

HOUSE BILL REPORT

ESHB 2071

As Passed Legislature

Title: An act relating to access to tobacco.

Brief Description: Regulating access to tobacco.

Sponsors: By House Committee on Health Care (originally sponsored by Representatives L. Johnson, Dellwo, Quall, Campbell and Karahalios).

Brief History:

Reported by House Committee on:
Health Care, March 2, 1993, DPS;
Revenue, March 8, 1993, DPS(HC-A REV);
Passed House, March 17, 1993, 97-0;
Amended by Senate;
Passed Legislature, April 21, 1993, 97-1.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Dellwo, Chair; L. Johnson, Vice Chair; Dyer, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Appelwick; Campbell; Conway; Cooke; Flemming; R. Johnson; Lisk; Mastin; Mielke; Morris; Thibaudeau; and Veloria.

Staff: Bill Hagens (786-7131).

HOUSE COMMITTEE ON REVENUE

Majority Report: The substitute bill by Committee on Health Care be substituted therefor and the substitute bill as amended by Committee on Revenue do pass. Signed by 14 members: Representatives G. Fisher, Chair; Holm, Vice Chair; Foreman, Ranking Minority Member; Anderson; Brown; Cothorn; Leonard; Morris; Romero; Rust; Talcott; Thibaudeau; Van Luven; and Wang.

Minority Report: Do not pass. Signed by 2 members: Representatives Fuhrman, Assistant Ranking Minority Member and Silver.

Staff: Maureen Morris (786-7152).

Background: In the 1992 State Health Report, the State Board of Health concluded that:

"The vast majority of smokers, some 75 percent, become addicted to tobacco in their teens. For tobacco prevention and education activities to be effective, they need to be targeted at youthful populations. Since smoking and use of other tobacco products containing nicotine are addictive, it is easier to reduce prevalence of tobacco use by preventing people from starting than by getting them to stop.

A young person's decision to start or not to start using tobacco products is not made in isolation. Factors influencing such decisions include: level of societal acceptance; prevalence with which peers or role models are using; price and ease with which tobacco products can be purchased; and extent to which tobacco products are advertised and promoted, especially at sporting events and other events frequented by young people.

A 1990 survey conducted in Washington public schools showed that 11 percent of 6th graders had tried smoking, and 1.4 percent were already regular smokers. Smoking experimentation and prevalence gradually increases by grade level, with over 50 percent of 12th graders having tried smoking and over 24 percent being regular smokers by time of high school completion. A survey of three Washington school districts with a large percentage of Native American students found that 34 percent of Native American male adolescents and 24 percent of Native American female adolescents used smokeless tobacco, compared to 20 percent of white males and 4 percent of white females.

Health professionals believe that the tobacco industry specifically targets advertising at younger populations. A 1992 article in the Journal of the American Medical Association reports cartoon characters utilized in tobacco advertising are readily recognized by very young children. In a study of 229 children ages three to six, 30 percent of the three-year-olds were able to match a picture of the Old Joe (Camel cigarettes) character with a picture of a cigarette. By age six, 91 percent were able to do the same. Research shows that the younger individuals are when they start smoking, the more cigarettes per day they are likely to smoke as adults. Among men who began to smoke at or before age 14, 19.6 percent reported smoking 41 or more cigarettes per day in adulthood, compared to 10.3 percent of those who started when they were age 20 or older. Among women, 26.9 percent of those who started smoking at or before age 16 smoked 31 or more cigarettes per day as adults, compared with 15.4 percent of those who started at age 20 or older."

At the federal level, Congress passed the "Synar Amendment" the Prevention and Treatment of Substance Abuse Block Grant Act to address minors' access to tobacco. The amendment requires that "states receiving block grant money have in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18," and that "the state involved will enforce the law in a manner than can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18 Failure to comply with these federal laws beginning in the federal fiscal year 1994 (October 1993) will result in the reduction of the grant to the state of 10 percent each year for four years.

