

2 **ESHB 2071** - S AMD TO S COMM AMD (S3042.1) 000630
3 By Senator McDonald

4 SCOPE RAISED; RULED OUT OF S/O; 4/15/93

5 Strike everything after the enacting clause and insert the
6 following:

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

9 (1) All licensed premises used in the manufacture, storage, or sale
10 of liquor, or any premises or parts of premises used or in any way
11 connected, physically or otherwise, with the licensed business, and/or
12 any premises where a banquet permit has been granted, shall at all
13 times be open to inspection by any liquor and tobacco enforcement
14 officer, inspector, or peace officer.

15 (2) Every person, being on any such premises and having charge
16 thereof, who refuses or fails to admit a liquor and tobacco enforcement
17 officer, inspector, or peace officer demanding to enter therein in
18 pursuance of this section in the execution of ((his/her)) his or her
19 duty, or who obstructs or attempts to obstruct the entry of such liquor
20 and tobacco enforcement officer, inspector, or officer of the peace, or
21 who refuses to allow a liquor and tobacco enforcement officer, and/or
22 an inspector to examine the books of the licensee, or who refuses or
23 neglects to make any return required by this title or the
24 ((regulations)) rules, shall be guilty of a violation of this title.

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

27 (1) All county and municipal peace officers are hereby charged with
28 the duty of investigating and prosecuting all violations of this title,
29 and the penal laws of this state relating to the manufacture,
30 importation, transportation, possession, distribution, and sale of
31 liquor, and all fines imposed for violations of this title and the
32 penal laws of this state relating to the manufacture, importation,
33 transportation, possession, distribution, and sale of liquor shall
34 belong to the county, city, or town wherein the court imposing the fine
35 is located, and shall be placed in the general fund for payment of the

1 salaries of those engaged in the enforcement of the provisions of this
2 title and the penal laws of this state relating to the manufacture,
3 importation, transportation, possession, distribution, and sale of
4 liquor: PROVIDED, That all fees, fines, forfeitures, and penalties
5 collected or assessed by a district court because of the violation of
6 a state law shall be remitted as provided in chapter 3.62 RCW as now
7 exists or is later amended.

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

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

14 (4) The board may appoint and employ, assign to duty and fix the
15 compensation of, officers to be designated as liquor and tobacco
16 enforcement officers. Such ((liquor)) enforcement officers shall have
17 the power, under the supervision of the board, to enforce the penal
18 provisions of this title and the penal laws of this state relating to
19 the manufacture, importation, transportation, possession, distribution,
20 and sale of liquor, and the provisions of chapters 82.24 and 82.26 RCW
21 and RCW 26.28.080(4) relating to cigarettes and tobacco. They shall
22 have the power and authority to serve and execute all warrants and
23 process of law issued by the courts in enforcing the penal provisions
24 of this title or of any penal law of this state relating to the
25 manufacture, importation, transportation, possession, distribution, and
26 sale of liquor, and the provisions of chapters 82.24 and 82.26 RCW and
27 RCW 26.28.080(4) relating to cigarettes and tobacco. They shall have
28 the power to arrest without a warrant any person or persons found in
29 the act of violating any of the penal provisions of this title or of
30 any penal law of this state relating to the manufacture, importation,
31 transportation, possession, distribution, and sale of liquor, and the
32 provisions of chapters 82.24 and 82.26 RCW and RCW 26.28.080(4)
33 relating to cigarettes and tobacco.

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

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

1 No person shall knowingly or willfully resist or oppose any state,
2 county, or municipal peace officer, or liquor and tobacco enforcement
3 officer, in the discharge of (~~his/her~~) his or her duties under Title
4 66 RCW, or aid and abet such resistance or opposition. Any person who
5 violates this section shall be guilty of a violation of this title and
6 subject to arrest by any such officer.

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

9 For the purposes of this chapter, unless otherwise required by the
10 context:

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

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

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

22 ~~(4))~~ (4) "Cigarette" means any roll for smoking made wholly or in part
23 of tobacco, irrespective of size or shape and irrespective of the
24 tobacco being flavored, adulterated, or mixed with any other
25 ingredient, where such roll has a wrapper or cover made of paper or any
26 material, except where such wrapper is wholly or in the greater part
27 made of natural leaf tobacco in its natural state;

28 (~~(5))~~ (4) "Stamp" means the stamp or stamps or meter impressions
29 by use of which the tax levy under this chapter is paid;

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

31 (6) The meaning attributed, in chapter 82.04 RCW, to the words
32 "person," "sale," "business," and "successor" shall apply equally in
33 the provisions of this chapter;

34 (7) "Minor" refers to an individual who is less than eighteen
35 years old;

36 (8) "Public place" means a public street, sidewalk, or park, or
37 any area open to the public in a publicly owned and operated building;

1 (9) "Sample" means a tobacco product distributed to members of the
2 general public at no cost or at nominal cost for product promotion
3 purposes;

4 (10) "Sampler" means a person engaged in the business of sampling
5 other than a retailer;

6 (11) "Sampling" means the distribution of samples to members of the
7 general public in a public place;

8 (12) "Tobacco product" means a product that contains tobacco and is
9 intended for human consumption.

