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SENATE BILL 5776

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State of Washington

53rd Legislature

1993 Regular Session

By Senators McDonald, West, Moyer, Hochstatter and Oke

Read first time 02/12/93. Referred to Committee on Health & Human Services.

1 AN ACT Relating to enforcement of cigarette and tobacco statutes;  
2 amending RCW 66.28.090, 66.44.010, 66.44.370, 82.24.010, 82.24.027,  
3 82.24.030, 82.24.040, 82.24.050, 82.24.070, 82.24.090, 82.24.110,  
4 82.24.120, 82.24.130, 82.24.135, 82.24.145, 82.24.180, 82.24.190,  
5 82.24.210, 82.24.230, 82.24.250, 82.24.510, 82.24.520, 82.24.530,  
6 82.24.550, 82.24.560, 82.26.010, 82.26.050, 82.26.060, 82.26.080,  
7 82.26.090, 82.26.110, and 82.26.120; adding a new section to chapter  
8 82.24 RCW; adding a new section to chapter 82.26 RCW; adding a new  
9 section to chapter 82.32 RCW; adding a new chapter to Title 66 RCW;  
10 creating new sections; repealing RCW 82.24.260; prescribing penalties;  
11 providing an effective date; and declaring an emergency.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

13 **Sec. 1.** RCW 66.28.090 and 1981 1st ex.s. c 5 s 20 are each amended  
14 to read as follows:

15 (1) All licensed premises used in the manufacture, storage, or sale  
16 of liquor, or any premises or parts of premises used or in any way  
17 connected, physically or otherwise, with the licensed business, and/or  
18 any premises where a banquet permit has been granted, shall at all

1 times be open to inspection by any liquor and tobacco enforcement  
2 officer, inspector, or peace officer.

3 (2) Every person, being on any such premises and having charge  
4 thereof, who refuses or fails to admit a liquor and tobacco enforcement  
5 officer, inspector, or peace officer demanding to enter therein in  
6 pursuance of this section in the execution of ((his/her)) his or her  
7 duty, or who obstructs or attempts to obstruct the entry of such liquor  
8 and tobacco enforcement officer, inspector, or officer of the peace, or  
9 who refuses to allow a liquor and tobacco enforcement officer, and/or  
10 an inspector to examine the books of the licensee, or who refuses or  
11 neglects to make any return required by this title or the  
12 ((regulations)) rules, shall be guilty of a violation of this title.

13 **Sec. 2.** RCW 66.44.010 and 1987 c 202 s 224 are each amended to  
14 read as follows:

15 (1) All county and municipal peace officers are hereby charged with  
16 the duty of investigating and prosecuting all violations of this title,  
17 and the penal laws of this state relating to the manufacture,  
18 importation, transportation, possession, distribution, and sale of  
19 liquor, and all fines imposed for violations of this title and the  
20 penal laws of this state relating to the manufacture, importation,  
21 transportation, possession, distribution, and sale of liquor shall  
22 belong to the county, city, or town wherein the court imposing the fine  
23 is located, and shall be placed in the general fund for payment of the  
24 salaries of those engaged in the enforcement of the provisions of this  
25 title and the penal laws of this state relating to the manufacture,  
26 importation, transportation, possession, distribution, and sale of  
27 liquor: PROVIDED, That all fees, fines, forfeitures, and penalties  
28 collected or assessed by a district court because of the violation of  
29 a state law shall be remitted as provided in chapter 3.62 RCW as now  
30 exists or is later amended.

31 (2) In addition to any and all other powers granted, the board  
32 shall have the power to enforce the penal provisions of this title and  
33 the penal laws of this state relating to the manufacture, importation,  
34 transportation, possession, distribution, and sale of liquor.

35 (3) In addition to the other duties under this section, the board  
36 shall enforce chapters 82.24 and 82.26 RCW and RCW 26.28.080(4).

37 (4) The board may appoint and employ, assign to duty and fix the  
38 compensation of, officers to be designated as liquor and tobacco

1 enforcement officers. Such (~~liquor~~) enforcement officers shall have  
2 the power, under the supervision of the board, to enforce the penal  
3 provisions of this title and the penal laws of this state relating to  
4 the manufacture, importation, transportation, possession, distribution,  
5 and sale of liquor, and the provisions of chapters 82.24 and 82.26 RCW  
6 and RCW 26.28.080(4) relating to cigarettes and tobacco. They shall  
7 have the power and authority to serve and execute all warrants and  
8 process of law issued by the courts in enforcing the penal provisions  
9 of this title or of any penal law of this state relating to the  
10 manufacture, importation, transportation, possession, distribution, and  
11 sale of liquor, and the provisions of chapters 82.24 and 82.26 RCW and  
12 RCW 26.28.080(4) relating to cigarettes and tobacco. They shall have  
13 the power to arrest without a warrant any person or persons found in  
14 the act of violating any of the penal provisions of this title or of  
15 any penal law of this state relating to the manufacture, importation,  
16 transportation, possession, distribution, and sale of liquor, and the  
17 provisions of chapters 82.24 and 82.26 RCW and RCW 26.28.080(4)  
18 relating to cigarettes and tobacco.

19 (5) The board shall make a special effort to enforce laws that  
20 protect children and young adults from the harmful effects of tobacco  
21 and alcohol consumption.

22 **Sec. 3.** RCW 66.44.370 and 1981 1st ex.s. c 5 s 27 are each amended  
23 to read as follows:

24 No person shall knowingly or willfully resist or oppose any state,  
25 county, or municipal peace officer, or liquor and tobacco enforcement  
26 officer, in the discharge of (~~his/her~~) his or her duties under Title  
27 66 RCW, or aid and abet such resistance or opposition. Any person who  
28 violates this section shall be guilty of a violation of this title and  
29 subject to arrest by any such officer.

30 **Sec. 4.** RCW 82.24.010 and 1961 c 15 s 82.24.010 are each amended  
31 to read as follows:

32 For the purposes of this chapter, unless otherwise required by the  
33 context:

34 (1) "Wholesaler" means every person who purchases, sells, or  
35 distributes any one or more of the articles taxed herein to retailers  
36 for the purpose of resale only;

1 (2) "Retailer" means every person, other than a wholesaler, who  
2 purchases, sells, offers for sale, or distributes any one or more of  
3 the articles taxed herein, irrespective of quantity or amount, or the  
4 number of sales, and all persons operating under a retailer's  
5 registration certificate;

6 (~~(3) ("Retail selling price" means the ordinary, customary or usual~~  
7 ~~price paid by the consumer for each package of cigarettes, the tax~~  
8 ~~levied by this chapter and tax levied by this state;~~

9 (~~4~~)) "Cigarette" means any roll for smoking made wholly or in part  
10 of tobacco, irrespective of size or shape and irrespective of the  
11 tobacco being flavored, adulterated, or mixed with any other  
12 ingredient, where such roll has a wrapper or cover made of paper or any  
13 material, except where such wrapper is wholly or in the greater part  
14 made of natural leaf tobacco in its natural state;

15 (~~(5)~~) (4) "Stamp" means the stamp or stamps or meter impressions  
16 by use of which the tax levy under this chapter is paid;

17 (5) "Board" means the liquor control board;

18 (6) The meaning attributed, in chapter 82.04 RCW, to the words  
19 "person," "sale," "business," and "successor" shall apply equally in  
20 the provisions of this chapter.

