
SUBSTITUTE HOUSE BILL 1753

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Valle, Sprenkle, Braddock, Morris, Moyer, Fraser, Paris, Ferguson, Locke, Prentice, Fuhrman, Vance and Rasmussen; by request of Department of Health).

Read first time March 6, 1991.

1 AN ACT Relating to tobacco control; amending RCW 82.24.520 and
2 82.24.530; adding a new chapter to Title 70 RCW; adding a new section
3 to chapter 43.20 RCW; adding a new section to chapter 82.24 RCW; adding
4 a new section to chapter 82.26 RCW; adding a new section to chapter
5 43.70 RCW; prescribing penalties; providing an effective date; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the current
9 system of health care and public health has been successful in
10 identifying and reducing many communicable diseases that were major
11 public health threats in years past but has not made efforts to reduce
12 death and disability from preventable noncommunicable diseases. The
13 leading cause of preventable death in our state is tobacco use.
14 Washington business has provided leadership in the adult community by
15 implementing smoke-free environments and cessation programs and

1 Washington citizens eliminated tobacco use on public school property.
2 However, the legislature recognizes the remaining high rate of tobacco-
3 caused disease among ethnic minority populations, and smoking
4 prevalence by youth and young pregnant women in our state. It is
5 imperative that prevention efforts be developed and implemented.

6 The legislature acknowledges the United States surgeon general's
7 findings that nicotine is the active drug in tobacco rendering it as
8 addictive as heroin and cocaine. The vast majority of new smokers are
9 teenagers or younger children. The earlier a child starts using
10 tobacco the more likely that he or she will be unable to quit.
11 Washington state has no organized effort to discourage children from
12 using tobacco.

13 The legislature finds that access to tobacco by minors is a major
14 problem. Youth obtain tobacco products with ease. Tobacco products
15 that are provided free or at nominal charge are likely to fall into the
16 hands of youth and the sale of single cigarettes are more affordable to
17 youth. The present system of prohibiting sales of tobacco to minors
18 has proven significantly defective. It is imperative to enforce the
19 prohibition of sales to minors.

20 The legislature finds that scientific evidence demonstrates that
21 environmental tobacco smoke causes lung cancer and is a contributor to
22 indoor air pollution, increasing the risk of disease and disability
23 among nonsmoking adults and children.

24 The most effective strategy for reducing the impact of tobacco use
25 is through the collaborative efforts of educators, business, local,
26 state, and tribal government officials, local health and community
27 agencies, ethnic minority groups, law enforcement, health care
28 providers, and concerned community and citizen groups to promote
29 healthy lifestyles and tobacco-free environments.

1 NEW SECTION. **Sec. 2.** The purpose of this chapter is to prevent
2 tobacco-caused disease by reducing the use of and subsequent addiction
3 to tobacco by youth and to promote tobacco reduction programs. The
4 legislature intends to support the development of community and state
5 efforts to reduce the effects of tobacco use by:

6 (1) Regulating the sale, distribution, and sampling of tobacco
7 products to minors;

8 (2) Conducting a state-wide advertising and public awareness
9 campaign informing youth and their families about the negative health
10 effects of using tobacco; and

11 (3) Providing funding for prevention, education, cessation
12 programs, and activities identified by communities that have brought
13 together local leadership and interested citizens, to help reduce
14 tobacco use and addiction. The department shall provide assistance and
15 support to help communities develop and carry out effective
16 intervention strategies and implement tobacco control programs.

17 NEW SECTION. **Sec. 3.** The definitions set forth in this section
18 apply throughout this chapter.

19 (1) "Department" means the state department of health.

20 (2) "Minor" means an individual who is less than eighteen years
21 old.

22 (3) "Package" means a pack, box, or container of any kind in which
23 a tobacco product is offered for sale, sold, or otherwise distributed.

24 (4) "Person" means an individual, partnership, corporation, or
25 other business or legal entity and includes the state or any political
26 subdivision of the state.