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

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

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

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

22 In order to enforce collection of the tax hereby levied, the
23 ~~((department of revenue))~~ board shall design and have printed stamps of
24 such size and denominations as may be determined by the ~~((department))~~
25 board, such stamps to be affixed on the smallest container or package
26 that will be handled, sold, used, consumed, or distributed, to permit
27 the ~~((department))~~ board to readily ascertain by inspection, whether or
28 not such tax has been paid. Except as otherwise provided in this
29 chapter, every person shall cause to be affixed on every package of
30 cigarettes, stamps of an amount equaling the tax due thereon before he
31 or she sells, offers for sale, uses, consumes, handles, removes, or
32 otherwise disturbs and distributes the same: PROVIDED, That where it
33 is established to the satisfaction of the ~~((department))~~ board that it
34 is impractical to affix such stamps to the smallest container or
35 package, the ~~((department))~~ board may authorize the affixing of stamps
36 of appropriate denomination to a large container or package.

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

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

8 No wholesaler in this state may possess within this state unstamped
9 cigarettes except that:

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

14 (2) Any wholesaler in the state who is licensed under Washington
15 state law and who furnishes a surety bond in a sum satisfactory to the
16 ((department)) board, shall be permitted to set aside, without affixing
17 the stamps required by this chapter, such part of ((his)) the
18 wholesaler's stock as may be necessary for the conduct of ((his)) the
19 wholesaler's business in making sales to persons in another state or
20 foreign country, to instrumentalities of the federal government, or to
21 the established governing bodies of any Indian tribe, recognized as
22 such by the United States Department of the Interior. Such unstamped
23 stock shall be kept separate and apart from stamped stock.

24 (3) Every wholesaler licensed under Washington state law shall, at
25 the time of shipping or delivering any of the articles taxed herein to
26 a point outside of this state, or to a federal instrumentality, or to
27 an Indian tribal organization, make a true duplicate invoice of the
28 same which shall show full and complete details of the sale or
29 delivery, whether or not stamps were affixed thereto, and shall
30 transmit such true duplicate invoice to the main office of the
31 ((department)) board, at Olympia, not later than the fifteenth day of
32 the following calendar month, and for failure to comply with the
33 requirements of this section the ((department)) board may revoke the
34 permission granted to the taxpayer to maintain a stock of goods to
35 which the stamps required by this chapter have not been affixed. The
36 ((department)) board may also revoke this permission to maintain a
37 stock of unstamped goods for sale to a specific Indian tribal
38 organization when it appears that sales of unstamped cigarettes to

1 persons who are not enrolled members of a recognized Indian tribe are
2 taking place, or have taken place, within the exterior boundaries of
3 the reservation occupied by that tribe.

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

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

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

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

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

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

35 All wholesalers shall within fifteen days after the first day of
36 each month file with the ~~((department of revenue))~~ board a report of

1 all drop shipment sales made by them to retailers within this state
2 during the preceding month, which report shall show the name and
3 address of the retailer to whom the cigarettes were sold, the kind and
4 quantity, and the date of delivery thereof.

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

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

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

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

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

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

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

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

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

26 (h) For any retailer(~~, except one permitted to maintain an~~
27 ~~unstamped stock to engage in interstate business as provided herein,~~)
28 to have in possession in any place of business any of the articles
29 herein taxed, unless the same have the proper stamps attached;

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

35 (j) For any wholesaler or retailer or (~~his or her~~) its agents or
36 employees to fail to produce on demand of the (~~department of revenue~~)
37 board all invoices of all the articles herein taxed or stamps bought
38 (~~by him or her~~) or received in (~~his or her~~) its place of business

1 within five years prior to such demand unless (~~he or she~~) the
2 wholesaler or retailer can show by satisfactory proof that the
3 nonproduction of the invoices was due to causes beyond (~~his~~) its
4 control;

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

11 (l) For any person to possess or transport upon the public
12 highways, roads, or streets of this state a quantity of sixty thousand
13 cigarettes or less (~~unless the proper stamps required by this chapter~~
14 ~~have been affixed~~) that are unstamped, untaxed, or untaxed stamped
15 cigarettes or unless the person transporting the cigarettes has in
16 actual possession invoices or delivery tickets therefor which show the
17 true name and address of the consignor or seller, the true name of the
18 consignee or purchaser, and the quantity and brands of the cigarettes
19 so transported and unless the cigarettes are consigned to or purchased
20 by any person in this state who is a purchaser or consignee authorized
21 by this chapter to possess unstamped, untaxed, or untaxed stamped
22 cigarettes in this state.

23 (2) It is unlawful for any person knowingly or intentionally to
24 possess or to transport upon the public highways, roads, or streets of
25 this state a quantity in excess of sixty thousand cigarettes (~~unless~~
26 ~~the proper stamps required by this chapter are affixed thereto or~~)
27 that are unstamped, untaxed, or untaxed stamped cigarettes unless the
28 person transporting the cigarettes actually possesses invoices or
29 delivery tickets showing the true name and address of the consignor or
30 seller, the true name of the consignee or purchaser, and the quantity
31 and brands of the cigarettes so transported. Violation of this section
32 shall be punished as a class C felony under Title 9A RCW.