21 **Sec. 5.** RCW 82.24.027 and 1986 c 3 s 12 are each amended to read  
22 as follows:

23 There is hereby levied and there shall be collected by the  
24 (~~(department of revenue))~~ board from the persons mentioned in and in  
25 the manner provided by this chapter, an additional tax upon the sale,  
26 use, consumption, handling, possession, or distribution of cigarettes  
27 in an amount equal to the rate of four mills per cigarette.

28 The moneys collected under this section shall be deposited in the  
29 water quality account under RCW 70.146.030 through June 30, 2021, and  
30 in the general fund thereafter.

31 **Sec. 6.** RCW 82.24.030 and 1990 c 216 s 1 are each amended to read  
32 as follows:

33 In order to enforce collection of the tax hereby levied, the  
34 (~~(department of revenue))~~ board shall design and have printed stamps of  
35 such size and denominations as may be determined by the (~~(department))~~  
36 board, such stamps to be affixed on the smallest container or package  
37 that will be handled, sold, used, consumed, or distributed, to permit

1 the ((department)) board to readily ascertain by inspection, whether or  
2 not such tax has been paid. Except as otherwise provided in this  
3 chapter, every person shall cause to be affixed on every package of  
4 cigarettes, stamps of an amount equaling the tax due thereon before he  
5 or she sells, offers for sale, uses, consumes, handles, removes, or  
6 otherwise disturbs and distributes the same: PROVIDED, That where it  
7 is established to the satisfaction of the ((department)) board that it  
8 is impractical to affix such stamps to the smallest container or  
9 package, the ((department)) board may authorize the affixing of stamps  
10 of appropriate denomination to a large container or package.

11 The ((department)) board may authorize the use of meter stamping  
12 machines for imprinting stamps, which imprinted stamps shall be in lieu  
13 of those otherwise provided for under this chapter, and if such use is  
14 authorized, shall provide reasonable rules ((and regulations)) with  
15 respect thereto.

16 **Sec. 7.** RCW 82.24.040 and 1990 c 216 s 2 are each amended to read  
17 as follows:

18 No wholesaler in this state may possess within this state unstamped  
19 cigarettes except that:

20 (1) Every wholesaler in the state who is licensed under Washington  
21 state law may possess within this state unstamped cigarettes for such  
22 period of time after receipt as is reasonably necessary to affix the  
23 stamps as required; and

24 (2) Any wholesaler in the state who is licensed under Washington  
25 state law and who furnishes a surety bond in a sum satisfactory to the  
26 ((department)) board, shall be permitted to set aside, without affixing  
27 the stamps required by this chapter, such part of ((his)) the  
28 wholesaler's stock as may be necessary for the conduct of ((his)) the  
29 wholesaler's business in making sales to persons in another state or  
30 foreign country, to instrumentalities of the federal government, or to  
31 the established governing bodies of any Indian tribe, recognized as  
32 such by the United States Department of the Interior. Such unstamped  
33 stock shall be kept separate and apart from stamped stock.

34 (3) Every wholesaler licensed under Washington state law shall, at  
35 the time of shipping or delivering any of the articles taxed herein to  
36 a point outside of this state, or to a federal instrumentality, or to  
37 an Indian tribal organization, make a true duplicate invoice of the  
38 same which shall show full and complete details of the sale or

1 delivery, whether or not stamps were affixed thereto, and shall  
2 transmit such true duplicate invoice to the main office of the  
3 ~~((department))~~ board, at Olympia, not later than the fifteenth day of  
4 the following calendar month, and for failure to comply with the  
5 requirements of this section the ~~((department))~~ board may revoke the  
6 permission granted to the taxpayer to maintain a stock of goods to  
7 which the stamps required by this chapter have not been affixed. The  
8 ~~((department))~~ board may also revoke this permission to maintain a  
9 stock of unstamped goods for sale to a specific Indian tribal  
10 organization when it appears that sales of unstamped cigarettes to  
11 persons who are not enrolled members of a recognized Indian tribe are  
12 taking place, or have taken place, within the exterior boundaries of  
13 the reservation occupied by that tribe.

14 **Sec. 8.** RCW 82.24.050 and 1990 c 216 s 3 are each amended to read  
15 as follows:

16 ~~((No))~~ Every retailer ~~((in this state may possess unstamped~~  
17 ~~cigarettes within this state unless the retailer is licensed under~~  
18 ~~Washington state law and, within a period of time after receipt of any~~  
19 ~~of the articles taxed herein as is reasonably necessary for the~~  
20 ~~purpose, causes the same to have the requisite denomination and amount~~  
21 ~~of stamps affixed to represent the tax imposed herein: PROVIDED, That~~  
22 ~~those articles to which stamps have been properly affixed by a~~  
23 ~~wholesaler or another retailer, licensed under Washington state law,~~  
24 ~~may be retained by any retailer, and that those articles intended for~~  
25 ~~sale to qualified purchasers may, under rules adopted by the department~~  
26 ~~of revenue, be retained by federal instrumentalities and Indian tribal~~  
27 ~~organizations, without affixing the stamps required by this chapter))~~  
28 shall purchase cigarettes with the stamps affixed.

29 **Sec. 9.** RCW 82.24.070 and 1987 c 496 s 5 are each amended to read  
30 as follows:

31 Wholesalers ~~((and retailers))~~ subject to the provisions of this  
32 chapter shall be allowed compensation for their services in affixing  
33 the stamps herein required a sum computed at the rate of four dollars  
34 per one thousand stamps purchased or affixed by them.

35 **Sec. 10.** RCW 82.24.090 and 1975 1st ex.s. c 278 s 62 are each  
36 amended to read as follows:

1 Every wholesaler or retailer subject to the provisions of this  
2 chapter shall keep and preserve for a period of five years an accurate  
3 set of records, showing all transactions had with reference to the  
4 purchase and sale of any of the articles taxed herein and such persons  
5 shall also keep separately all invoices, and shall keep a record of all  
6 stamps purchased, and all such records and all stock of taxable  
7 articles on hand shall be open to inspection at all reasonable times by  
8 the ~~((department of revenue))~~ board or its duly authorized agent.

9 All wholesalers shall within fifteen days after the first day of  
10 each month file with the ~~((department of revenue))~~ board a report of  
11 all drop shipment sales made by them to retailers within this state  
12 during the preceding month, which report shall show the name and  
13 address of the retailer to whom the cigarettes were sold, the kind and  
14 quantity, and the date of delivery thereof.

