
SUBSTITUTE HOUSE BILL 2071

State of Washington

53rd Legislature

1993 Regular Session

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

Read first time 03/03/93.

1 AN ACT Relating to access to tobacco; amending RCW 82.24.520,
2 82.24.530, 82.24.550, and 82.24.560; adding a new chapter to Title 70
3 RCW; creating new sections; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the leading cause
6 of preventable death is tobacco use. Further, the legislature
7 recognizes the high rate of smoking prevalence by youth and young
8 pregnant women in our state. 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. By the
11 time Washington state youth become high school seniors, one out of
12 every four is an addicted smoker. The legislature finds that youth
13 obtain tobacco products with ease. Washington state has no organized
14 effort to prevent children from purchasing tobacco products. Tobacco
15 products that are provided free or at nominal charge are likely to fall
16 into the hands of youth, and the sale of single cigarettes are more
17 affordable to youth. It is imperative to effectively enforce the
18 prohibition of sales to minors.

1 NEW SECTION. **Sec. 2.** (1) The definitions set forth in RCW
2 82.24.010 shall apply to sections 3 through 12 of this act, except that
3 "department" refers to the Washington state department of health.

4 (2) "Minor" as used in sections 3 through 12 of this act refers to
5 an individual who is less than eighteen years old.

6 NEW SECTION. **Sec. 3.** A person who holds a license issued under
7 RCW 82.24.520 or 82.24.530 shall:

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

10 (2) Display a sign concerning the prohibition of tobacco sales to
11 minors.

12 Such sign shall:

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

15 (b) Be designed and produced by the department of health to read:
16 "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE 18 IS STRICTLY
17 PROHIBITED BY STATE LAW, PHOTO ID REQUIRED"; and

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

19 NEW SECTION. **Sec. 4.** No person shall sell or permit to be sold
20 any tobacco product through any device that mechanically dispenses
21 tobacco products unless the device is located fully within premises
22 from which minors are prohibited or in industrial worksites where
23 minors are not employed and not less than ten feet from all entrance or
24 exit ways to and from each premises.

25 NEW SECTION. **Sec. 5.** No person shall sell or permit to be sold
26 any tobacco product not in the original unopened package or container
27 to which the stamps required by RCW 82.24.060 have been affixed.

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

31 NEW SECTION. **Sec. 6.** No retailer, wholesaler, tobacco
32 manufacturer, or agent thereof, shall give or distribute cigarettes or
33 other tobacco products to any person at no cost.

1 NEW SECTION. **Sec. 7.** No person shall give or distribute
2 cigarettes or other tobacco products to a person at a reduced price by
3 a coupon if such coupon is redeemed in any manner that does not require
4 an in-person transaction between a buyer and seller.

5 NEW SECTION. **Sec. 8.** (1) Where there may be a question of a
6 person's right to purchase tobacco products by reason of age, the
7 retailer, or agent thereof, shall require the purchaser to present any
8 one of the following officially issued identification that shows the
9 purchaser's age and bears his or her signature and photograph: Liquor
10 control authority card of identification of a state or province of
11 Canada; driver's license, instruction permit, or identification card of
12 a state or province of Canada; "identocard" issued by the Washington
13 state department of licensing under chapter 46.20 RCW; United States
14 military identification; passport; or merchant marine identification
15 card issued by the United States coast guard.

16 (2) It is a defense to a prosecution under RCW 26.28.080(4) that
17 the person making a sale reasonably relied on any of the officially
18 issued identification as defined in subsection (1) of this section.

19 NEW SECTION. **Sec. 9.** (1) The liquor control board may suspend or
20 revoke a retailer's license held by a business at any location, or may
21 impose a monetary penalty as set forth in subsection (2) of this
22 section, if the liquor control board finds that the licensee has
23 violated RCW 26.28.080(4), or section 3, 4, 5, 6, or 7 of this act.

24 (2) The sanctions that the liquor control board may impose against
25 a person licensed under RCW 82.24.530 based upon one or more findings
26 under section 1 of this act may not exceed the following:

27 (a) For violation of RCW 26.28.080(4) or section 3 of this act:

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

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

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

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

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

4 (b) For violations of section 4 of this act, a monetary penalty in
5 the amount of one hundred dollars for each day upon which such
6 violation occurred;

7 (c) For violations of section 5 of this act occurring on the
8 licensed premises:

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

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

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

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

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

22 (d) For violations of section 6 of this act, a monetary penalty in
23 the amount of three hundred dollars for each violation;

24 (e) For violations of section 7 of this act, a monetary penalty in
25 the amount of one thousand dollars for each violation.

