

Budget Change Proposal - Cover Sheet

Fiscal Year: 2020-21
Business Unit: 2720
Department: California Highway Patrol
Priority Number: 3
Budget Request Name: 2720-055-BCP-2020-GB
Program: 2050 – Traffic Management
Subprogram: 2050010 – Ground Operations

Budget Request Description: E-Cigarette Tax Enforcement

Budget Request Summary: The California Highway Patrol requests 10 positions and a \$7 million permanent augmentation from the Electronic Cigarette Products Tax Fund in Fiscal Year 2020/21 for the purposes of creating a task force charged with combatting illicit vaping device and product import, export, manufacture, transportation, distribution, and sales.

Requires Legislation: Yes No

Code Section(s) to be Added/Amended/Repealed: Section 22950.5 Business and Professions Code

Does this BCP contain information technology (IT) components? Yes No

If yes, departmental Chief Information Officer must sign.

Department CIO Name:

Department CIO Signature:

Signed On Date:

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project Number:

Project Approval Document:

Approval Date:

If proposal affects another department, does other department concur with proposal?

Yes No

Letter of concurrence from the California Department of Justice available upon request.

Prepared By: Philip Chen

Date: 1/2/2020

Reviewed By: Greg Brown

Date: 1/2/2020

Department Director: Warren A. Stanley

Date: 1/2/2020

Agency Secretary: David S. Kim

Date: 1/6/2020

Department of Finance Use Only

Additional Reviews: Capital Outlay: ITCU: FSCU: OSAE:
Department of Technology:

PPBA: Damien Mimnaugh

Date submitted to the Legislature: January 10, 2020

A. Budget Request Summary

The California Highway Patrol (CHP) requests 10 positions and a \$7 million permanent augmentation from the Electronic Cigarette Products Tax Fund in Fiscal Year (FY) 2020/21 for the purposes of creating a task force charged with combatting illicit vaping device and product import, export, manufacture, transportation, distribution, and sales.

B. Background/History

Over the past several years, the popularity of vaping has greatly increased. Vaping is generally understood to be the act of inhaling an aerosol created by a vaporizer or electronic cigarette. The vapor may contain nicotine, delta-9-tetrahydrocannabinol, cannabidiol, and/or other substances. Unfortunately, this new popularity has led to the advent of an illicit vaping market, which many believe may be the cause of the numerous injuries and deaths associated with vaping nationwide. There are some indications these injuries may be associated with specific additives found in some vaping liquids (several reports cite vitamin E acetate), and/or vaping devices constructed with substandard and/or harmful materials. As of December 4, 2019, the Center for Disease Control places the number of electronic cigarette or vaping product use associated lung injuries at 2,291, and the number of deaths at 48.

Currently, a variety of state agencies are responsible for regulating vaping devices and products, including the California Department of Public Health (tobacco/nicotine and manufactured cannabis products), the Bureau of Cannabis Control (cannabis product sales and distribution), and the California Department of Food and Agriculture (cannabis and industrial hemp-based cultivation). In order to address the rapidly increasing youth use of potent nicotine-based vaping products, the Budget proposes a new nicotine content-based E-cigarette tax. The new tax will begin on January 1, 2021, and will be \$2 for each 40 milligrams of nicotine in the product. The tax fee will be used for administration, enforcement, youth prevention, and health care workforce programs. A large part of the enforcement currently conducted consists of assessing fines based on the violation of administrative regulations.

Although the source of illicit vaping devices and products is not well understood, there are some indications illicit vaping devices and products are manufactured domestically and internationally. These devices are likely then imported, exported, transported, distributed, and sold (at illicit cannabis retailers and through other unregulated sellers) where they are consumed by the public. To mitigate the risks posed to public health and safety, the CHP will head a task force, in cooperation with the California Department of Justice (DOJ), for the purposes of investigating and disrupting the flow of illicit vaping devices and products to the public.

In addition to a request for funding, the CHP is also requesting a legislative amendment

to Section 22950.5 Business and Professions Code, as indicated below.

22950.5. For purposes of this division, the following terms have the following meanings:

(a) “Department” means the State Department of Public Health.

(b) “Enforcing agency” means the State Department of Public Health, [the Department of the California Highway Patrol,] another state agency, including, but not limited to, the office of the Attorney General, or a local law enforcement agency, including, but not limited to, a city attorney, district attorney, or county counsel.

(c) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoking” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

(d) (1) “Tobacco product” means any of the following:

(A) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.

(B) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(C) Any component, part, or accessory of a tobacco product, whether or not sold separately.

(2) “Tobacco product” does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

Note: Use of brackets ‘[]’ indicates an addition.

C. State Level Considerations

This proposal is in response to concerns raised by the Governor, Legislature, Health Agencies, and the public of California related to the injuries and deaths sustained by persons using illicit vaping products and devices. Illicit vaping poses a public health and safety risk due to the possibility of exposing users to toxic chemicals and has undoubtedly led to economic loss among legal businesses where consumers were driven to the illicit market. This proposal is consistent with the CHP’s mission to provide the highest level of Safety, Service, and Security to the people of California, and in line with the CHP’s goal to protect life and property. Ultimately, the creation of this task force will reduce the risk to public health and safety while encouraging consumers to choose regulated vaping devices and products.