15 **Sec. 11.** RCW 82.24.110 and 1990 c 216 s 4 are each amended to read  
16 as follows:

17 (1) Each of the following acts is a gross misdemeanor and  
18 punishable as such:

19 (a) To sell, except as a licensed wholesaler or licensed retailer  
20 engaged in interstate commerce as to the article being taxed herein,  
21 without the stamp first being affixed;

22 (b) To use or have in possession knowingly or intentionally any  
23 forged or counterfeit stamps;

24 (c) For any person other than the ~~((department of revenue))~~ board  
25 or its duly authorized agent to sell any stamps not affixed to any of  
26 the articles taxed herein whether such stamps are genuine or  
27 counterfeit;

28 (d) To violate any of the provisions of this chapter;

29 (e) To violate any lawful rule ~~((or regulation))~~ made and published  
30 by the ~~((department of revenue))~~ board;

31 (f) To use any stamps more than once;

32 (g) To refuse to allow the ~~((department of revenue))~~ board or any  
33 duly authorized agent thereof, on demand, to make full inspection of  
34 any place of business where any of the articles herein taxed are sold  
35 or otherwise hinder or prevent such inspection;

36 (h) For any retailer ~~((, except one permitted to maintain an  
37 unstamped stock to engage in interstate business as provided herein,))~~

1 to have in possession in any place of business any of the articles  
2 herein taxed, unless the same have the proper stamps attached;

3 (i) For any person to make, use, or present or exhibit to the  
4 (~~department of revenue~~) board or any duly authorized agent thereof,  
5 any invoice for any of the articles herein taxed which bears an untrue  
6 date or falsely states the nature or quantity of the goods therein  
7 invoiced;

8 (j) For any wholesaler or retailer or (~~his or her~~) its agents or  
9 employees to fail to produce on demand of the (~~department of revenue~~)  
10 board all invoices of all the articles herein taxed or stamps bought  
11 (~~by him or her~~) or received in (~~his or her~~) its place of business  
12 within five years prior to such demand unless (~~he or she~~) the  
13 wholesaler or retailer can show by satisfactory proof that the  
14 nonproduction of the invoices was due to causes beyond (~~his~~) its  
15 control;

16 (k) For any person to receive in this state any shipment of any of  
17 the articles taxed herein, when the same are not stamped, are untaxed,  
18 or are untaxed and stamped for the purpose of avoiding payment of tax.  
19 It is presumed that persons other than dealers who purchase or receive  
20 shipments of unstamped, untaxed, or untaxed stamped cigarettes do so to  
21 avoid payment of the tax imposed herein;

22 (l) For any person to possess or transport upon the public  
23 highways, roads, or streets of this state a quantity of sixty thousand  
24 cigarettes or less (~~unless the proper stamps required by this chapter~~  
25 ~~have been affixed~~) that are unstamped, untaxed, or untaxed stamped  
26 cigarettes or unless the person transporting the cigarettes has in  
27 actual possession invoices or delivery tickets therefor which show the  
28 true name and address of the consignor or seller, the true name of the  
29 consignee or purchaser, and the quantity and brands of the cigarettes  
30 so transported and unless the cigarettes are consigned to or purchased  
31 by any person in this state who is a purchaser or consignee authorized  
32 by this chapter to possess unstamped, untaxed, or untaxed stamped  
33 cigarettes in this state.

34 (2) It is unlawful for any person knowingly or intentionally to  
35 possess or to transport upon the public highways, roads, or streets of  
36 this state a quantity in excess of sixty thousand cigarettes (~~unless~~  
37 ~~the proper stamps required by this chapter are affixed thereto or~~)  
38 that are unstamped, untaxed, or untaxed stamped cigarettes unless the  
39 person transporting the cigarettes actually possesses invoices or

1 delivery tickets showing the true name and address of the consignor or  
2 seller, the true name of the consignee or purchaser, and the quantity  
3 and brands of the cigarettes so transported. Violation of this section  
4 shall be punished as a class C felony under Title 9A RCW.

5 (3) All agents, employees, and others who aid, abet, or otherwise  
6 participate in any way in the violation of the provisions of this  
7 chapter or in any of the offenses described in this chapter shall be  
8 guilty and punishable as principals, to the same extent as any  
9 wholesaler or retailer or any other person violating the provisions  
10 thereof.

11 **Sec. 12.** RCW 82.24.120 and 1990 c 267 s 1 are each amended to read  
12 as follows:

13 If any person, subject to the provisions of this chapter or any  
14 rules (~~(and regulations promulgated)~~) adopted by the (~~(department of~~  
15 ~~revenue)~~) board under authority hereof, is found to have failed to  
16 affix the stamps required, or to have them affixed as herein provided,  
17 or to pay any tax due hereunder, or to have violated any of the  
18 provisions of this chapter or rules (~~(and regulations promulgated)~~)  
19 adopted by the (~~(department of revenue)~~) board in the administration  
20 hereof, there shall be assessed and collected from such person, in  
21 addition to any tax that may be found due, a penalty equal to the  
22 greater of ten dollars per package of unstamped cigarettes or two  
23 hundred fifty dollars, plus interest thereon at the rate of one percent  
24 for each thirty days or portions thereof from the date the tax became  
25 due, and upon notice mailed to the last known address of the person  
26 said amount shall become due and payable in ten days, at which time the  
27 (~~(department)~~) board or its duly authorized agent may make immediate  
28 demand upon such person for the payment of all such taxes and  
29 penalties. The (~~(department)~~) board, for good reason shown, may remit  
30 all or any part of penalties imposed, but the taxpayer must pay all  
31 taxes due and interest thereon, at the rate of one percent for each  
32 thirty days or portion thereof. The keeping of any unstamped, untaxed,  
33 or untaxed stamped articles coming within the provisions of this  
34 chapter shall be prima facie evidence of intent to violate the  
35 provisions of this chapter.

36 **Sec. 13.** RCW 82.24.130 and 1990 c 216 s 5 are each amended to read  
37 as follows:

1 (1) The following are subject to seizure and forfeiture:

2 (a) Subject to RCW 82.24.250, any articles taxed in this chapter  
3 that are found at any point within this state, which articles are held,  
4 owned, or possessed by any person, and that (~~do not have the stamps~~  
5 ~~affixed to the packages or containers~~) are unstamped, untaxed, or  
6 untaxed and stamped.

7 (b) All conveyances, including aircraft, vehicles, or vessels,  
8 which are used, or intended for use, to transport, or in any manner to  
9 facilitate the transportation, for the purpose of sale or receipt of  
10 property described in (a) of this subsection, except:

11 (i) A conveyance used by any person as a common or contract carrier  
12 having in actual possession invoices or delivery tickets showing the  
13 true name and address of the consignor or seller, the true name of the  
14 consignee or purchaser, and the quantity and brands of the cigarettes  
15 transported, unless it appears that the owner or other person in charge  
16 of the conveyance is a consenting party or privy to a violation of this  
17 chapter;

18 (ii) A conveyance subject to forfeiture under this section by  
19 reason of any act or omission of which the owner thereof establishes to  
20 have been committed or omitted without his or her knowledge or consent;

21 (iii) A conveyance encumbered by a bona fide security interest if  
22 the secured party neither had knowledge of nor consented to the act or  
23 omission.

24 (c) Any vending machine used for the purpose of violating the  
25 provisions of this chapter.

26 (2) Property subject to forfeiture under this chapter may be seized  
27 by any agent of the (~~department~~) board authorized to collect taxes or  
28 law enforcement officer of this state upon process issued by any  
29 superior court or district court having jurisdiction over the property.  
30 Seizure without process may be made if:

31 (a) The seizure is incident to an arrest or a search under a search  
32 warrant or an inspection under an administrative inspection warrant; or

33 (b) The (~~department~~) board or law enforcement officer has  
34 probable cause to believe that the property was used or is intended to  
35 be used in violation of this chapter and exigent circumstances exist  
36 making procurement of a search warrant impracticable.

