



CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

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GAVIN NEWSOM  
Governor

AMY TONG  
Secretary, Government Operations Agency

NICOLAS MADUROS  
Director

June 18, 2024

Honorable Jacqui Irwin, Chair  
Assembly Committee on Revenue and Taxation  
1020 N Street, Room 167A  
Sacramento, CA 95814

Honorable Mia Bonta, Chair  
Assembly Committee on Health  
1020 N Street, Room 390  
Sacramento, CA 95814

Honorable Richard D. Roth, Chair  
Senate Committee on Health  
1201 O Street, Suite 7510  
Sacramento, CA 95814

Honorable Steven Glazer, Chair  
Senate Committee on Revenue and Taxation  
State Capitol, Room 407  
Sacramento, CA 95814

Re: California Healthy Outcomes and Prevention Education Act Section 31008 Report –  
Revenue and Taxation Code (RTC) Section 31008

Dear Committee Chairs:

Pursuant to the requirements of the California Healthy Outcomes and Prevention Education (HOPE) Act RTC Section 31008, the California Department of Tax and Fee Administration (CDTFA) must report on the effect of collecting the California Electronic Cigarette Excise Tax (CECET) at retail in California and estimate retail electronic cigarette purchases to compare to the total purchase price reported for calendar years 2022 and 2023.

The attached report summarizes CDTFA's total CECET revenue collected, and the total consumer retail sales reported during calendar years 2022 and 2023. During this period, the actual cash receipts received resulted in \$71.4 million total tax revenue (\$19.6 million in 2022 and \$51.8 in 2023).<sup>1</sup>

The ban on retail sales of flavored tobacco products took effect in December 2022, after California voters approved Proposition 31 upholding the flavored tobacco products ban (SB 793, Ch. 34, Stats. 2020). Operation of the flavored tobacco products ban made it difficult to distinguish between CECET's and the flavored tobacco products ban's impact on California retail purchases of electronic cigarettes.

However, for purposes of analysis, a theoretical scenario analyzing the effect of CECET on retail purchases of electronic cigarettes absent a flavored tobacco products ban is summarized in the attached report.

<sup>1</sup> Electronic cigarette tax revenue data received as of February 2024.

I hope this report is helpful. If you have any questions regarding this report, please contact the Financial Management Bureau at (916) 309-8306.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicolas Maduros", written in a cursive style.

Nicolas Maduros,  
Director

NM:st

Attachment: California Electronic Cigarette Excise Tax Report

cc: Ms. Trista Gonzalez (MIC 104)  
Ms. Michele Linton (MIC 105)  
Ms. Susanne Buehler (MIC 43)  
Ms. Aimee Olhiser (MIC 92)  
Mr. Gentian Droboniku (MIC 67)  
Ms. Sandy Barrow (MIC 31)

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

California Electronic Cigarette Excise Tax Report

Pursuant to Revenue and Taxation Code section 31008

June 18, 2024

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BACKGROUND

Senate Bill (SB) 395 (Statutes of 2021, Chapter 489) enacted the California Healthy Outcomes and Prevention Education (HOPE) Act, which imposed the California Electronic Cigarette Excise Tax (CECET) at the rate of 12.5% of the retail sales price of electronic cigarettes containing or sold with nicotine starting July 1, 2022. Under the HOPE Act, retailers are required to collect the CECET at the time of sale from California purchasers. The HOPE Act allows retailers to retain 1% as reimbursements for all costs associated with collecting the tax.

On November 8, 2022, voters passed Proposition 31, upholding SB 793 (Statutes of 2020, Chapter 34) which bans the retail sales of flavored tobacco products. Effective December 21, 2022, cigarette and tobacco product retailers, including their employees or agents, may not sell, offer, or possess with the intent to sell or offer for sale, a flavored tobacco product or a tobacco product flavor enhancer. The law does not apply to loose-leaf tobacco, premium cigars with a wholesale price (retailer's purchase price) of \$12.00 or more, and/or flavored shisha tobacco products (only if certain conditions are met).

REPORTING REQUIREMENT

SB 395 under Revenue and Taxation Code Section 31008, requires the California Department of Tax and Fee Administration (CDTFA) to report on the effect of collecting CECET at retail in California and estimate retail electronic cigarette purchases to compare to the total purchase price reported for calendar years 2022 and 2023.