D. Justification

This proposal requests funding for personnel, equipment, an interagency agreement with DOJ, and other costs necessary to successfully implement the task force, as described above. For these purposes, the CHP requests the following:

- One sergeant position to supervise task force investigative teams statewide.
- Nine officer positions to perform specialized criminal investigations and enforcement targeting illicit vaping device and product import, export, manufacturing, transportation, distribution, and sales. These investigators will work cooperatively with DOJ as a team to investigate and disrupt the delivery of illicit vaping devices and products to the public.
- Funding for an interagency agreement between the CHP and DOJ for the purposes of providing consulting services, including investigative support and other services, as appropriate/necessary. To ensure adequate statewide coverage and appropriate investigative capabilities, a minimum of eight DOJ investigators will be funded.
- Funding for equipment and general expenses in support of the task force.

E. Outcomes and Accountability

The CHP Task Force will work with DOJ (through an interagency agreement) to conduct criminal investigations related to illicit vaping operations for the purposes of preventing illicit vaping devices and products from being sold to the public. The CHP will collect data, using similar methods to those used in vehicle theft task force operations, for the purposes of conducting analysis.

F. Analysis of All Feasible Alternatives

1. Approve 10 positions and \$7 million permanent funding from the Electronic Cigarette Products Tax Fund in FY 2020/21 for the purposes of creating a task force charged with combatting illicit vaping device and product import, export, manufacture, transportation, distribution, and sales.

Pro: This option would allow the CHP, in cooperation with DOJ, to conduct criminal operations and disrupt the flow of illicit vaping devices and products to the general public. This option would provide the CHP with the resources necessary to conduct comprehensive investigations on a statewide scale.

Con: This option would obligate funds from the Electronic Cigarette Products Tax Fund.

2. Approve \$3.5 million in permanent funding in FY 2020/21 to fund 10 positions, associated equipment, and general expenses.

Pro: This option would provide limited resources for the purposes of conducting criminal investigations into illicit vaping device and product operations.

Con: This option would reduce the number of personnel available to the task force and reduce the effectiveness of the task force by removing support provided by DOJ.

3. Deny this request.

Pro: This option would not obligate funds from the Electronic Cigarette Products Tax Fund.

Con: This option would severely limit the ability of the CHP to conduct illicit vaping device and product investigations, thereby limiting the potential public health benefits associated with the establishment of a dedicated task force to combat this issue effectively.

G. Implementation Plan

This augmentation would become effective July 1, 2020, or upon enactment of the Budget Act of 2020, initial steps for establishing the task force will begin.

Within 120 days, the CHP will begin identifying and evaluating applicable existing statutory and administrative authorities. At the end of the 120 days, the Department will make legislative recommendations necessary to improve the effectiveness of enforcement operations.

Within 180 days, the CHP will begin hiring task force personnel and drafting the interagency agreement with DOJ. Additionally, the CHP will begin conducting necessary training and purchasing equipment.

Within 240 days, the task force will become operational and begin conducting investigations and enforcement operations.

Within one year, the task force will be fully operational statewide.

H. Supplemental Information

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Classification	# of Positions	Total Salary	Total Overtime	Total Benefits	Total
Sergeant	1	\$155,000	\$20,000	\$126,000	\$301,000
Officer	9	\$1,147,000	\$146,000	\$929,000	\$2,222,000
Salaries and Benefits Total:	10	\$1,302,000	\$166,000	\$1,055,000	\$2,523,000

Salaries and Benefits

Operating Expenses and Equipment

Category	Total
General Expense	\$577,000
Facilities (work space and evidence storage)	\$400,000
Consulting - DOJ	\$3,500,000
Operating Expenses and Equipment Total:	\$4,477,000
Grand Total	\$7,000,000

I. Recommendation

The CHP recommends Alternative 1, approve 10 positions and \$7 million permanent funding from the Electronic Cigarette Products Tax Fund in FY 2020/21.

BCP Fiscal Detail Sheet

BCP Title: E-Cigarette Tax Enforcement

BR Name: 2720-055-BCP-2020-GB

Budget Request Summary

Personal Services

Personal Services	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
Positions - Permanent	0.0	10.0	10.0	10.0	10.0	10.0
Total Positions	0.0	10.0	10.0	10.0	10.0	10.0
Salaries and Wages Earnings - Permanent	0	1,302	1,302	1,302	1,302	1,302
Salaries and Wages Overtime/Other	0	166	166	166	166	166
Total Salaries and Wages	\$0	\$1,468	\$1,468	\$1,468	\$1,468	\$1,468
Total Staff Benefits	0	1,055	1,055	1,055	1,055	1,055
Total Personal Services	\$0	\$2,523	\$2,523	\$2,523	\$2,523	\$2,523