33 (3) All agents, employees, and others who aid, abet, or otherwise
34 participate in any way in the violation of the provisions of this
35 chapter or in any of the offenses described in this chapter shall be
36 guilty and punishable as principals, to the same extent as any
37 wholesaler or retailer or any other person violating the provisions
38 thereof.

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

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

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

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

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

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

1 (i) A conveyance used by any person as a common or contract carrier
2 having in actual possession invoices or delivery tickets showing the
3 true name and address of the consignor or seller, the true name of the
4 consignee or purchaser, and the quantity and brands of the cigarettes
5 transported, unless it appears that the owner or other person in charge
6 of the conveyance is a consenting party or privy to a violation of this
7 chapter;

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

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

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

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

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

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

27 (3) Notwithstanding the foregoing provisions of this section,
28 articles taxed in this chapter which are in the possession of a
29 wholesaler ((or retailer)), licensed under Washington state law, for a
30 period of time necessary to affix the stamps after receipt of the
31 articles, shall not be considered contraband.

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

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

36 (1) Forfeiture shall be deemed to have commenced by the seizure.
37 Notice of seizure shall be given to the ((department)) board

1 immediately if the seizure is made by someone other than an agent of
2 the ((department)) board authorized to collect taxes.

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

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

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

28 (5) If any person notifies the ((department)) board, in writing, of
29 the person's claim of ownership or right to possession of the items
30 seized within fifteen days of the date of the notice of seizure, the
31 person or persons shall be afforded a reasonable opportunity to be
32 heard as to the claim or right. The hearing shall be before the
33 ((~~director~~)) board or the ((~~director's~~)) board's designee, except that
34 any person asserting a claim or right may bring an action for return of
35 the seized items in the superior court of the county in which such
36 property was seized, if the aggregate value of the article or articles
37 involved is more than five hundred dollars. A hearing before the
38 seizing agency and any appeal therefrom shall be in accordance with
39 chapter 34.05 RCW. The burden of proof by a preponderance of the

1 evidence shall be upon the person claiming to be the lawful owner or
2 the person claiming to have the lawful right to possession of the items
3 seized. The ((department)) board shall promptly return the article or
4 articles to the claimant upon a determination that the claimant is the
5 present lawful owner or is lawfully entitled to possession thereof of
6 the items seized.

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

9 When property is forfeited under this chapter the ((department))
10 board may:

11 (1) Retain the property or any part thereof for official use or
12 upon application by any law enforcement agency of this state, another
13 state, or the District of Columbia, or of the United States for the
14 exclusive use of enforcing the provisions of this chapter or the laws
15 of any other state or the District of Columbia or of the United States.

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

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

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

33 When any property is returned under this section, the
34 ((department)) board may return such goods to the parties from whom
35 they were seized if and when such parties affix the proper amount of
36 stamps thereto, and pay to the ((department)) board as penalty an
37 amount equal to the greater of ten dollars per package of unstamped

1 cigarettes or two hundred fifty dollars, and interest thereon at the
2 rate of one percent for each thirty days or portion thereof from the
3 date the tax became due, and in such cases, no advertisement shall be
4 made or notices posted in connection with said seizure.

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

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

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

24 The ((~~department of revenue~~)) board may ((~~promulgate~~)) adopt rules
25 ((~~and regulations~~)) providing for the refund to dealers for the cost of
26 stamps affixed to articles taxed herein, which by reason of damage
27 become unfit for sale and are destroyed by the dealer or returned to
28 the manufacturer or jobber. In the case of any articles to which
29 stamps have been affixed, and which articles have been sold and shipped
30 to a regular dealer in such articles in another state, the seller in
31 this state shall be entitled to a refund of the actual amount of the
32 stamps so affixed, less the affixing discount, upon condition that the
33 seller in this state makes affidavit that the articles were sold and
34 shipped outside of the state and that ((~~he~~)) the seller has received
35 from the purchaser outside the state a written acknowledgment that
36 ((~~he~~)) the purchaser has received such articles with the amount of
37 stamps affixed thereto, together with the name and address of such

1 purchaser. The (~~department of revenue~~) board may redeem any unused
2 stamps purchased from it at the face value thereof less the affixing
3 discount.

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

6 All of the provisions contained in chapter 82.32 RCW except RCW
7 82.32.050, 82.32.060, 82.32.070, 82.32.100, and 82.32.270 shall have
8 full force and application with respect to taxes imposed under the
9 provisions of this chapter(~~, except the following sections thereof:~~
10 ~~RCW 82.32.050, 82.32.060, 82.32.070, 82.32.100 and 82.32.270~~); except
11 that "department of revenue" or "department" means the liquor control
12 board.

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

15 No person other than (1) a licensed wholesaler in its own vehicle,
16 or (2) a person who has given notice to the (~~department~~) board in
17 advance of the commencement of transportation shall transport or cause
18 to be transported unstamped, untaxed, or untaxed stamped cigarettes
19 (~~(not having the stamps affixed to the packages or containers)~~), upon
20 the public highways, roads, or streets of this state. In the case of
21 transportation of unstamped cigarettes such persons shall have in their
22 actual possession invoices or delivery tickets for such cigarettes,
23 which shall show the true name and address of the consignor or seller,
24 the true name of the consignee or purchaser, and the quantity and
25 brands of the cigarettes so transported. If the cigarettes are
26 consigned to or purchased by any person in this state such purchaser or
27 consignee must be a person who is authorized by chapter 82.24 RCW to
28 possess unstamped, untaxed, or untaxed stamped cigarettes in this
29 state. In the absence of such invoices or delivery tickets, or, if the
30 name or address of the consignee or purchaser is falsified or if the
31 purchaser or consignee is not authorized by chapter 82.24 RCW to
32 possess unstamped, untaxed, or untaxed stamped cigarettes, the
33 cigarettes so transported shall be deemed contraband subject to seizure
34 and sale under the provisions of RCW 82.24.130.