37 (3) Notwithstanding the foregoing provisions of this section,  
38 articles taxed in this chapter which are in the possession of a  
39 wholesaler (~~or retailer~~), licensed under Washington state law, for a

1 period of time necessary to affix the stamps after receipt of the  
2 articles, shall not be considered contraband.

3 **Sec. 14.** RCW 82.24.135 and 1987 c 496 s 3 are each amended to read  
4 as follows:

5 In all cases of seizure of any property made subject to forfeiture  
6 under this chapter the ((department)) board shall proceed as follows:

7 (1) Forfeiture shall be deemed to have commenced by the seizure.  
8 Notice of seizure shall be given to the ((department)) board  
9 immediately if the seizure is made by someone other than an agent of  
10 the ((department)) board authorized to collect taxes.

11 (2) Upon notification or seizure by the ((department)) board or  
12 upon receipt of property subject to forfeiture under this chapter from  
13 any other person, the ((department)) board shall list and particularly  
14 describe the property seized in duplicate and have the property  
15 appraised by a qualified person not employed by the ((department))  
16 board or acting as its agent. Listing and appraisal of the property  
17 shall be properly attested by the ((department)) board and the  
18 appraiser, who shall be allowed a reasonable appraisal fee. No  
19 appraisal is required if the property seized is judged by the  
20 ((department)) board to be less than one hundred dollars in value.

21 (3) The ((department)) board shall cause notice to be served within  
22 five days following the seizure or notification to the ((department))  
23 board of the seizure on the owner of the property seized, if known, on  
24 the person in charge thereof, and on any other person having any known  
25 right or interest therein, of the seizure and intended forfeiture of  
26 the seized property. The notice may be served by any method authorized  
27 by law or court rule including but not limited to service by mail. If  
28 service is by mail it shall be by both certified mail with return  
29 receipt requested and regular mail. Service by mail shall be deemed  
30 complete upon mailing within the five-day period following the seizure  
31 or notification of the seizure to the ((department)) board.

32 (4) If no person notifies the ((department)) board in writing of  
33 the person's claim of ownership or right to possession of the items  
34 seized within fifteen days of the date of the notice of seizure, the  
35 item seized shall be considered forfeited.

36 (5) If any person notifies the ((department)) board, in writing, of  
37 the person's claim of ownership or right to possession of the items  
38 seized within fifteen days of the date of the notice of seizure, the

1 person or persons shall be afforded a reasonable opportunity to be  
2 heard as to the claim or right. The hearing shall be before the  
3 ((~~director~~)) board or the ((~~director's~~)) board's designee, except that  
4 any person asserting a claim or right may bring an action for return of  
5 the seized items in the superior court of the county in which such  
6 property was seized, if the aggregate value of the article or articles  
7 involved is more than five hundred dollars. A hearing before the  
8 seizing agency and any appeal therefrom shall be in accordance with  
9 chapter 34.05 RCW. The burden of proof by a preponderance of the  
10 evidence shall be upon the person claiming to be the lawful owner or  
11 the person claiming to have the lawful right to possession of the items  
12 seized. The ((~~department~~)) board shall promptly return the article or  
13 articles to the claimant upon a determination that the claimant is the  
14 present lawful owner or is lawfully entitled to possession thereof of  
15 the items seized.

16 **Sec. 15.** RCW 82.24.145 and 1987 c 496 s 4 are each amended to read  
17 as follows:

18 When property is forfeited under this chapter the ((~~department~~))  
19 board may:

20 (1) Retain the property or any part thereof for official use or  
21 upon application by any law enforcement agency of this state, another  
22 state, or the District of Columbia, or of the United States for the  
23 exclusive use of enforcing the provisions of this chapter or the laws  
24 of any other state or the District of Columbia or of the United States.

25 (2) Sell the property at public auction to the highest bidder after  
26 due advertisement, but the ((~~department~~)) board before delivering any  
27 of the goods so seized shall require the person to whom the property is  
28 sold to affix the proper amount of stamps. The proceeds of the sale  
29 and all moneys forfeited under this chapter shall be first applied to  
30 the payment of all proper expenses of any investigation leading to the  
31 seizure and of the proceedings for forfeiture and sale, including  
32 expenses of seizure, maintenance of custody, advertising, and court  
33 costs. The balance of the proceeds and all moneys shall be deposited  
34 in the general fund of the state. Proper expenses of investigation  
35 includes costs incurred by any law enforcement agency or any federal,  
36 state, or local agency.

1       **Sec. 16.** RCW 82.24.180 and 1990 c 267 s 2 are each amended to read  
2 as follows:

3       The (~~department of revenue~~) board may return any property seized  
4 under the provisions of this chapter when it is shown that there was no  
5 intention to violate the provisions thereof.

6       When any property is returned under this section, the  
7 (~~department~~) board may return such goods to the parties from whom  
8 they were seized if and when such parties affix the proper amount of  
9 stamps thereto, and pay to the (~~department~~) board as penalty an  
10 amount equal to the greater of ten dollars per package of unstamped  
11 cigarettes or two hundred fifty dollars, and interest thereon at the  
12 rate of one percent for each thirty days or portion thereof from the  
13 date the tax became due, and in such cases, no advertisement shall be  
14 made or notices posted in connection with said seizure.

15       **Sec. 17.** RCW 82.24.190 and 1987 c 202 s 244 are each amended to  
16 read as follows:

17       When the (~~department of revenue~~) board has good reason to believe  
18 that any of the articles taxed herein are being kept, sold, offered for  
19 sale, or given away in violation of the provisions of this chapter or  
20 (~~regulations~~) rules issued under authority hereof, it may make  
21 affidavit of such fact, describing the place or thing to be searched,  
22 before any judge of any court in this state, and such judge shall issue  
23 a search warrant directed to the sheriff, any deputy, police officer,  
24 or duly authorized agent of the (~~department of revenue~~) board  
25 commanding him or her diligently to search any building, room in a  
26 building, place, or vehicle as may be designated in the affidavit and  
27 search warrant, and to seize such tobacco so possessed and to hold the  
28 same until disposed of by law, and to arrest the person in possession  
29 or control thereof. If upon the return of such warrant, it shall appear  
30 that any of the articles taxed herein, unlawfully possessed, were  
31 seized, the same shall be sold as provided in this chapter.

32       **Sec. 18.** RCW 82.24.210 and 1975 1st ex.s. c 278 s 68 are each  
33 amended to read as follows:

34       The (~~department of revenue~~) board may (~~promulgate~~) adopt rules  
35 (~~and regulations~~) providing for the refund to dealers for the cost of  
36 stamps affixed to articles taxed herein, which by reason of damage  
37 become unfit for sale and are destroyed by the dealer or returned to

1 the manufacturer or jobber. In the case of any articles to which  
2 stamps have been affixed, and which articles have been sold and shipped  
3 to a regular dealer in such articles in another state, the seller in  
4 this state shall be entitled to a refund of the actual amount of the  
5 stamps so affixed, less the affixing discount, upon condition that the  
6 seller in this state makes affidavit that the articles were sold and  
7 shipped outside of the state and that ((he)) the seller has received  
8 from the purchaser outside the state a written acknowledgment that  
9 ((he)) the purchaser has received such articles with the amount of  
10 stamps affixed thereto, together with the name and address of such  
11 purchaser. The ((department of revenue)) board may redeem any unused  
12 stamps purchased from it at the face value thereof less the affixing  
13 discount.