Operating Expenses and Equipment

Operating Expenses and Equipment	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
5301 - General Expense	0	577	577	577	577	577
5324 - Facilities Operation	0	400	400	400	400	400
5340 - Consulting and Professional Services - Interdepartmental	0	3,500	3,500	3,500	3,500	3,500
Total Operating Expenses and Equipment	\$0	\$4,477	\$4,477	\$4,477	\$4,477	\$4,477

Total Budget Request

Total Budget Request	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
Total Budget Request	\$0	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000

Fund Summary

Fund Source

Fund Source	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
3366 - Electronic Cigarette Products Tax Fund	0	7,000	7,000	7,000	7,000	7,000
Total State Operations Expenditures	\$0	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
Total All Funds	\$0	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000

Program Summary

Program Funding

Program Funding	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
2050010 - Ground Operations	0	7,000	7,000	7,000	7,000	7,000
Total All Programs	\$0	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000

Personal Services Details

Positions

Positions	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
8394 - Sergeant (Eff. 07-01-2020)	0.0	1.0	1.0	1.0	1.0	1.0
8397 - Officer (Eff. 07-01-2020)	0.0	9.0	9.0	9.0	9.0	9.0
OT00 - Overtime	0.0	0.0	0.0	0.0	0.0	0.0
Total Positions	0.0	10.0	10.0	10.0	10.0	10.0

Salaries and Wages

Salaries and Wages	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
8394 - Sergeant (Eff. 07-01-2020)	0	155	155	155	155	155
8397 - Officer (Eff. 07-01-2020)	0	1,147	1,147	1,147	1,147	1,147
OT00 - Overtime	0	166	166	166	166	166
Total Salaries and Wages	\$0	\$1,468	\$1,468	\$1,468	\$1,468	\$1,468

Staff Benefits

Staff Benefits	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
5150900 - Staff Benefits - Other	0	1,055	1,055	1,055	1,055	1,055
Total Staff Benefits	\$0	\$1,055	\$1,055	\$1,055	\$1,055	\$1,055

Total Personal Services

Total Personal Services	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
Total Personal Services	\$0	\$2,523	\$2,523	\$2,523	\$2,523	\$2,523

Parameters	Selected Values
Year	FY20
Department	2720
House	GB Dept Working
BR Name	2720-055-BCP-2020-GB
Run Time	12/31/2019 03:41:38 PM
Last Data Refresh	12/31/2019, 02:22 PM

BCP Fiscal Detail Sheet

BCP Title: E-Cigarette Tax Enforcement

BR Name: 0820-080-BCP-2020-GB

Budget Request Summary

Personal Services

Personal Services	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
Positions - Permanent	0.0	9.0	9.0	9.0	9.0	9.0
Total Positions	0.0	9.0	9.0	9.0	9.0	9.0
Salaries and Wages Earnings - Permanent	0	1,750	1,750	1,750	1,750	1,750
Total Salaries and Wages	\$0	\$1,750	\$1,750	\$1,750	\$1,750	\$1,750
Total Staff Benefits	0	1,000	1,000	1,000	1,000	1,000
Total Personal Services	\$0	\$2,750	\$2,750	\$2,750	\$2,750	\$2,750

Operating Expenses and Equipment

Operating Expenses and Equipment	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
5301 - General Expense	0	750	750	750	750	750
Total Operating Expenses and Equipment	\$0	\$750	\$750	\$750	\$750	\$750

Total Budget Request

Total Budget Request	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
Total Budget Request	\$0	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500

Fund Summary

Fund Source

Fund Source	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
0995 - Reimbursements	0	3,500	3,500	3,500	3,500	3,500
Total State Operations Expenditures	\$0	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500
Total All Funds	\$0	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500

Program Summary

Program Funding

Program Funding	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
0440010 - Investigation	0	3,500	3,500	3,500	3,500	3,500
Total All Programs	\$0	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500

Personal Services Details

Positions

Positions	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
VR00 - Various (Eff. 07-01-2020)	0.0	9.0	9.0	9.0	9.0	9.0
Total Positions	0.0	9.0	9.0	9.0	9.0	9.0

Salaries and Wages

Salaries and Wages	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
VR00 - Various (Eff. 07-01-2020)	0	1,750	1,750	1,750	1,750	1,750
Total Salaries and Wages	\$0	\$1,750	\$1,750	\$1,750	\$1,750	\$1,750

Staff Benefits

Staff Benefits	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
5150900 - Staff Benefits - Other	0	1,000	1,000	1,000	1,000	1,000
Total Staff Benefits	\$0	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000

Total Personal Services

Total Personal Services	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
Total Personal Services	\$0	\$2,750	\$2,750	\$2,750	\$2,750	\$2,750

Parameters	Selected Values
Year	FY20
Department	0820
House	GB Working
BR Name	0820-080-BCP-2020-GB
Run Time	01/02/2020 02:43:55 PM
Last Data Refresh	01/02/2020, 02:43 PM