35 Transportation of cigarettes from a point outside this state to a
36 point in some other state will not be considered a violation of this
37 section provided that the person so transporting such cigarettes has in

1 his or her possession adequate invoices or delivery tickets which give
2 the true name and address of such out-of-state seller or consignor and
3 such out-of-state purchaser or consignee.

4 In any case where the ((~~department~~)) board or its duly authorized
5 agent, or any peace officer of the state, has knowledge or reasonable
6 grounds to believe that any vehicle is transporting cigarettes in
7 violation of this section, the ((~~department~~)) board, such agent, or
8 such police officer, is authorized to stop such vehicle and to inspect
9 the same for contraband cigarettes.

10 For purposes of this section, the term "person authorized by
11 chapter 82.24 RCW to possess unstamped, untaxed, or untaxed stamped
12 cigarettes" shall mean a wholesaler ((~~or retailer,~~)) licensed under
13 Washington state law, the United States or an agency thereof, and any
14 Indian tribal organization authorized under rules adopted by the
15 ((~~department of revenue~~)) board to possess ((~~unstamped cigarettes~~))
16 these articles.

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

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

20 (a) A wholesaler's license.

21 (b) A retailer's license.

22 (c) A vending machine license.

23 (2) Application for the licenses shall be made through the master
24 license system under chapter 19.02 RCW. The ((~~department of revenue~~))
25 board shall adopt rules regarding the regulation of the licenses. The
26 ((~~department of revenue~~)) board may refrain from the issuance of any
27 license under this chapter if the ((~~department~~)) board has reasonable
28 cause to believe that the applicant has willfully withheld information
29 requested for the purpose of determining the eligibility of the
30 applicant to receive a license, or if the ((~~department~~)) board has
31 reasonable cause to believe that information submitted in the
32 application is false or misleading or is not made in good faith. Each
33 such license shall expire on the master license expiration date, and
34 each such license shall be continued annually if the licensee has paid
35 the required fee and complied with all the provisions of this chapter
36 and the rules of the ((~~department of revenue~~)) board made pursuant
37 thereto.

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

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

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

23 A fee of (~~ten~~) ninety-three dollars shall accompany each
24 retailer's license application or license renewal application. A
25 separate license is required for each separate location at which the
26 retailer operates. A fee of (~~one~~) thirty additional dollars for each
27 vending machine shall accompany each application or renewal for a
28 license issued to a retail dealer operating a cigarette vending
29 machine.

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

32 (1) The (~~department of revenue~~) board shall enforce the
33 provisions of this chapter. The (~~department of revenue~~) board may
34 adopt, amend, and repeal rules necessary to enforce and administer the
35 provisions of this chapter. The (~~department of revenue~~) board has
36 full power and authority to revoke or suspend the license or permit of
37 any wholesale or retail cigarette dealer in the state upon sufficient

1 cause appearing of the violation of this chapter or upon the failure of
2 such licensee to comply with any of the provisions of this chapter.

3 (2) A license shall not be suspended or revoked except upon notice
4 to the licensee and after a hearing as prescribed by the ((department
5 of revenue)) board. The ((department of revenue)) board, upon a
6 finding by same, that the licensee has failed to comply with any
7 provision of this chapter or any rule ((promulgated thereunder))
8 adopted under this chapter, shall, in the case of the first offender,
9 suspend the license or licenses of the licensee for a period of not
10 less than thirty consecutive business days, and, in the case of a
11 second or plural offender, shall suspend the license or licenses for a
12 period of not less than ninety consecutive business days nor more than
13 twelve months, and, in the event the ((department of revenue)) board
14 finds the offender has been guilty of willful and persistent
15 violations, it may revoke the license or licenses.

16 (3) Any person whose license or licenses have been so revoked may
17 apply to the ((department of revenue)) board at the expiration of one
18 year for a reinstatement of the license or licenses. The license or
19 licenses may be reinstated by the ((department of revenue)) board if it
20 appears to the satisfaction of the ((department of revenue)) board that
21 the licensee will comply with the provisions of this chapter and the
22 rules ((promulgated thereunder)) adopted under this chapter.

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

28 (5) Any determination and order by the ((department of revenue))
29 board, and any order of suspension or revocation by the ((department of
30 revenue)) board of the license or licenses, or refusal to reinstate a
31 license or licenses after revocation shall be reviewable by an appeal
32 to the superior court of Thurston county. The superior court shall
33 review the order or ruling of the ((department of revenue)) board and
34 may hear the matter de novo, having due regard to the provisions of
35 this chapter and the duties imposed upon the ((department of revenue))
36 board.

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

1 Except under section 55 of this act, all fees and penalties
2 received or collected by the ((department of revenue)) board pursuant
3 to this chapter shall be paid to the state treasurer, to be credited to
4 the general fund.