HB 1971 is the effort of the Department of Health, Department of Social and Health Services, and the Board of Health to comply with the Synar Amendment.

Summary of Bill: The Liquor Control Board is empowered with the responsibility to implement this act.

Cigarette wholesalers and retailers are required to display their license to sell cigarettes and a sign concerning the prohibition of tobacco sales to minors. The sign, which shall be provided free of charge by the Liquor Control Board, shall be clearly visible to a person purchasing tobacco products and shall read: "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE 18 IS STRICTLY PROHIBITED BY STATE LAW. IF YOU ARE UNDER 18, YOU COULD BE PENALIZED FOR PURCHASING A TOBACCO PRODUCT; PHOTO ID REQUIRED." Proof of age is required.

The sale of tobacco products is prohibited through vending machines unless the device is located fully within the premises from which minors are prohibited and not less than 10 feet from all entrances or exits, or in industrial work places where minors are not employed.

The sale of tobacco products not in the original unopened package or a container with the appropriate stamp is prohibited. This provision does not apply to the sale of loose leaf tobacco by a retail business that generates a minimum of 60 percent of gross annual sales from the sale of tobacco products.

Free distribution of tobacco is restricted.

Named after congressman Mike Synar of Oklahoma the sponsor of the amendment.

ADAMHA Reorganization Act [Pub. L. No 102-321 ú 1926]

The distribution of tobacco products to a person at a reduced price by a coupon is prohibited unless the coupon is redeemed in a manner that requires an in-person transaction between a buyer and seller.

The Youth Tobacco Prevention Account is established and retailers license fees are to be deposited there. The Department of Health, within 70 percent of available funds, shall provide grants to local health departments for this act's purposes.

Penalties are prescribed for minors, retailers and related employees for violation of this law.

The Liquor Control Board may issue cease and desist orders and seek injunctive relief to enforce this act. Orders may be appealed pursuant to the Administrative Procedures Act (Chapter 34.05).

A retailer's license is raised from \$10 to \$93, with a separate license required for each place of business. Vending machine fees are raised from \$1 to \$30.

Political subdivisions are preempted from imposing certain regulations and fees on retailers.

Fiscal Note: New fiscal note requested March 9, 1993.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Health Care): This bill is necessary to comply with federal law and reduce minors' access to tobacco.

(Revenue): This bill is necessary to comply with already existing federal laws. This bill would discourage minors from smoking. Statistics show that 20 percent of all adult deaths and 1 percent of infant mortality are related to tobacco usage or exposure. Youth access to tobacco is a serious issue. This bill puts a strong focus on prevention.

Testimony Against: (Health Care): This bill is another effort to impinge upon the God given rights of smokers. It places an undue burden upon retailers. The fee increases are excessive.

(Revenue): Regarding the penalty section of the bill, there are concerns, not so much with the fine of \$100, but with the fact that a retail clerk could lose his/her job if they sell tobacco products to a minor. While a ban on tobacco

samples to minors is supported, some parties would like to see a reinstatement of tobacco samples for adults.

Witnesses: (Health Care): Representative L. Johnson, prime sponsor; Mimi Fields, Ward Hinds and Ken Stark, Department of Social and Health Services (pro); Steve Wehrly, Smokeless Tobacco (con); Paul Zemann, King County Environmental Health (pro); Willa Fisher, Bremerton/Kitsap County Health Department (pro); Ragina McCaun (pro); Robert Fox and Eldon Ball, FANS (pro); Linda Tanz, Coalition on Smoking or Health (pro); Jim Boldt and Jan Gee, Washington Food Dealers and Washington Retail Association (pro with some amendments); and T.K. Bentler, UFCW District Council.

(Revenue): Linda Johnson, prime sponsor; Ken Stark, Department of Social and Health Services; Carol Washburn, Department of Health; Jan Gee, Washington Retailers Association; and Carter Mitchell, Liquor Control Board (all in favor); Steve Wehrly, Smokeless Tobacco Institute (con); and T.K. Bentler, United Food and Commercial Workers Union (con).