14 **Sec. 19.** RCW 82.24.230 and 1961 c 15 s 82.24.230 are each amended  
15 to read as follows:

16 All of the provisions contained in chapter 82.32 RCW except RCW  
17 82.32.050, 82.32.060, 82.32.070, 82.32.100, and 82.32.270 shall have  
18 full force and application with respect to taxes imposed under the  
19 provisions of this chapter(~~(, except the following sections thereof:~~  
20 ~~RCW 82.32.050, 82.32.060, 82.32.070, 82.32.100 and 82.32.270)~~); except  
21 that "department of revenue" or "department" means the liquor control  
22 board.

23 **Sec. 20.** RCW 82.24.250 and 1990 c 216 s 6 are each amended to read  
24 as follows:

25 No person other than (1) a licensed wholesaler in its own vehicle,  
26 or (2) a person who has given notice to the ((department)) board in  
27 advance of the commencement of transportation shall transport or cause  
28 to be transported unstamped, untaxed, or untaxed stamped cigarettes  
29 ~~((not having the stamps affixed to the packages or containers))~~, upon  
30 the public highways, roads, or streets of this state. In the case of  
31 transportation of unstamped cigarettes such persons shall have in their  
32 actual possession invoices or delivery tickets for such cigarettes,  
33 which shall show the true name and address of the consignor or seller,  
34 the true name of the consignee or purchaser, and the quantity and  
35 brands of the cigarettes so transported. If the cigarettes are  
36 consigned to or purchased by any person in this state such purchaser or  
37 consignee must be a person who is authorized by chapter 82.24 RCW to

1 possess unstamped, untaxed, or untaxed stamped cigarettes in this  
2 state. In the absence of such invoices or delivery tickets, or, if the  
3 name or address of the consignee or purchaser is falsified or if the  
4 purchaser or consignee is not authorized by chapter 82.24 RCW to  
5 possess unstamped, untaxed, or untaxed stamped cigarettes, the  
6 cigarettes so transported shall be deemed contraband subject to seizure  
7 and sale under the provisions of RCW 82.24.130.

8 Transportation of cigarettes from a point outside this state to a  
9 point in some other state will not be considered a violation of this  
10 section provided that the person so transporting such cigarettes has in  
11 his or her possession adequate invoices or delivery tickets which give  
12 the true name and address of such out-of-state seller or consignor and  
13 such out-of-state purchaser or consignee.

14 In any case where the ((department)) board or its duly authorized  
15 agent, or any peace officer of the state, has knowledge or reasonable  
16 grounds to believe that any vehicle is transporting cigarettes in  
17 violation of this section, the ((department)) board, such agent, or  
18 such police officer, is authorized to stop such vehicle and to inspect  
19 the same for contraband cigarettes.

20 For purposes of this section, the term "person authorized by  
21 chapter 82.24 RCW to possess unstamped, untaxed, or untaxed stamped  
22 cigarettes" shall mean a wholesaler or retailer, licensed under  
23 Washington state law, the United States or an agency thereof, and any  
24 Indian tribal organization authorized under rules adopted by the  
25 ((department of revenue)) board to possess ((unstamped cigarettes))  
26 these articles.

27 **Sec. 21.** RCW 82.24.510 and 1986 c 321 s 5 are each amended to read  
28 as follows:

29 (1) The licenses issuable under this chapter are as follows:

30 (a) A wholesaler's license.

31 (b) A retailer's license.

32 (c) A vending machine license.

33 (2) Application for the licenses shall be made through the master  
34 license system under chapter 19.02 RCW. The ((department of revenue))  
35 board shall adopt rules regarding the regulation of the licenses. The  
36 ((department of revenue)) board may refrain from the issuance of any  
37 license under this chapter if the ((department)) board has reasonable  
38 cause to believe that the applicant has willfully withheld information

1 requested for the purpose of determining the eligibility of the  
2 applicant to receive a license, or if the ((department)) board has  
3 reasonable cause to believe that information submitted in the  
4 application is false or misleading or is not made in good faith. Each  
5 such license shall expire on the master license expiration date, and  
6 each such license shall be continued annually if the licensee has paid  
7 the required fee and complied with all the provisions of this chapter  
8 and the rules of the ((department of revenue)) board made pursuant  
9 thereto.

10 **Sec. 22.** RCW 82.24.520 and 1986 c 321 s 6 are each amended to read  
11 as follows:

12 A fee of six hundred fifty dollars shall accompany each  
13 wholesaler's license application or license renewal application. If a  
14 wholesaler sells or intends to sell cigarettes at two or more places of  
15 business, whether established or temporary, a separate license with a  
16 license fee of one hundred fifteen dollars shall be required for each  
17 additional place of business. Each license, or certificate thereof,  
18 and such other evidence of license as the ((department of revenue))  
19 board requires, shall be exhibited in the place of business for which  
20 it is issued and in such manner as is prescribed for the display of a  
21 master license. The ((department of revenue)) board shall require each  
22 licensed wholesaler to file with the ((department)) board a bond in an  
23 amount not less than ((one)) five thousand dollars to guarantee the  
24 proper performance of the duties and the discharge of the liabilities  
25 under this chapter. The bond shall be executed by such licensed  
26 wholesaler as principal, and by a corporation approved by the  
27 ((department of revenue)) board and authorized to engage in business as  
28 a surety company in this state, as surety. The bond shall run  
29 concurrently with the wholesaler's license.

30 **Sec. 23.** RCW 82.24.530 and 1986 c 321 s 7 are each amended to read  
31 as follows:

32 A fee of ((ten)) eighty-seven dollars shall accompany each  
33 retailer's license application or license renewal application. A  
34 separate license shall be required for each place of business at which  
35 the retailer operates. A fee of ((one additional)) thirty dollars for  
36 each vending machine shall accompany each application or renewal for a

1 license issued to a retail dealer operating a cigarette vending  
2 machine.

3 **Sec. 24.** RCW 82.24.550 and 1986 c 321 s 9 are each amended to read  
4 as follows:

5 (1) The (~~department of revenue~~) board shall enforce the  
6 provisions of this chapter. The (~~department of revenue~~) board may  
7 adopt, amend, and repeal rules necessary to enforce and administer the  
8 provisions of this chapter. The (~~department of revenue~~) board has  
9 full power and authority to revoke or suspend the license or permit of  
10 any wholesale or retail cigarette dealer in the state upon sufficient  
11 cause appearing of the violation of this chapter or upon the failure of  
12 such licensee to comply with any of the provisions of this chapter.

13 (2) A license shall not be suspended or revoked except upon notice  
14 to the licensee and after a hearing as prescribed by the (~~department  
15 of revenue~~) board. The (~~department of revenue~~) board, upon a  
16 finding by same, that the licensee has failed to comply with any  
17 provision of this chapter or any rule (~~promulgated thereunder~~)  
18 adopted under this chapter, shall, in the case of the first offender,  
19 suspend the license or licenses of the licensee for a period of not  
20 less than thirty consecutive business days, and, in the case of a  
21 second or plural offender, shall suspend the license or licenses for a  
22 period of not less than ninety consecutive business days nor more than  
23 twelve months, and, in the event the (~~department of revenue~~) board  
24 finds the offender has been guilty of willful and persistent  
25 violations, it may revoke the license or licenses.