5 NEW SECTION. Sec. 26. A new section is added to chapter 82.24 RCW
6 to read as follows:

7 The board may adopt rules to implement this chapter.

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

10 As used in this chapter:

11 (1) "Tobacco products" means cigars, cheroots, stogies, periques,
12 granulated, plug cut, crimp cut, ready rubbed, and other smoking
13 tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-
14 cut and other chewing tobaccos, shorts, refuse scraps, clippings,
15 cuttings, and sweepings of tobacco, and other kinds and forms of
16 tobacco, prepared in such manner as to be suitable for chewing or
17 smoking in a pipe or otherwise, or both for chewing and smoking, but
18 shall not include cigarettes as defined in RCW 82.24.010((+4));

19 (2) "Manufacturer" means a person who manufactures and sells
20 tobacco products;

21 (3) "Distributor" means (a) any person engaged in the business of
22 selling tobacco products in this state who brings, or causes to be
23 brought, into this state from without the state any tobacco products
24 for sale, (b) any person who makes, manufactures, or fabricates tobacco
25 products in this state for sale in this state, (c) any person engaged
26 in the business of selling tobacco products without this state who
27 ships or transports tobacco products to retailers in this state, to be
28 sold by those retailers;

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

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

34 (6) "Sale" means any transfer, exchange, or barter, in any manner
35 or by any means whatsoever, for a consideration, and includes and means
36 all sales made by any person. It includes a gift by a person engaged
37 in the business of selling tobacco products, for advertising, as a

1 means of evading the provisions of this chapter, or for any other
2 purposes whatsoever.

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

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

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

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

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

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

19 (~~From and after July 1, 1959~~) No person shall engage in the
20 business of a distributor or subjobber of tobacco products at any place
21 of business without first having received from the (~~department of~~
22 ~~revenue~~) board a certificate of registration (~~as provided in RCW~~
23 ~~82.32.030~~)).

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

26 Every distributor shall keep at each registered place of business
27 complete and accurate records for that place of business, including
28 itemized invoices, of tobacco products held, purchased, manufactured,
29 brought in or caused to be brought in from without the state, or
30 shipped or transported to retailers in this state, and of all sales of
31 tobacco products made, except sales to the ultimate consumer.

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

36 When a registered distributor sells tobacco products exclusively to
37 the ultimate consumer at the address given in the certificate, no

1 invoice of those sales shall be required, but itemized invoices shall
2 be made of all tobacco products transferred to other retail outlets
3 owned or controlled by that registered distributor. All books,
4 records, and other papers and documents required by this section to be
5 kept shall be preserved for a period of at least five years after the
6 date of the documents, as aforesaid, or the date of the entries thereof
7 appearing in the records, unless the ((department of revenue)) board,
8 in writing, authorizes their destruction or disposal at an earlier
9 date. At any time during usual business hours the ((department))
10 board, or its duly authorized agents or employees, may enter any place
11 of business of a distributor, without a search warrant, and inspect the
12 premises, the records required to be kept under this chapter, and the
13 tobacco products contained therein, to determine whether or not all the
14 provisions of this chapter are being fully complied with. If the
15 ((department)) board, or any of its agents or employees, are denied
16 free access or are hindered or interfered with in making such
17 examination, the registration certificate of the distributor at such
18 premises shall be subject to revocation by the ((department)) board.

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

21 Every retailer and subjobber shall procure itemized invoices of all
22 tobacco products purchased. The invoices shall show the name and
23 address of the seller and the date of purchase. The retailer and
24 subjobber shall preserve a legible copy of each such invoice for five
25 years from the date of purchase. Invoices shall be available for
26 inspection by the ((department of revenue)) board or its authorized
27 agents or employees at the retailer's or subjobber's place of business.

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

30 Records of all deliveries or shipments of tobacco products from any
31 public warehouse of first destination in this state shall be kept by
32 the warehouse and be available to the ((department of revenue)) board
33 for inspection. They shall show the name and address of the consignee,
34 the date, the quantity of tobacco products delivered, and such other
35 information as the ((department)) board may require. These records
36 shall be preserved for five years from the date of delivery of the
37 tobacco products.

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

3 Where tobacco products upon which the tax imposed by this chapter
4 has been reported and paid, are shipped or transported by the
5 distributor to retailers without the state, to be sold by those
6 retailers, or are returned to the manufacturer by the distributor or
7 destroyed by the distributor, credit of such tax may be made to the
8 distributor in accordance with (~~(regulations)~~) rules prescribed by the
9 (~~(department of revenue)~~) board.

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

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

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

18 The board may adopt rules to implement this chapter.

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

21 The liquor control board may contract with the department for the
22 collection of taxes, penalties, and interest, and the making of
23 refunds, related to the administration and enforcement of chapters
24 82.24 and 82.26 RCW.

25 NEW SECTION. **Sec. 36.** All powers, duties, and functions of the
26 department of revenue pertaining to chapters 82.24 and 82.26 RCW are
27 transferred to the liquor control board. All references to the
28 director or department of revenue in the Revised Code of Washington
29 shall be construed to mean the liquor control board when referring to
30 the functions transferred in this section.