SUMMARY BY CATEGORY AND METHODOLOGY

For calendar years 2022 (Jul.-Dec.) and 2023, CECET cash receipts totaled \$71.4 million, reference Table 1 for more details.<sup>2</sup>

The total retail sales of electronic cigarettes to California consumers by quarter is summarized in Figure 1. Based on our assessment of the available data, the implementation of SB 793 (flavor ban) during the same calendar year as CECET, makes it difficult to analyze the actual impact on California retail sales and purchase price of electronic cigarettes.

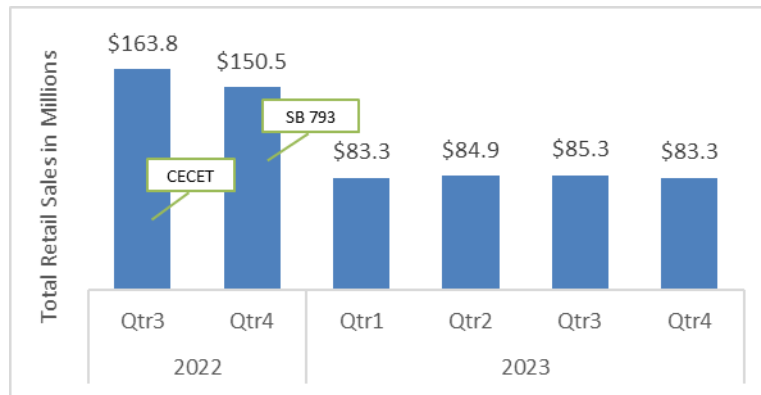
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<sup>2</sup> Electronic cigarette tax revenue data received as of February 2024.

Table 1: California Electronic Cigarette Excise Tax Total Revenue (Cash Receipts Received)

Calendar Year	Total Revenue, in Millions
2022 (Jul.-Dec.)	\$19.6
2023	\$51.8
<b>Total</b>	<b>\$71.4</b>

Figure 1: Quarterly (Qtr) Sales of Electronic Cigarettes to California Consumers Reported by Retailers<sup>3</sup>



**THEORETICAL SCENARIO**

In a perfectly competitive market, the law of demand suggests that higher prices decrease consumption. Similarly, tax increases are typically passed on to consumers via price increases, lowering consumption. The tax pass-through rate varies by how sensitive consumers are to price changes (price elasticity of demand). The literature suggests the price elasticity of demand for electronic cigarettes is between 1.5 and 2.2,<sup>4</sup> indicating that consumers are sensitive to price changes, unlike cigarettes, which are not very price sensitive (-0.5). Assuming the entire tax is passed on to consumers, a 12.5% tax increase may decrease electronic cigarette sales by 19% to 28%, all else constant, see Table 2 for more details.

Table 2: Electronic Cigarette Price Elasticity of Demand and Consumption Impacts Comparison

Price Elasticity of Demand	Percent Change in Consumption
-1.5	-18.8%
-2.1	-26.3%
-2.2	-27.5%

**QUALIFYING REMARKS**

According to the Center of Disease Control and Prevention (CDC), electronic cigarettes are the most used tobacco product among Middle and High School students (youth). In 2023, 10% of youth reported using tobacco products, which declined by 4.1 percentage points relative to the prior year (14.1% in 2022). Additionally, approximately 89% of youth who reported using electronic cigarettes used flavored products, and 25% reported daily use.<sup>5</sup> Moreover, the flavor tobacco products ban made it difficult to analyze CECET’s actual impact on California retail sales and purchase price.

Prepared May 31, 2024.

<sup>3</sup> Tax return data by filing period; total may differ from cash receipts received due to late reporting periods, adjustments, and corrections.

<sup>4</sup> The Effects of E-Cigarette Taxes on E-Cigarette Prices and Tobacco Product Sales. Revised July 2022. [w26724.pdf \(nber.org\)](https://www.nber.org/papers/w26724)

<sup>5</sup> The Product Use Among U.S. Middle and High School Students – National Youth Tobacco Survey, 2023, [MMWR \(cdc.gov\)](https://www.cdc.gov/mmwr)