27 (5) "Retailer" means a person, firm, association, company,
28 partnership, or corporation who operates a store, stand, booth,

1 concession, or other place at which sales are made to purchasers for
2 consumption or use.

3 (6) "Vending machine" means a machine or device designated for or
4 used for the vending of cigarettes, cigars, tobacco, or tobacco
5 products upon the insertion of coins, trade checks, or slugs.

6 NEW SECTION. **Sec. 4.** The department of health shall collaborate
7 with entities within state, local, tribal, and federal governments, and
8 public and private agencies to use available information and resources
9 to carry out the following:

10 (1) Identify and monitor the leading causes of death and disease
11 caused by tobacco;

12 (2) Identify trends, geographic areas, and population groups at
13 risk for preventable tobacco-related disease;

14 (3) Establish a culturally relevant broad public media and
15 education campaign designed to prevent tobacco use among children,
16 teenagers, pregnant women, and other high-risk groups;

17 (4) Act as a clearinghouse for tobacco-related policy and
18 information including referral services to cessation programs and
19 information on effective prevention programs for health care providers,
20 business and industry, schools, and the general public;

21 (5) Evaluate, monitor, and report on the impact of tobacco use
22 intervention efforts state-wide;

23 (6) Request and receive funds, gifts, grants, or appropriations
24 from the legislature, the federal government, or private sources to
25 pursue the department's duties under this chapter.

26 NEW SECTION. **Sec. 5.** The legislature finds that a practical
27 method of responding to health problems, including direct access to
28 target populations, is found at the community level.

1 (1) The department shall, within available funds, provide grants to
2 local communities to develop and implement coordinated tobacco
3 intervention strategies to reduce the incidence and impact of tobacco
4 use. Geographic boundaries for local communities shall be the same as
5 that of local public health departments. In order to receive local
6 community grants, communities must demonstrate a commitment to carrying
7 out a coordinated intervention strategy plan and meet local matching
8 requirements. Intervention strategy plans must involve the active
9 participation by leadership from local public health, education, health
10 care providers, tribal government, law enforcement, business and
11 industry, labor, and other concerned citizens and community groups. In
12 consultation with the state board of health, the department shall
13 develop criteria by which funding allocations are determined for this
14 section.

15 (2) Grant applications shall be submitted on behalf of the
16 community by the local health department. If the local health
17 department does not wish to participate in submission of a grant
18 application the application may be submitted by a local organization.
19 If a grant application is not received from a local community, the
20 department may work with the community to develop an intervention
21 strategy plan.

22 (3) Community intervention strategies shall be sensitive to
23 cultural and ethnic differences and shall focus on at least the
24 following:

25 (a) Education to school-aged children and teenagers;

26 (b) Strategies focused on high-risk populations;

27 (c) Increased local availability of smoking and tobacco use
28 cessation classes and programs;

1 (d) Distribution of cessation messages and prevention materials to
2 high-risk groups, using local versions of the state-wide media and
3 marketing campaign; and

4 (e) Creation of local coalitions to encourage changes in community
5 attitudes about tobacco use.

6 (4) The department shall develop criteria for local match
7 requirements. It shall ensure that contracts for local grants maximize
8 expenditures on developing and implementing tobacco intervention
9 strategies. Grants shall not exceed ninety-five percent of the local
10 tobacco intervention budgets, and the department shall make available
11 to local intervention programs at least twenty-five percent of the
12 total revenues authorized under this chapter. Funds designated for
13 local intervention programs that remain unexpended may be expended on
14 other authorized tobacco intervention strategies. No more than five
15 percent of grants funds may be used for administrative purposes.

16 (5) Local communities shall not supplant existing financial
17 resources with grants issued under this chapter.

18 NEW SECTION. **Sec. 6.** Effective July 1, 1991, no tobacco product
19 may be sold or offered for sale from a vending machine unless the
20 machine is located:

21 (1) In a portion of a commercial building or industrial plant where
22 the public is expressly prohibited and where no minor employees are
23 usually admitted; or

24 (2) On any premises or portion thereof to which access by minors is
25 expressly prohibited by law if, and only if, the tobacco vending
26 machine is located fully within such premises from which minors are
27 prohibited and not less than ten feet from all entrance or exit ways.