31 NEW SECTION. **Sec. 37.** All reports, documents, surveys, books,
32 records, files, papers, or written material in the possession of the
33 department of revenue pertaining to the powers, functions, and duties
34 transferred shall be delivered to the custody of the liquor control

1 board. All cabinets, furniture, office equipment, motor vehicles, and
2 other tangible property employed by the department of revenue in
3 carrying out the powers, functions, and duties transferred shall be
4 made available to the liquor control board. All funds, credits, or
5 other assets held in connection with the powers, functions, and duties
6 transferred shall be assigned to the liquor control board.

7 Any appropriations made to the department of revenue for carrying
8 out the powers, functions, and duties transferred shall, on the
9 effective date of this section, be transferred and credited to the
10 liquor control board.

11 Whenever any question arises as to the transfer of any personnel,
12 funds, books, documents, records, papers, files, equipment, or other
13 tangible property used or held in the exercise of the powers and the
14 performance of the duties and functions transferred, the director of
15 financial management shall make a determination as to the proper
16 allocation and certify the same to the state agencies concerned.

17 NEW SECTION. **Sec. 38.** All employees of the department of revenue
18 engaged in performing the powers, functions, and duties transferred are
19 transferred to the jurisdiction of the liquor control board. All
20 employees classified under chapter 41.06 RCW, the state civil service
21 law, are assigned to the liquor control board to perform their usual
22 duties upon the same terms as formerly, without any loss of rights,
23 subject to any action that may be appropriate thereafter in accordance
24 with the laws and rules governing state civil service.

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

30 NEW SECTION. **Sec. 40.** The transfer of the powers, duties,
31 functions, and personnel of the department of revenue shall not affect
32 the validity of any act performed prior to the effective date of this
33 section.

34 NEW SECTION. **Sec. 41.** If apportionments of budgeted funds are
35 required because of the transfers directed by sections 36 through 39 of

1 this act, the director of financial management shall certify the
2 apportionments to the agencies affected, the state auditor, and the
3 state treasurer. Each of these shall make the appropriate transfer and
4 adjustments in funds and appropriation accounts and equipment records
5 in accordance with the certification.

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

11 NEW SECTION. **Sec. 43.** The legislature finds that while present
12 state law prohibits the sale and distribution of tobacco to minors,
13 youth obtain tobacco products with ease. Availability and lack of
14 enforcement put tobacco products in the hands of youth.

15 Federal law requires states to enforce laws prohibiting sale and
16 distribution of tobacco products to minors in a manner that can
17 reasonably be expected to reduce the extent to which the products are
18 available to minors. It is imperative to effectively reduce the sale,
19 distribution, and availability of tobacco products to minors.

20 NEW SECTION. **Sec. 44.** A person who holds a license issued under
21 RCW 82.24.520 or 82.24.530 shall:

22 (1) Display the license or a copy in a prominent location at the
23 outlet for which the license is issued; and

24 (2) Display a sign concerning the prohibition of tobacco sales to
25 minors.

26 Such sign shall:

27 (a) Be posted so that it is clearly visible to anyone purchasing
28 tobacco products from the licensee;

29 (b) Be designed and produced by the department of health to read:
30 "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE 18 IS STRICTLY
31 PROHIBITED BY STATE LAW. IF YOU ARE UNDER 18, YOU COULD BE PENALIZED
32 FOR PURCHASING A TOBACCO PRODUCT; PHOTO ID REQUIRED"; and

33 (c) Be provided free of charge by the liquor control board.

34 NEW SECTION. **Sec. 45.** No person shall sell or permit to be sold
35 any tobacco product through any device that mechanically dispenses

1 tobacco products unless the device is located fully within premises
2 from which minors are prohibited or in industrial worksites where
3 minors are not employed and not less than ten feet from all entrance or
4 exit ways to and from each premises.

5 NEW SECTION. **Sec. 46.** No person shall sell or permit to be sold
6 cigarettes not in the original unopened package or container to which
7 the stamps required by RCW 82.24.060 have been affixed.

8 This section does not apply to the sale of loose leaf tobacco by a
9 retail business that generates a minimum of sixty percent of annual
10 gross sales from the sale of tobacco products.

11 NEW SECTION. **Sec. 47.** (1) No person may engage in the business of
12 sampling within the state unless licensed to do so by the board. If a
13 firm contracts with a manufacturer to distribute samples of the
14 manufacturer's products, that firm is deemed to be the person engaged
15 in the business of sampling.

16 (2) The board shall issue a license to a sampler not otherwise
17 disqualified by section 52 of this act upon application and payment of
18 the fee.

19 (3) A sampler's license expires on the thirtieth day of June of
20 each year and must be renewed annually upon payment of the appropriate
21 fee.

22 (4) The board shall annually determine the fee for a sampler's
23 license and each renewal. However, the fee for a manufacturer whose
24 employees distribute samples within the state is five hundred dollars
25 per annum, and the fee for all other samplers must be not less than
26 fifty dollars per annum.

27 (5) A sampler's license entitles the licensee, and employees or
28 agents of the licensee, to distribute samples at any lawful location in
29 the state during the term of the license. A person engaged in sampling
30 under the license shall carry the license or a copy at all times.