26 (3) The liquor control board may impose a monetary penalty upon any
27 person other than a licensed cigarette retailer if the liquor control
28 board finds that the person has violated RCW 26.28.080(4), or section
29 3, 4, 5, 6, or 7 of this act.

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

33 (a) For violation of RCW 26.28.080(4) or section 3 of this act, one
34 hundred dollars for each violation;

35 (b) For violations of section 4 of this act, one hundred dollars
36 for each day upon which such violation occurred;

37 (c) For violations of section 5 of this act, one hundred dollars
38 for each violation;

1 (d) For violations of section 6 of this act, three hundred dollars
2 for each violation;

3 (e) For violations of section 7 of this act, one thousand dollars
4 for each violation.

5 (5) The liquor control board may issue a cease and desist order to
6 any person who is found by the liquor control board to have violated or
7 intending to violate the provisions of this chapter, RCW 26.28.080(4)
8 or 82.24.500, requiring such person to cease specified conduct that is
9 in violation. The issuance of a cease and desist order shall not
10 preclude the imposition of other sanctions authorized by this statute
11 or any other provision of law.

12 (6) The liquor control board may seek injunctive relief to enforce
13 the provisions of RCW 26.28.080(4) or 82.24.500 or this chapter. The
14 liquor control board may initiate legal action to collect civil
15 penalties imposed under this chapter if the same have not been paid
16 within thirty days after imposition of such penalties. In any action
17 filed by the liquor control board under this chapter, the court may, in
18 addition to any other relief, award the liquor control board reasonable
19 attorneys' fees and costs.

20 (7) All proceedings under subsections (1) through (5) of this
21 section shall be conducted in accordance with chapter 34.05 RCW.

22 NEW SECTION. **Sec. 10.** (1) The liquor control board shall, in
23 addition to the board's other powers and authorities, have the
24 authority to enforce the provisions of this chapter and RCW
25 26.28.080(4) and 82.24.500. The liquor control board shall have full
26 power to revoke or suspend the license of any retailer or wholesaler in
27 accordance with the provisions of section 9 of this act.

28 (2) The liquor control board and the board's authorized agents or
29 employees shall have full power and authority to enter any place of
30 business where tobacco products are sold for the purpose of enforcing
31 the provisions of this chapter.

32 (3) For the purpose of enforcing the provisions of this chapter and
33 RCW 26.28.080(4) and 82.24.500, a peace officer or enforcement officer
34 of the liquor control board who has reasonable grounds to believe a
35 person observed by the officer purchasing, attempting to purchase, or
36 in possession of tobacco products is under the age of eighteen years of
37 age, may detain such person for a reasonable period of time and in such
38 a reasonable manner as is necessary to determine the person's true

1 identity and date of birth. Further, tobacco products possessed by
2 persons under the age of eighteen years of age are considered
3 contraband and may be seized by a peace officer or enforcement officer
4 of the liquor control board.

5 (4) The liquor control board may work with local county health
6 departments and local law enforcement agencies to conduct unannounced,
7 random stings.

8 NEW SECTION. **Sec. 11.** (1) The youth tobacco prevention account is
9 created in the state treasury. All fees collected pursuant to RCW
10 82.24.520 and 82.24.530 and funds collected by the liquor control board
11 from the imposition of monetary penalties shall be deposited into this
12 account.

13 (2) Moneys appropriated from the youth tobacco prevention account
14 to the department of health shall be used by the department of health
15 for implementation of this chapter, including collection and reporting
16 of data regarding enforcement and the extent to which access to tobacco
17 products by youth has been reduced.

18 (3) The department shall enter into interagency agreements with the
19 liquor control board to pay the costs incurred, up to thirty percent of
20 available funds, in carrying out its enforcement responsibilities under
21 this chapter. Such agreements shall set forth standards of
22 enforcement, consistent with the funding available, so as to reduce the
23 extent to which tobacco products are available to individuals under the
24 age of eighteen. The agreements shall also set forth requirements for
25 data reporting by the liquor control board regarding its enforcement
26 activities.

27 (4) The department of health and the department of revenue shall
28 enter into an interagency agreement for payment of the cost of
29 administering the tobacco retailer licensing system and for the
30 provision of quarterly documentation of tobacco wholesaler, retailer,
31 and vending machine names and locations.

