

SENATE BILL REPORT

SB 6407

AS REPORTED BY COMMITTEE ON HEALTH & HUMAN SERVICES,
FEBRUARY 4, 1994

Brief Description: Changing provisions relating to smoking and tobacco products.

SPONSORS: Senators Talmadge, Oke and Pelz

SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 6407 be substituted therefor, and the substitute bill do pass.

Signed by Senators Talmadge, Chairman; Fraser, Hargrove, McAuliffe, Moyer, Niemi, Prentice, Quigley and Winsley.

Staff: Richard Rodger (786-7461)

Hearing Dates: February 3, 1994; February 4, 1994

BACKGROUND:

Tobacco manufacturers may be sued for injuries caused by their products; however, causation of injuries has been difficult to prove and few people prevail in such litigation. It has been suggested that tobacco manufacturers should be held strictly liable for injuries resulting from the use of their products.

At the present time there are no restrictions against the sale of tobacco products in publicly owned or leased buildings.

SUMMARY:

A manufacturer of tobacco products is strictly liable for health injuries caused by inhaling, ingesting, chewing, or applying tobacco products or smoke from tobacco products. An injured party does not need to show active use or participation in the use of a tobacco product to recover damages. Evidence of contributory fault relating to injuries due to tobacco use is inadmissible in any court proceeding.

Tobacco products may not be sold or distributed in those portions of buildings or vessels that are publicly owned or leased. An exception is allowed for correctional institutions. A violation of the law is grounds for the termination or nonrenewal of a rental or lease agreement.

The state laws regulating tobacco do not preempt more restrictive local regulation of indoor smoking.

EFFECT OF PROPOSED SUBSTITUTE:

The provisions relating to strict liability for tobacco manufacturers are removed.

The giving away of cigarettes or tobacco products is prohibited. Providing no-cost coupons for cigarettes or tobacco products is also prohibited. The local health officer may enforce these provisions.

Appropriation: none

Revenue: none

Fiscal Note: available

Effective Date: January 1, 1995

TESTIMONY FOR:

Tobacco use causes 22 deaths every day in Washington State. We need a strong public policy to prevent these deaths. This bill will hold the tobacco industry responsible for the health injuries their products cause. It limits the state's involvement by restricting the sale in state-owned leased properties. The amendment prohibiting tobacco sampling will help keep tobacco products out of the hands of minors.

TESTIMONY AGAINST:

Tobacco companies may already be sued under strict liability theories for injuries caused by tobacco products. Changing the comparative fault laws will make an inconsistent state policy in tort litigation. The provisions banning tobacco sales in public buildings will be unfair to vendors in those buildings and will reduce employee productivity for those buildings.

TESTIFIED: Sue Mercer, D.O., physician, WA DOC; PRO: Paul Zemann, Sea/King Health; Dennis Biggs, M.D., Tobacco Free WA; Linda Tanz, WA Coalition on Smoking or Health; Jo Wadsworth, DOH; CON: Ron Leighton, WA Defense Trial Lawyers; Stu Halsan; Smokeless Tobacco Council; David Remes, Covington & Burling