26 (3) Any person whose license or licenses have been so revoked may  
27 apply to the (~~department of revenue~~) board at the expiration of one  
28 year for a reinstatement of the license or licenses. The license or  
29 licenses may be reinstated by the (~~department of revenue~~) board if it  
30 appears to the satisfaction of the (~~department of revenue~~) board that  
31 the licensee will comply with the provisions of this chapter and the  
32 rules (~~promulgated thereunder~~) adopted under this chapter.

33 (4) A person whose license has been suspended or revoked shall not  
34 sell cigarettes or permit cigarettes to be sold during the period of  
35 such suspension or revocation on the premises occupied by the person or  
36 upon other premises controlled by the person or others or in any other  
37 manner or form whatever.

1 (5) Any determination and order by the (~~department of revenue~~)  
2 board, and any order of suspension or revocation by the (~~department of~~  
3 ~~revenue~~) board of the license or licenses, or refusal to reinstate a  
4 license or licenses after revocation shall be reviewable by an appeal  
5 to the superior court of Thurston county. The superior court shall  
6 review the order or ruling of the (~~department of revenue~~) board and  
7 may hear the matter de novo, having due regard to the provisions of  
8 this chapter and the duties imposed upon the (~~department of revenue~~)  
9 board.

10 **Sec. 25.** RCW 82.24.560 and 1986 c 321 s 10 are each amended to  
11 read as follows:

12 Except under section 52 of this act, all fees and penalties  
13 received or collected by the (~~department of revenue~~) board pursuant  
14 to this chapter shall be paid to the state treasurer, to be credited to  
15 the general fund.

16 NEW SECTION. **Sec. 26.** A new section is added to chapter 82.24 RCW  
17 to read as follows:

18 The board may adopt rules to implement this chapter.

19 **Sec. 27.** RCW 82.26.010 and 1975 1st ex.s. c 278 s 70 are each  
20 amended to read as follows:

21 As used in this chapter:

22 (1) "Tobacco products" means cigars, cheroots, stogies, periques,  
23 granulated, plug cut, crimp cut, ready rubbed, and other smoking  
24 tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-  
25 cut and other chewing tobaccos, shorts, refuse scraps, clippings,  
26 cuttings, and sweepings of tobacco, and other kinds and forms of  
27 tobacco, prepared in such manner as to be suitable for chewing or  
28 smoking in a pipe or otherwise, or both for chewing and smoking, but  
29 shall not include cigarettes as defined in RCW 82.24.010(~~(+4)~~);

30 (2) "Manufacturer" means a person who manufactures and sells  
31 tobacco products;

32 (3) "Distributor" means (a) any person engaged in the business of  
33 selling tobacco products in this state who brings, or causes to be  
34 brought, into this state from without the state any tobacco products  
35 for sale, (b) any person who makes, manufactures, or fabricates tobacco  
36 products in this state for sale in this state, (c) any person engaged

1 in the business of selling tobacco products without this state who  
2 ships or transports tobacco products to retailers in this state, to be  
3 sold by those retailers;

4 (4) "Subjobber" means any person, other than a manufacturer or  
5 distributor, who buys tobacco products from a distributor and sells  
6 them to persons other than the ultimate consumers;

7 (5) "Retailer" means any person engaged in the business of selling  
8 tobacco products to ultimate consumers;

9 (6) "Sale" means any transfer, exchange, or barter, in any manner  
10 or by any means whatsoever, for a consideration, and includes and means  
11 all sales made by any person. It includes a gift by a person engaged  
12 in the business of selling tobacco products, for advertising, as a  
13 means of evading the provisions of this chapter, or for any other  
14 purposes whatsoever.

15 (7) "Wholesale sales price" means the established price for which  
16 a manufacturer sells a tobacco product to a distributor, exclusive of  
17 any discount or other reduction;

18 (8) "Business" means any trade, occupation, activity, or enterprise  
19 engaged in for the purpose of selling or distributing tobacco products  
20 in this state;

21 (9) "Place of business" means any place where tobacco products are  
22 sold or where tobacco products are manufactured, stored, or kept for  
23 the purpose of sale or consumption, including any vessel, vehicle,  
24 airplane, train, or vending machine;

25 (10) "Retail outlet" means each place of business from which  
26 tobacco products are sold to consumers;

27 (11) (~~("Department" means the state department of revenue)~~) "Board"  
28 means the liquor control board.

29 **Sec. 28.** RCW 82.26.050 and 1975 1st ex.s. c 278 s 72 are each  
30 amended to read as follows:

31 (~~(From and after July 1, 1959)~~) No person shall engage in the  
32 business of a distributor or subjobber of tobacco products at any place  
33 of business without first having received from the (~~(department of~~  
34 revenue)) board a certificate of registration (~~(as provided in RCW~~  
35 82.32.030)).

36 **Sec. 29.** RCW 82.26.060 and 1975 1st ex.s. c 278 s 73 are each  
37 amended to read as follows:

1 Every distributor shall keep at each registered place of business  
2 complete and accurate records for that place of business, including  
3 itemized invoices, of tobacco products held, purchased, manufactured,  
4 brought in or caused to be brought in from without the state, or  
5 shipped or transported to retailers in this state, and of all sales of  
6 tobacco products made, except sales to the ultimate consumer.

7 These records shall show the names and addresses of purchasers(~~(7~~  
8 ~~the inventory of all tobacco products on hand on July 1, 1959,~~) and  
9 other pertinent papers and documents relating to the purchase, sale, or  
10 disposition of tobacco products.

11 When a registered distributor sells tobacco products exclusively to  
12 the ultimate consumer at the address given in the certificate, no  
13 invoice of those sales shall be required, but itemized invoices shall  
14 be made of all tobacco products transferred to other retail outlets  
15 owned or controlled by that registered distributor. All books,  
16 records, and other papers and documents required by this section to be  
17 kept shall be preserved for a period of at least five years after the  
18 date of the documents, as aforesaid, or the date of the entries thereof  
19 appearing in the records, unless the (~~department of revenue~~) board,  
20 in writing, authorizes their destruction or disposal at an earlier  
21 date. At any time during usual business hours the (~~department~~)  
22 board, or its duly authorized agents or employees, may enter any place  
23 of business of a distributor, without a search warrant, and inspect the  
24 premises, the records required to be kept under this chapter, and the  
25 tobacco products contained therein, to determine whether or not all the  
26 provisions of this chapter are being fully complied with. If the  
27 (~~department~~) board, or any of its agents or employees, are denied  
28 free access or are hindered or interfered with in making such  
29 examination, the registration certificate of the distributor at such  
30 premises shall be subject to revocation by the (~~department~~) board.

31 **Sec. 30.** RCW 82.26.080 and 1975 1st ex.s. c 278 s 74 are each  
32 amended to read as follows:

33 Every retailer and subjobber shall procure itemized invoices of all  
34 tobacco products purchased. The invoices shall show the name and  
35 address of the seller and the date of purchase. The retailer and  
36 subjobber shall preserve a legible copy of each such invoice for five  
37 years from the date of purchase. Invoices shall be available for

1 inspection by the (~~department of revenue~~) board or its authorized  
2 agents or employees at the retailer's or subjobber's place of business.