28 If an appropriate enforcing agency has reason to believe that a
29 violation of this chapter has occurred, the enforcing agency shall

1 issue an order of noncompliance to the alleged violator, informing the
2 alleged violator that a civil action shall begin in one week if the
3 tobacco vending machine is not removed. If after one week the tobacco
4 vending machine has not been removed, the enforcing agency shall
5 initiate a civil action in superior court to enforce the provisions of
6 this chapter. If the court finds that one or more violations have
7 occurred, the court shall award the prevailing party its costs,
8 including reasonable attorneys' fees. The court may also enjoin future
9 violations and impose a civil penalty of up to one thousand dollars per
10 violation. For purposes of this section enforcing agencies shall
11 include state and local health departments, local fire departments or
12 fire districts and local law enforcement.

13 NEW SECTION. **Sec. 7.** A retailer who sells cigarettes not in the
14 original sealed unopened package upon which revenue stamps are required
15 to be placed under RCW 82.24.030 is guilty of a gross misdemeanor.

16 NEW SECTION. **Sec. 8.** A person who gives or provides by a coupon,
17 tobacco products to a person at no cost or at a nominal cost is guilty
18 of a gross misdemeanor, except that a retailer whose annual gross sales
19 from the sale of tobacco products exceeds sixty percent of annual gross
20 sales may distribute single serving samples of tobacco to adults
21 without violating this section.

22 NEW SECTION. **Sec. 9.** A retailer or employee who sells or permits
23 to be sold cigarettes or other tobacco products to an individual
24 without requesting and examining identification from the purchaser
25 positively establishing the purchaser's age as eighteen years or
26 greater, unless the seller has some other conclusive basis for

1 determining the buyer is over the age of eighteen years, is guilty of
2 a gross misdemeanor.

3 For purposes of this section, the purchaser shall be required to
4 present one of the following officially issued cards of identification
5 which shows his or her correct age and bears his or her signature and
6 photograph:

7 (1) Liquor control authority card of identification of a state or
8 a province of Canada;

9 (2) Driver's license, instruction permit, or identification of a
10 state or a province of Canada, or "identocard" issued by the Washington
11 state department of licensing under chapter 46.20 RCW;

12 (3) United States active duty military identification;

13 (4) Passport; or

14 (5) Merchant marine identification card issued by the United States
15 coast guard.

16 NEW SECTION. **Sec. 10.** No retailer may sell or permit to be
17 sold, cigarettes or other tobacco products, unless the vending machine
18 or other location at which the cigarettes or other tobacco products are
19 available for purchase is posted with a notice that is clearly visible
20 to anyone purchasing the products, and that states:

21 IT IS ILLEGAL TO SELL OR PERMIT TO BE SOLD A TOBACCO PRODUCT TO
22 A PERSON UNDER THE AGE OF EIGHTEEN

23 The notice must be black letters at least one inch in height on a white
24 background. The notice will be made available through the state
25 department of licensing at the time of issuing the state license. A
26 retailer failing to post the notice is guilty of a gross misdemeanor.

27 NEW SECTION. **Sec. 11.** A person or entity including agencies
28 or political subdivisions of the state may initiate civil action in

1 superior court to enforce RCW 26.28.080(4) or the provisions of this
2 chapter. Venue for such action is in the county where the violation is
3 alleged to have taken place. If the court finds that one or more
4 violations have occurred, the court shall award the prevailing party
5 its costs, including reasonable attorneys' fees. The court may also
6 enjoin future violations, and, in addition to any other sanction
7 allowed by law, impose a civil penalty of up to one thousand dollars
8 for each violation. For purposes of section 6 of this act, each day
9 upon which a violation has occurred is deemed a separate violation.

10 NEW SECTION. **Sec. 12.** The provisions of this chapter shall
11 not preempt any ordinance or rule adopted by any political subdivisions
12 of the state to enact rules governing the retail sale or use of tobacco
13 products, provided that such ordinances or rules are at least as
14 restrictive as those of applicable state law.

