigarettes and tobacco products
140 prior to the sale or delivery of e-cigarette liquid to any retail dealer or subjobber in this state. A
141 wholesale dealer may sell tax-paid e-cigarette liquid only to another wholesaler or a retail dealer or
142 subjobber in this state. No person may purchase nontaxed e-cigarette liquid from any seller not
143 approved by the Tax Commissioner.

144 (4) Whenever e-cigarette liquid is found in the place of business of any retail dealer, without
145 evidence that the tax imposed by this section has been paid, it shall be presumed that the e-
146 cigarette liquid is kept on the premises in violation of this article.

147 (e) *Bond.* — The Tax Commissioner may require wholesalers, subjobbers or retail dealers

148 to file a continuous surety bond in an amount to be fixed by the Tax Commissioner but no less than
149 \$1,000. The bond shall be conditioned upon faithfully complying with the provisions of this article
150 including the filing of the returns and payment of all taxes prescribed by this article.

151 (f) *Administration and enforcement.* — The provisions of this article and articles nine and
152 ten of this chapter apply to administration and enforcement of the excise tax on e-cigarette liquid in
153 the same manner and to the same extent as they apply to administration and enforcement of the
154 excise tax on tobacco products, as imposed under this article.

155 (g) *Criminal sanctions.* — The criminal sanctions imposed in section nineteen-a of this
156 article are hereby imposed with equal force and application with relation to actions, transactions
157 and responsibilities prescribed under this section and under this article. For the purpose of
158 applying and interpreting the provisions of section nineteen-a of this article, the words "container
159 of tobacco products" shall be interpreted to mean and include the words "container of tobacco
160 products or e-cigarette liquid".

161 (h) The Tax Commissioner may establish an initial application and annual renewal fee not
162 to exceed \$500 to be retained by the Tax Commissioner to be applied to the administrative and
163 other costs of processing distributor's license applications, conducting background investigations,
164 and issuing distributor's licenses for the sale of any e-cigarette, e-cigarette liquid, or any
165 component or accessory for such devices and materials as described in §11-17-4b of this code.

NOTE: The purpose of this bill is to update the state tax rates on e-cigarettes, e-cigarette liquids, and components or accessories for such devices and increasing penalties.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.