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Democrats Drop Vaping Tax From Senate Plan as They Negotiate Bill Details

A House-passed bill would have taxed e-cigarettes like regular ones but senators objected, including Nevada's Cortez Masto



A vape shop in New York City. E-cigarettes, vaping liquids and oral nicotine pouches would have been taxed under a House bill.

PHOTO: SPENCER PLATT/GETTY IMAGES

By [Andrew Duehren](#) and [Richard Rubin](#)

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WASHINGTON—Senate Democrats are dropping a proposal that would have imposed taxes on vaping, removing a \$9 billion provision backed by some public-health advocates from the party's healthcare, education and climate-change bill, people familiar with the matter said.

Lawmakers made the decision as they wrap up the details of the \$2 trillion Build Back Better package and attempt to get it through the Senate before Christmas. Sen. Catherine Cortez Masto (D., Nev.), a Finance Committee member in a tough re-election race, pushed to remove the tax and helped force its deletion.

The \$9 billion tax increase was included in the bill the House passed last month, and it is much smaller than a broader tobacco-tax increase that House members had advanced earlier in the year. The smaller version would have imposed a tax on vaping products designed to parallel the existing federal cigarette tax rate of \$1.01 a pack. Under the House-passed plan, e-cigarettes, vaping liquids and oral nicotine pouches would have been taxed.

All of the tax increases on tobacco and nicotine drew objections from Republicans, who said the burden would fall on lower-income and middle-income households. Many of the proposals would have affected people with incomes below \$400,000, the cutoff below which President Biden said Americans wouldn't face tax increases.

In a statement, Ms. Cortez Masto pointed to the impact the tax could have on people with incomes below \$400,000. She has also opposed Democratic proposals on mining and changing how unrealized capital gains are taxed.

"I have been clear from the start of this process that I would not raise taxes on anyone making less than \$400,000, and I would not support measures that hurt Nevada's small businesses, farmers and ranchers, or the more than 30,000 men and women whose jobs are supported by the mining industry," she said.

Democrats will need unanimous support for the bill's provisions to pass it in the 50-50 Senate without Republican support.

Administration officials had argued that vaping and smoking were optional and thus the taxes weren't violations of Mr. Biden's campaign pledge.

The proposed tax on vaping divided public-health experts. Proponents said it would discourage young people from vaping, while critics warned that it would push more people into smoking cigarettes if it wasn't accompanied by higher taxes on cigarettes.

Vaping advocates applauded the decision.

"The evidence is clear that imposing a new excise tax on vaping products will discourage adults from quitting smoking and shut down small businesses already dealing with industry-crushing federal regulations," said Gregory Conley, president of the American Vaping Association.

Senate Democrats may still make other changes to the roughly \$2 trillion bill that the House passed last month. They are likely to remove a paid-leave program opposed by Sen. Joe Manchin (D., W.Va.), and they expect to propose a less-generous expansion of the \$10,000 cap on the state and local tax deduction.

Democrats on several sides of that deduction issue met on Thursday but they haven't announced any agreement. Senators from high-tax states such as New York and New Jersey say the \$10,000 cap is unacceptable, but the House's \$80,000 cap has met resistance from progressives such as Sen. Bernie Sanders (I., Vt.) because of how much high-income households would benefit.

They are trying to reach a deal that satisfies both camps, has a small effect over the 10-year budget window and can then pass the House.

—*Jennifer Maloney contributed to this article.*

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