

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 673

**FISCAL
NOTE**

By Senators Morris and Grady

[Introduced January 30, 2026; referred

to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §11-17A-1, §11-17A-2, §11-17A-3, §11-17A-4, and §11-17A-5; and to repeal
3 §11-17-4b, relating to electronic cigarette products; imposing an excise tax based on
4 nicotine content equivalent to the cigarette excise tax; providing a hybrid fallback where
5 labeling is absent or unreliable; dedicating revenues to the Public Employees Insurance
6 Agency; clarifying compliance with the employer-employee premium contribution
7 requirement; and requiring such revenues to be applied to reduce or stabilize employee
8 premium costs.

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; definitions; rate; invoice; report; payment; authority of the Tax Commissioner to inspect and examine witnesses; presumption; bond.

1 [Repealed.]

ARTICLE 17A. ELECTRONIC CIGARETTE EXCISE TAX ACT.

§11-17A-1. Legislative findings and intent.

1 The Legislature finds that the cigarette excise tax in this state is imposed at \$1.20 per pack
2 of twenty cigarettes. The Legislature further finds that electronic cigarette products deliver nicotine
3 in varying concentrations and volumes and that a nicotine content-based excise tax establishes
4 parity across nicotine delivery systems; and that revenues from such taxation should be dedicated
5 to stabilizing employee health insurance premiums.

§11-17A-2. Definitions.

1 "Electronic cigarette" means any device that delivers nicotine through vaporization.
2 "Open-system electronic cigarette" means a refillable device.
3 "Closed system electronic cigarette" means a sealed, prefilled, or disposable device.

"Nicotine concentration" means milligrams per milliliter.

"Total nicotine content" means total milligrams of nicotine in the product.

§11-17A-3. Nicotine-based excise tax.

(a) An excise tax of three cents per milligram of nicotine is imposed on all electronic cigarette products.

(1) This rate is intended to be equivalent to \$1.20 per pack of cigarettes.

(2) This tax shall be paid by the first distributor or wholesaler in the state.

(b) Fallback valuation applies if labeling is absent or unreliable:

(1) Closed systems are presumed to contain 40 milligrams of nicotine per unit;

(2) Open systems are presumed to contain six milligrams of nicotine per milliliter unless otherwise.

§11-17A-4. Revenue dedication and PEIA premium protection.

(a) All net revenues from this excise tax shall be deposited into a special revenue fund for
public Employees Insurance Agency.

(b) Revenues deposited into the fund shall be applied in a manner that reduces the employee share of premium costs or prevents increases in employee share of premium costs that otherwise be required, while maintaining the employer contribution percentage required §5-16-9 of this Code.

(c) These funds may not be used to supplant employer premium contributions.

(d) The Public Employees Insurance Agency shall annually report to the Joint Committee on Government and Finance the total revenues received, the manner in which said revenues were expended, and a comparison of employee premium rates with and without the application of the rates received under this section.

§11-17A-5. Effective date.

This Act shall take effect July 1, 2026.

NOTE: The purpose of this bill is to increase the tax on e-cigarette liquid and direct that these taxes be used to fund PEIA.

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