31 NEW SECTION. **Sec. 48.** (1) No person may distribute or offer to
32 distribute samples in a public place. This prohibition does not apply
33 to sampling (a) in an area to which persons under the age of eighteen
34 are denied admission, (b) in or at a store or concession to which a
35 retailer's license has been issued, or (c) at or adjacent to a
36 production, repair, or outdoor construction site or facility.

1 (2) Notwithstanding subsection (1) of this section, no person may
2 distribute or offer to distribute samples in or on a public street,
3 sidewalk, or park that is within five hundred feet of a playground,
4 school, or other facility when that facility is being used primarily by
5 persons under the age of eighteen for recreational, educational, or
6 other purposes.

7 NEW SECTION. **Sec. 49.** No person shall give or distribute
8 cigarettes or other tobacco products to a person by a coupon if such
9 coupon is redeemed in any manner that does not require an in-person
10 transaction in a retail store.

11 NEW SECTION. **Sec. 50.** A person under the age of eighteen who
12 purchases or attempts to purchase or obtains or attempts to obtain
13 cigarettes or tobacco products commits a class 3 civil infraction under
14 chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80
15 RCW or participation in a smoking cessation program, or both. This
16 provision does not apply if a person under the age of eighteen, with
17 parental authorization, is participating in a controlled purchase as
18 part of a liquor control board, law enforcement, or local health
19 department activity.

20 NEW SECTION. **Sec. 51.** (1) Where there may be a question of a
21 person's right to purchase or obtain tobacco products by reason of age,
22 the retailer, sampler, or agent thereof, shall require the purchaser or
23 recipient to present any one of the following officially issued
24 identification that shows the purchaser's age and bears his or her
25 signature and photograph: Liquor control authority card of
26 identification of a state or province of Canada; driver's license,
27 instruction permit, or identification card of a state or province of
28 Canada; "identocard" issued by the Washington state department of
29 licensing under chapter 46.20 RCW; United States military
30 identification; passport; or merchant marine identification card issued
31 by the United States coast guard.

32 (2) It is a defense to a prosecution under RCW 26.28.080(4) that
33 the person making a sale reasonably relied on any of the officially
34 issued identification as defined in subsection (1) of this section.
35 The liquor control board shall waive the suspension or revocation of a
36 license if the licensee clearly establishes that he or she acted in

1 good faith to prevent violations and a violation occurred despite the
2 licensee's exercise of due diligence.

3 NEW SECTION. **Sec. 52.** (1) The liquor control board may suspend or
4 revoke a retailer's license held by a business at any location, or may
5 impose a monetary penalty as set forth in subsection (2) of this
6 section, if the liquor control board finds that the licensee has
7 violated RCW 26.28.080(4), or section 44, 45, 46, 47, 48, 49, or 51 of
8 this act.

9 (2) The sanctions that the liquor control board may impose against
10 a person licensed under RCW 82.24.530 and sections 47 and 48 of this
11 act based upon one or more findings under subsection (1) of this
12 section may not exceed the following:

13 (a) For violation of RCW 26.28.080(4), or section 44 or 51 of this
14 act:

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

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

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

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

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

28 (b) For violations of section 45 of this act, a monetary penalty in
29 the amount of one hundred dollars for each day upon which such
30 violation occurred;

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

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

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

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

4 (iv) A monetary 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;

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 violations of sections 47 and 48 of this act, a monetary
11 penalty in the amount of three hundred dollars for each violation;

12 (e) For violations of section 49 of this act, a monetary penalty in
13 the amount of one thousand dollars for each violation.

14 (3) The liquor control board may impose a monetary penalty upon any
15 person other than a licensed cigarette retailer or licensed sampler if
16 the liquor control board finds that the person has violated RCW
17 26.28.080(4), or section 44, 45, 46, 47, 48, 49, or 51 of this act.

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

21 (a) For violation of RCW 26.28.080(4), or section 44 or 51 of this
22 act, fifty dollars for the first violation and one hundred dollars for
23 each subsequent violation;

24 (b) For violations of section 45 of this act, one hundred dollars
25 for each day upon which such violation occurred;

26 (c) For violations of section 46 of this act, one hundred dollars
27 for each violation;

28 (d) For violations of sections 47 and 48 of this act, three hundred
29 dollars for each violation;

30 (e) For violations of section 49 of this act, one thousand dollars
31 for each violation.

32 (5) The liquor control board may develop and offer a class for
33 retail clerks and use this class in lieu of a monetary penalty for the
34 clerk's first violation.

35 (6) The liquor control board may issue a cease and desist order to
36 any person who is found by the liquor control board to have violated or
37 intending to violate the provisions of this chapter, RCW 26.28.080(4)
38 or chapter 82.24 or 82.26 RCW, requiring such person to cease specified
39 conduct that is in violation. The issuance of a cease and desist order

1 shall not preclude the imposition of other sanctions authorized by this
2 statute or any other provision of law.

3 (7) The liquor control board may seek injunctive relief to enforce
4 the provisions of RCW 26.28.080(4) or chapter 82.24 or 82.26 RCW or
5 this chapter. The liquor control board may initiate legal action to
6 collect civil penalties imposed under this chapter if the same have not
7 been paid within thirty days after imposition of such penalties. In
8 any action filed by the liquor control board under this chapter, the
9 court may, in addition to any other relief, award the liquor control
10 board reasonable attorneys' fees and costs.