15 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.20 RCW
16 to read as follows:

17 The state board of health may adopt such additional rules as are
18 not inconsistent with the provisions of this chapter to control the
19 retail sale of tobacco products so as to limit the purchase and use of
20 tobacco by minors.

21 **Sec. 14.** RCW 82.24.520 and 1986 c 321 s 6 are each amended to read
22 as follows:

23 A fee of (~~six hundred fifty~~) one thousand dollars shall accompany
24 each wholesaler's license application or license renewal application.
25 If a wholesaler sells or intends to sell cigarettes at two or more
26 places of business, whether established or temporary, a separate
27 license with a license fee of (~~one hundred fifteen~~) three hundred

1 dollars shall be required for each additional place of business. Each
2 license, or certificate thereof, and such other evidence of license as
3 the department of revenue requires, shall be exhibited in the place of
4 business for which it is issued and in such manner as is prescribed for
5 the display of a master license. The department of revenue shall
6 require each licensed wholesaler to file with the department a bond in
7 an amount not less than one thousand dollars to guarantee the proper
8 performance of the duties and the discharge of the liabilities under
9 this chapter. The bond shall be executed by such licensed wholesaler
10 as principal, and by a corporation approved by the department of
11 revenue and authorized to engage in business as a surety company in
12 this state, as surety. The bond shall run concurrently with the
13 wholesaler's license.

14 **Sec. 15.** RCW 82.24.530 and 1986 c 321 s 7 are each amended to read
15 as follows:

16 A fee of (~~ten~~) seventy-five dollars shall accompany each
17 retailer's license application or license renewal application. A fee
18 of (~~one additional dollar~~) twenty-five dollars for each vending
19 machine shall accompany each application or renewal for a license
20 issued to a retail dealer operating a cigarette vending machine.

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

23 (1) In addition to the taxes provided in RCW 82.24.020, there is
24 imposed and shall be collected beginning July 1, 1991, an additional
25 tax upon the sale, use, consumption, handling, possession, or
26 distribution of cigarettes, in an amount equal to the rate of one-half
27 of one mill per cigarette.

1 (2) Revenues collected under this section, after the deduction of
2 the costs of administering the tax, shall be deposited in the tobacco
3 prevention account under section 18 of this act.

4 NEW SECTION. **Sec. 17.** A new section is added to chapter 82.26 RCW
5 to read as follows:

6 (1) In addition to the taxes imposed under RCW 82.26.020 and
7 82.26.025, there is levied and there shall be collected a tax upon the
8 sale, use, consumption, handling, or distribution of all tobacco
9 products in this state at the rate of one and one-third of one percent
10 of the wholesale sales price of such tobacco products. The tax shall
11 be imposed at the time the distributor (a) brings, or causes to be
12 brought, into this state from without the state tobacco products for
13 sale, (b) makes, manufactures, or fabricates tobacco products in this
14 state for sale in this state, or (c) ships or transports tobacco
15 products to retailers in this state, to be sold by those retailers.

16 (2) The moneys collected under this section shall be deposited in
17 the tobacco prevention account established under section 18 of this
18 act.

19 NEW SECTION. **Sec. 18.** A new section is added to chapter 43.70 RCW
20 to read as follows:

21 The tobacco prevention account is created in the state treasury.
22 All designated receipts from the taxes imposed by sections 16 and 17 of
23 this act shall be deposited into the account. Expenditures from the
24 account may be used only for funding services and programs under
25 sections 1 through 11 of this act, and to cover any negative impact on
26 the general fund, the water quality account, and the drug enforcement
27 and education account by the taxes imposed under sections 16 and 17 of
28 this act.

1 NEW SECTION. **Sec. 19.** Sections 1 through 12 of this act shall
2 constitute a new chapter in Title 70 RCW.

3 NEW SECTION. **Sec. 20.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and shall take
6 effect July 1, 1991.

7 NEW SECTION. **Sec. 21.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.