

SB 314-FN - AS INTRODUCED

2022 SESSION

22-2929

10/11

SENATE BILL        ***314-FN***

AN ACT            relative to modified risk tobacco products.

SPONSORS:        Sen. French, Dist 7; Sen. Avar, Dist 12; Sen. Daniels, Dist 11; Sen. Gannon, Dist  
23

COMMITTEE:      Ways and Means

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ANALYSIS

This bill reduces the tobacco tax applicable to modified risk tobacco products as they are defined and regulated by the United State Department of Health and Human Services.

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Explanation:      Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT                      relative to modified risk tobacco products.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 New Paragraph; Tobacco Tax; Definition; Modified Risk Tobacco Product. Amend RSA 78:1 by  
2 inserting after paragraph VI the following new paragraph:

3            VI-a. "Modified risk tobacco product" means a modified risk tobacco product as defined and  
4 regulated under 21 U.S.C. section 378k.

5            2 New Paragraph; Tobacco Tax; Modified Risk Tobacco Product; Reduction of Tax Imposed.  
6 Amend RSA 78:2 by inserting after paragraph III the following new paragraph:

7            IV.(a) For a modified risk tobacco product commercially marketed pursuant to an order of  
8 the Secretary of the United States Department of Health and Human Services under 21 U.S.C.  
9 section 387k(g)(1), any tax imposed under paragraphs I or II shall be reduced by 50 percent.

10            (b) For a modified risk tobacco product for which an order is issued by the Secretary of  
11 the United States Department of Health and Human Services under 21 U.S.C. section 387k(g)(2)  
12 that the tobacco product may be introduced or delivered for introduction into interstate commerce,  
13 any tax imposed under paragraphs I or II shall be reduced by 25 percent.

14            3 Effective Date. This act shall take effect July 1, 2022.

**SB 314-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to modified risk tobacco products.

**FISCAL IMPACT:**    ☒ State                    ☐ County                    ☐ Local                    ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
<b>Expenditures</b>	Indeterminable Increase	\$0	\$0	\$0
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill would reduce the rate of the Tobacco Tax for "modified risk tobacco products" as follows:

- For modified risk tobacco products commercially marketed pursuant to an order of the U.S. Department of Health and Human Services under 21 U.S.C. section 387k(g)(1), the Tobacco Tax rate as applied to cigarettes, other tobacco products, and electronic cigarettes is reduced by 50%.
- For modified risk tobacco products for which an order issued by the Secretary of the U.S. Department of Health and Human Services under 21 U.S.C. section 387k(g)(2) that the tobacco product may be introduced or delivered for introduction into interstate commerce, the Tobacco Tax rate as applied to cigarettes, other tobacco products, and electronic cigarettes is reduced by 25%.

The Department does not have the data relative to the current proportion of tobacco products currently subject to the Tobacco Tax that would qualify as "modified risk tobacco products". Therefore, the Department is unable to estimate the decrease in General Fund and Education Trust Fund revenue.

The Department currently utilizes 4 tobacco tax stamps. Each tobacco tax stamp has a designated value based on the number of cigarettes in a package (20 or 25) as well as whether the manufacturer is a participant or non-participant in the Master Settlement Agreement. This bill will necessitate the need to create 8 new stamps to affix to cigarette packages. Four of the new stamps will be for products entitled to a 50% reduction in the Tobacco Tax rate and four of

the new stamps will be for products entitled to a 25% reduction in the Tobacco Tax rate. The Department anticipates it will incur a one-time indeterminable increase in expenditures associated with the development of the 8 new stamps in FY 2022 based on an effective date of July 1, 2022.

The Department indicates it will need to update all necessary tax return forms and electronic management systems utilized to administer the Tobacco Tax to reflect the changes contained in this bill. The Department anticipates it will be able to make these changes and administer this tax without any additions to its operating budget.

The Department notes a July 1, 2022 effective date may not provide sufficient time for stakeholder outreach and education relative to the Tobacco Tax rate changes contained in this bill. The Department would not have sufficient time to update all necessary rules, tax return forms, and electronic management systems utilized to administer the Tobacco Tax.

**AGENCIES CONTACTED:**

Department of Revenue Administration