3 **Sec. 31.** RCW 82.26.090 and 1975 1st ex.s. c 278 s 75 are each  
4 amended to read as follows:

5 Records of all deliveries or shipments of tobacco products from any  
6 public warehouse of first destination in this state shall be kept by  
7 the warehouse and be available to the (~~department of revenue~~) board  
8 for inspection. They shall show the name and address of the consignee,  
9 the date, the quantity of tobacco products delivered, and such other  
10 information as the (~~department~~) board may require. These records  
11 shall be preserved for five years from the date of delivery of the  
12 tobacco products.

13 **Sec. 32.** RCW 82.26.110 and 1975 1st ex.s. c 278 s 76 are each  
14 amended to read as follows:

15 Where tobacco products upon which the tax imposed by this chapter  
16 has been reported and paid, are shipped or transported by the  
17 distributor to retailers without the state, to be sold by those  
18 retailers, or are returned to the manufacturer by the distributor or  
19 destroyed by the distributor, credit of such tax may be made to the  
20 distributor in accordance with (~~regulations~~) rules prescribed by the  
21 (~~department of revenue~~) board.

22 **Sec. 33.** RCW 82.26.120 and 1963 ex.s. c 28 s 5 are each amended to  
23 read as follows:

24 All of the provisions contained in chapter 82.32 RCW shall have  
25 full force and application with respect to taxes imposed under the  
26 provisions of this chapter; except that "department of revenue" or  
27 "department" means the liquor control board.

28 NEW SECTION. **Sec. 34.** A new section is added to chapter 82.26 RCW  
29 to read as follows:

30 The board may adopt rules to implement this chapter.

31 NEW SECTION. **Sec. 35.** A new section is added to chapter 82.32 RCW  
32 to read as follows:

33 The liquor control board may contract with the department for the  
34 collection of taxes, penalties, and interest, and the making of

1 refunds, related to the administration and enforcement of chapters  
2 82.24 and 82.26 RCW.

3 NEW SECTION. **Sec. 36.** All powers, duties, and functions of the  
4 department of revenue pertaining to chapters 82.24 and 82.26 RCW are  
5 transferred to the liquor control board. All references to the  
6 director or department of revenue in the Revised Code of Washington  
7 shall be construed to mean the liquor control board when referring to  
8 the functions transferred in this section.

9 NEW SECTION. **Sec. 37.** All reports, documents, surveys, books,  
10 records, files, papers, or written material in the possession of the  
11 department of revenue pertaining to the powers, functions, and duties  
12 transferred shall be delivered to the custody of the liquor control  
13 board. All cabinets, furniture, office equipment, motor vehicles, and  
14 other tangible property employed by the department of revenue in  
15 carrying out the powers, functions, and duties transferred shall be  
16 made available to the liquor control board. All funds, credits, or  
17 other assets held in connection with the powers, functions, and duties  
18 transferred shall be assigned to the liquor control board.

19 Any appropriations made to the department of revenue for carrying  
20 out the powers, functions, and duties transferred shall, on the  
21 effective date of this section, be transferred and credited to the  
22 liquor control board.

23 Whenever any question arises as to the transfer of any personnel,  
24 funds, books, documents, records, papers, files, equipment, or other  
25 tangible property used or held in the exercise of the powers and the  
26 performance of the duties and functions transferred, the director of  
27 financial management shall make a determination as to the proper  
28 allocation and certify the same to the state agencies concerned.

29 NEW SECTION. **Sec. 38.** All employees of the department of revenue  
30 engaged in performing the powers, functions, and duties transferred are  
31 transferred to the jurisdiction of the liquor control board. All  
32 employees classified under chapter 41.06 RCW, the state civil service  
33 law, are assigned to the liquor control board to perform their usual  
34 duties upon the same terms as formerly, without any loss of rights,  
35 subject to any action that may be appropriate thereafter in accordance  
36 with the laws and rules governing state civil service.

1        NEW SECTION.    **Sec. 39.** All rules and all pending business before  
2 the department of revenue pertaining to the powers, functions, and  
3 duties transferred shall be continued and acted upon by the liquor  
4 control board. All existing contracts and obligations shall remain in  
5 full force and shall be performed by the liquor control board.

6        NEW SECTION.    **Sec. 40.** The transfer of the powers, duties,  
7 functions, and personnel of the department of revenue shall not affect  
8 the validity of any act performed prior to the effective date of this  
9 section.

10       NEW SECTION.    **Sec. 41.** If apportionments of budgeted funds are  
11 required because of the transfers directed by sections 36 through 39 of  
12 this act, the director of financial management shall certify the  
13 apportionments to the agencies affected, the state auditor, and the  
14 state treasurer. Each of these shall make the appropriate transfer and  
15 adjustments in funds and appropriation accounts and equipment records  
16 in accordance with the certification.

17       NEW SECTION.    **Sec. 42.** Nothing contained in sections 37 through 42  
18 of this act may be construed to alter any existing collective  
19 bargaining unit or the provisions of any existing collective bargaining  
20 agreement until the agreement has expired or until the bargaining unit  
21 has been modified by action of the personnel board as provided by law.

22       NEW SECTION.    **Sec. 43.** The legislature finds that the leading  
23 cause of preventable death is tobacco use. Further, the legislature  
24 recognizes the high rate of smoking by youth and young pregnant women  
25 in our state. The vast majority of new smokers are teenagers or  
26 younger children. The earlier a child starts using tobacco the more  
27 likely that he or she will be unable to quit.

28       The legislature finds that youth obtain tobacco products with ease.  
29 Washington state has no organized effort to prevent children from  
30 purchasing tobacco products. Tobacco products that are provided free or  
31 at nominal charge or are sold as single cigarettes are likely to fall  
32 into the hands of youth. It is imperative to effectively enforce the  
33 prohibition of sales to minors.

1        NEW SECTION.    **Sec. 44.**    A person that holds a license issued under  
2    RCW 82.24.510 shall:

3        (1) Display the license or a copy in a prominent location at the  
4    outset for which the license is issued; and

5        (2) Display a sign concerning the prohibition of tobacco sales to  
6    minors.    The sign shall be:

7        (a) Posted so it is clearly visible to anyone purchasing tobacco  
8    products from the licensee;

9        (b) Designed and produced by the board to read:    "THE SALE OF  
10    TOBACCO PRODUCTS TO PERSONS UNDER AGE 18 IS STRICTLY PROHIBITED BY  
11    STATE LAW, PHOTO ID REQUIRED."

12       NEW SECTION.    **Sec. 45.**    A person may not sell or permit to be sold  
13    any tobacco product through any device that automatically dispenses  
14    tobacco products unless the device is located fully within premises  
15    from which minors are prohibited and not less than ten feet from all  
16    entrance or exit ways to and from the premises.

17       NEW SECTION.    **Sec. 46.**    A person may not sell or permit to be sold  
18    any tobacco product not in the original unopened package or container  
19    to which the stamps have been affixed as required by RCW 82.24.060.

20       This section does not apply to a retail business that generates a  
21    minimum of sixty percent of annual gross sales from the sale of tobacco  
22    products.

23       NEW SECTION.        **Sec. 47.**        A retailer, wholesaler, tobacco  
24    manufacturer, or tobacco manufacturer's agent may not give or  
25    distribute cigarettes or other tobacco products to any person at no  
26    cost.