11 (8) All proceedings under subsections (1) through (6) of this
12 section shall be conducted in accordance with chapter 34.05 RCW.

13 NEW SECTION. **Sec. 53.** (1) The liquor control board shall, in
14 addition to the board's other powers and authorities, have the
15 authority to enforce the provisions of this chapter and RCW
16 26.28.080(4) and chapter 82.24 or 82.26 RCW. The liquor control board
17 shall have full power to revoke or suspend the license of any retailer
18 or wholesaler in accordance with the provisions of section 52 of this
19 act.

20 (2) The liquor control board and the board's authorized agents or
21 employees shall have full power and authority to enter any place of
22 business where tobacco products are sold for the purpose of enforcing
23 the provisions of chapter 82.24 or 82.26 RCW or this chapter.

24 (3) For the purpose of enforcing the provisions of this chapter and
25 RCW 26.28.080(4) and 82.24.500, a peace officer or enforcement officer
26 of the liquor control board who has reasonable grounds to believe a
27 person observed by the officer purchasing, attempting to purchase, or
28 in possession of tobacco products is under the age of eighteen years of
29 age, may detain such person for a reasonable period of time and in such
30 a reasonable manner as is necessary to determine the person's true
31 identity and date of birth. Further, tobacco products possessed by
32 persons under the age of eighteen years of age are considered
33 contraband and may be seized by a peace officer or enforcement officer
34 of the liquor control board.

35 (4) The liquor control board may work with local county health
36 departments or districts and local law enforcement agencies to conduct
37 random, unannounced, inspections to assure compliance.

1 NEW SECTION. **Sec. 54.** This chapter preempts political
2 subdivisions from adopting or enforcing requirements for the licensure
3 and regulation of tobacco product promotions and sales within retail
4 stores, except that political subdivisions that have adopted ordinances
5 prohibiting sampling by January 1, 1993, may continue to enforce these
6 ordinances. No political subdivision may: (1) Impose fees or license
7 requirements on retail businesses for possessing or selling cigarettes
8 or tobacco products, other than general business taxes or license fees
9 not primarily levied on tobacco products; or (2) regulate or prohibit
10 activities covered by sections 44 through 50 of this act. This chapter
11 does not otherwise preempt political subdivisions from adopting
12 ordinances regulating the sale, purchase, use, or promotion of tobacco
13 products not inconsistent with chapter ..., Laws of 1993 (this act).

14 NEW SECTION. **Sec. 55.** A new section is added to chapter 43.70 RCW
15 to read as follows:

16 (1) The youth tobacco prevention account is created in the state
17 treasury. All fees collected pursuant to RCW 82.24.520 and 82.24.530
18 and funds collected by the liquor control board from the imposition of
19 monetary penalties and samplers' fees shall be deposited into this
20 account, except that ten percent of all such fees and penalties shall
21 be deposited in the state general fund.

22 (2) Thirty percent of the moneys in the youth tobacco prevention
23 account shall be appropriated to the liquor control board to be used
24 for implementation of sections 44 through 54 of this act, including
25 collection and reporting of data regarding enforcement and the extent
26 to which access to tobacco products by youth has been reduced.

27 (3) The department of health shall, within up to seventy percent of
28 available funds, provide grants to local health departments or other
29 local community agencies to develop and implement coordinated tobacco
30 intervention strategies to prevent and reduce tobacco use by youth.

31 NEW SECTION. **Sec. 56.** A new section is added to chapter 43.70 RCW
32 to read as follows:

33 The department of health shall report to the house of
34 representatives and senate committees with jurisdiction for health
35 issues no later than February 1, 1995, on the effectiveness of
36 enforcement and education activities as specified in chapter ..., Laws
37 of 1993 (this act). This study shall include information concerning

1 the adequacy of revenue to support enforcement and education
2 activities.

3 NEW SECTION. **Sec. 57.** Sections 44 through 54 of this act shall
4 constitute a new chapter in Title 66 RCW.

5 NEW SECTION. **Sec. 58.** RCW 82.24.260 and 1987 c 80 s 3 & 1986 c 3
6 s 13 are each repealed.

7 NEW SECTION. **Sec. 59.** 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."

11 **ESHB 2071** - S AMD
12 By Senator McDonald

13
14 On page 1, line 1 of the title, after "tobacco;" strike the
15 remainder of the title and insert "amending RCW 66.28.090, 66.44.010,
16 66.44.370, 82.24.010, 82.24.027, 82.24.030, 82.24.040, 82.24.050,
17 82.24.070, 82.24.090, 82.24.110, 82.24.120, 82.24.130, 82.24.135,
18 82.24.145, 82.24.180, 82.24.190, 82.24.210, 82.24.230, 82.24.250,
19 82.24.510, 82.24.520, 82.24.530, 82.24.550, 82.24.560, 82.26.010,
20 82.26.050, 82.26.060, 82.26.080, 82.26.090, 82.26.110, and 82.26.120;
21 adding a new section to chapter 82.24 RCW; adding a new section to
22 chapter 82.26 RCW; adding a new section to chapter 82.32 RCW; adding
23 new sections to chapter 43.70 RCW; adding a new chapter to Title 66
24 RCW; creating new sections; repealing RCW 82.24.260; and prescribing
25 penalties."

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