32 (5) The department of health shall, within up to seventy percent of
33 available funds, provide grants to local health departments or other
34 local community agencies to develop and implement coordinated tobacco
35 intervention strategies to prevent and reduce tobacco use by youth.

36 NEW SECTION. **Sec. 12.** This chapter preempts political
37 subdivisions of the state from adopting requirements for the licensure

1 and regulation of tobacco product promotions and sales within retail
2 stores and wholesale operations. No political subdivision of the state
3 may: (1) Impose fees or license requirements on retail and wholesale
4 businesses for possessing or selling cigarettes or tobacco products; or
5 (2) Regulate activities prohibited by sections 3 through 8 of this act.
6 This chapter does not otherwise preempt political subdivisions of the
7 state from adopting ordinances regulating the sale, purchase, use, or
8 promotion of tobacco products.

9 **Sec. 13.** RCW 82.24.520 and 1986 c 321 s 6 are each amended to read
10 as follows:

11 (1) A fee of (~~six hundred fifty~~) thirteen hundred dollars shall
12 accompany each wholesaler's license application or license renewal
13 application. If a wholesaler sells or intends to sell cigarettes at
14 two or more places of business, whether established or temporary, a
15 separate license with a license fee of (~~one hundred fifteen~~) two
16 hundred fifty dollars shall be required for each additional place of
17 business.

18 (2) Each license, or certificate thereof, and such other evidence
19 of license as the department of revenue requires, shall be exhibited in
20 the place of business for which it is issued and in such manner as is
21 prescribed for the display of a master license.

22 (3) The department of revenue shall require each licensed
23 wholesaler to file with the department a bond in an amount not less
24 than one thousand dollars to guarantee the proper performance of the
25 duties and the discharge of the liabilities under this chapter. The
26 bond shall be executed by such licensed wholesaler as principal, and by
27 a corporation approved by the department of revenue and authorized to
28 engage in business as a surety company in this state, as surety. The
29 bond shall run concurrently with the wholesaler's license.

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

32 A fee of (~~ten~~) ninety-three dollars shall accompany each
33 retailer's license application or license renewal application. A
34 separate license is required for each separate location at which the
35 retailer operates. A fee of (~~one~~) thirty additional dollars for each
36 vending machine shall accompany each application or renewal for a

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

3 NEW SECTION. **Sec. 15.** The department of health shall report to
4 the house of representatives and senate committees with jurisdiction
5 for health issues no later than February 1, 1995, on the effectiveness
6 of enforcement and education activities as specified in this act. This
7 study shall include information concerning the adequacy of revenue to
8 support enforcement and education activities.

9 **Sec. 16.** RCW 82.24.550 and 1986 c 321 s 9 are each amended to read
10 as follows:

11 (1) The department of revenue shall enforce the provisions of this
12 chapter except RCW 82.24.500, which will be enforced by the liquor
13 control board. The department of revenue may adopt, amend, and repeal
14 rules necessary to enforce and administer the provisions of this
15 chapter. The department of revenue has full power and authority to
16 revoke or suspend the license or permit of any wholesale or retail
17 cigarette dealer in the state upon sufficient cause appearing of the
18 violation of this chapter or upon the failure of such licensee to
19 comply with any of the provisions of this chapter.

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

32 (3) Any person whose license or licenses have been so revoked may
33 apply to the department of revenue at the expiration of one year for a
34 reinstatement of the license or licenses. The license or licenses may
35 be reinstated by the department of revenue if it appears to the
36 satisfaction of the department of revenue that the licensee will comply

1 with the provisions of this chapter and the rules promulgated
2 thereunder.

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

8 (5) Any determination and order by the department of revenue, and
9 any order of suspension or revocation by the department of revenue of
10 the license or licenses, or refusal to reinstate a license or licenses
11 after revocation shall be reviewable by an appeal to the superior court
12 of Thurston county. The superior court shall review the order or
13 ruling of the department of revenue and may hear the matter de novo,
14 having due regard to the provisions of this chapter and the duties
15 imposed upon the department of revenue.

16 **Sec. 17.** RCW 82.24.560 and 1986 c 321 s 10 are each amended to
17 read as follows:

18 Except as specified in section 11 of this act, all fees and
19 penalties received or collected by the department of revenue pursuant
20 to this chapter shall be paid to the state treasurer, to be credited to
21 the general fund.

22 NEW SECTION. **Sec. 18.** Sections 2 through 12 of this act shall
23 constitute a new chapter in Title 70 RCW.

24 NEW SECTION. **Sec. 19.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

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