27       NEW SECTION.        **Sec. 48.**        A person may not give or distribute  
28    cigarettes or other tobacco products to a person at a reduced price by  
29    a coupon if the coupon is redeemed in any manner that does not require  
30    an in-person transaction between a buyer and seller.

31       NEW SECTION.        **Sec. 49.**        It is a defense to any prosecution under  
32    RCW 26.28.080(4) if the person making a sale reasonably relied on any  
33    of the following officially issued identification that showed the  
34    purchaser's age and bore his or her signature and photograph:    Liquor

1 control authority card of identification of a state or province of  
2 Canada; driver's license, driver's license instruction permit, or  
3 identification of a state or province of Canada; "identocard" issued by  
4 the Washington state department of licensing under chapter 46.20 RCW;  
5 United States active duty military identification; passport; or  
6 merchant marine identification card issued by the United States coast  
7 guard.

8 NEW SECTION. **Sec. 50.** (1) The board may suspend or revoke a  
9 retailer's license or may impose a civil penalty under this section, if  
10 the board finds that the licensee has violated RCW 26.28.080(4) or  
11 sections 44 through 48 of this act.

12 (2) The sanctions that the board may impose against a person  
13 licensed under RCW 82.24.510(1)(b) based upon one or more findings  
14 under subsection (1) of this section may not exceed the following:

15 (a) For violation of RCW 26.28.080(4) or section 44 of this act:

16 (i) A civil penalty of one hundred dollars for the first violation  
17 within any two-year period;

18 (ii) A civil penalty of three hundred dollars for the second  
19 violation within any two-year period;

20 (iii) A civil penalty of one thousand dollars and suspension of the  
21 license for a period of six months for the third violation within any  
22 two-year period;

23 (iv) A civil penalty of one thousand five hundred dollars and  
24 suspension of the license for a period of twelve months for the fourth  
25 violation within any two-year period; or

26 (v) Revocation of the license with no possibility of reinstatement  
27 for a period of five years for the fifth or more violation within any  
28 two-year period.

29 (b) For violation of section 45 of this act, a civil penalty in the  
30 amount of one hundred dollars for each day upon which the violation  
31 occurred.

32 (c) For violation of section 46 of this act occurring on the  
33 licensed premises:

34 (i) A civil penalty of one hundred dollars for the first violation  
35 within any two-year period;

36 (ii) A civil penalty of three hundred dollars for the second  
37 violation within any two-year period;

1 (iii) A civil penalty of one thousand dollars and suspension of the  
2 license for a period of six months for the third violation within any  
3 two-year period;

4 (iv) A civil penalty of one thousand five hundred dollars and  
5 suspension of the license for a period of twelve months for the fourth  
6 violation within any two-year period; or

7 (v) Revocation of the license with no possibility of reinstatement  
8 for a period of five years for the fifth or more violation within any  
9 two-year period.

10 (d) For violation of section 46 of this act, a civil penalty in the  
11 amount of three hundred dollars for each violation.

12 (e) For violation of section 48 of this act, a civil penalty in the  
13 amount of one thousand dollars for each violation.

14 (3) The board may impose a civil penalty upon any person other than  
15 a licensed cigarette retailer if the board finds that the person has  
16 violated RCW 26.28.080(4) or sections 44 through 48 of this act.

17 (4) The civil penalty that the board may impose based upon one or  
18 more findings under subsection (3) of this section may not exceed the  
19 following:

20 (a) For violation of RCW 26.28.080(4) or section 46 of this act,  
21 one hundred dollars for each violation.

22 (b) For violation of section 45 of this act, one hundred dollars  
23 for each day upon which such violation occurred.

24 (c) For violation of section 46 of this act, one hundred dollars  
25 for each violation.

26 (d) For violation of section 47 of this act, three hundred dollars  
27 for each violation.

28 (e) For violation of section 48 of this act, one thousand dollars  
29 for each violation.

30 (5) The board may issue a cease and desist order to any person who  
31 is found by the board to have violated or intending to violate the  
32 provisions of chapter 82.24 or 82.26 RCW or this chapter, requiring the  
33 person to cease specified conduct. The issuance of a cease and desist  
34 order shall not preclude the imposition of other sanctions authorized  
35 by this chapter or any other provision of law.

36 (6) The board may seek injunctive relief to enforce the provisions  
37 of chapter 82.24 or 82.26 RCW or this chapter. The board may initiate  
38 legal action to collect civil penalties imposed under this chapter if  
39 the penalties have not been paid within thirty days after imposition.

1 In any action filed by the board under the provisions of this chapter,  
2 the court may, in addition to any other relief, award the board  
3 reasonable attorneys' fees and costs.

4 (7) Any order issued by the board under this section may be  
5 appealed to the board under chapter 34.05 RCW.

6 (8) Funds collected by the board from imposition of civil penalties  
7 shall be retained by the board and used for implementation of programs  
8 intended to prevent the use of tobacco products or promote the  
9 cessation of such use.

10 NEW SECTION. **Sec. 51.** (1) The board shall, in addition to its  
11 other powers and authorities, have the authority to enforce the  
12 provisions of chapter 82.24 or 82.26 RCW or this chapter. The board  
13 shall have full power to revoke or suspend the license of any retailer  
14 or wholesaler in accordance with the provisions of section 50 of this  
15 act.

16 (2) The board and its authorized agents or employees shall have  
17 full power and authority to enter any place of business where tobacco  
18 products are sold for the purpose of enforcing the provisions of  
19 chapter 82.24 or 82.26 RCW or this chapter.

20 NEW SECTION. **Sec. 52.** (1) The youth tobacco use enforcement  
21 account is created in the state treasury. All fees collected pursuant  
22 to RCW 82.24.530 shall be deposited into this account.

23 (2) Money appropriated from the youth tobacco use enforcement  
24 account to the board shall be used by the board for the implementation  
25 of this chapter, including collection and reporting of data regarding  
26 enforcement.

27 (3) The board may enter into interagency agreements with local law  
28 enforcement agencies to pay agency costs incurred in carrying out  
29 agency enforcement responsibilities under this chapter. These  
30 agreements shall set forth standards of enforcement, consistent with  
31 the funding available, so as to reduce the extent to which tobacco  
32 products are available to individuals under the age of eighteen. The  
33 agreements shall also set forth requirements for data reporting by law  
34 enforcement agencies regarding their enforcement activities.

35 NEW SECTION. **Sec. 53.** The provisions of this chapter shall not be  
36 exclusive, and any political subdivision of the state of Washington may

1 adopt additional provisions if they are not less restrictive than the  
2 provisions this chapter. Rules adopted by political subdivisions of  
3 the state may include, but are not limited to, requiring additional  
4 licensing or registration, and additional fees for such licensing or  
5 registration, for persons engaged in the business of selling tobacco  
6 products.

7 NEW SECTION. **Sec. 54.** RCW 82.24.260 and 1987 c 80 s 3 & 1986 c 3  
8 s 13 are each repealed.

9 NEW SECTION. **Sec. 55.** Sections 43 through 53 of this act shall  
10 constitute a new chapter in Title 66 RCW.

11 NEW SECTION. **Sec. 56.** If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 57.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of the  
17 state government and its existing public institutions, and shall take  
18 effect July 1, 1993.

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