

2 **2ESHB 1746** - S AMD
3 By Committee on Commerce & Labor

4 ADOPTED 3/5/98

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

7 "NEW SECTION. **Sec. 1.** The legislature finds that the protection
8 of adolescents' health requires a strong set of comprehensive health
9 and law enforcement interventions. We know that youth are deterred
10 from using alcohol in public because of existing laws making possession
11 illegal. However, while the purchase of tobacco by youth is clearly
12 prohibited, the possession of tobacco is not. It is the legislature's
13 intent that youth hear consistent messages from public entities,
14 including law enforcement, about public opposition to their illegal use
15 of tobacco products.

16 **Sec. 2.** RCW 70.155.080 and 1993 c 507 s 9 are each amended to read
17 as follows:

18 (1) A person under the age of eighteen who purchases or attempts to
19 purchase, possesses, or obtains or attempts to obtain cigarettes or
20 tobacco products commits a class 3 civil infraction under chapter 7.80
21 RCW and is subject to a fine as set out in chapter 7.80 RCW or
22 participation in up to four hours of community service, or both. The
23 court may also require participation in a smoking cessation program(~~(~~
24 ~~or both~~)). This provision does not apply if a person under the age of
25 eighteen, with parental authorization, is participating in a controlled
26 purchase as part of a liquor control board, law enforcement, or local
27 health department activity.

28 (2) Municipal and district courts within the state have
29 jurisdiction for enforcement of this section.

30 **Sec. 3.** RCW 70.155.100 and 1993 c 507 s 11 are each amended to
31 read as follows:

32 (1) The liquor control board may suspend or revoke a retailer's
33 license held by a business at any location, or may impose a monetary
34 penalty as set forth in subsection (2) of this section, if the liquor

1 control board finds that the licensee has violated RCW
2 26.28.080(~~(+4)~~), (~~(or)~~) 70.155.020, 70.155.030, 70.155.040,
3 70.155.050, 70.155.060, 70.155.070, or 70.155.090.

4 (2) The sanctions that the liquor control board may impose against
5 a person licensed under RCW 82.24.530 and 70.155.050 and 70.155.060
6 based upon one or more findings under subsection (1) of this section
7 may not exceed the following:

8 (a) For violation of RCW 26.28.080(~~(+4)~~) or 70.155.020:

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 (b) For violations of RCW 70.155.030, a monetary penalty in the
23 amount of one hundred dollars for each day upon which such violation
24 occurred;

25 (c) For violations of RCW 70.155.040 occurring on the licensed
26 premises:

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

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

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

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

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

1 (d) For violations of RCW 70.155.050 and 70.155.060, a monetary
2 penalty in the amount of three hundred dollars for each violation;

3 (e) For violations of RCW 70.155.070, a monetary penalty in the
4 amount of one thousand dollars for each violation.

5 (3) The liquor control board may impose a monetary penalty upon any
6 person other than a licensed cigarette retailer or licensed sampler if
7 the liquor control board finds that the person has violated RCW
8 26.28.080(~~((4))~~), (~~(e)~~) 70.155.020, 70.155.030, 70.155.040,
9 70.155.050, 70.155.060, 70.155.070, or 70.155.090.

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

13 (a) For violation of RCW 26.28.080(~~((4))~~) or 70.155.020, fifty
14 dollars for the first violation and one hundred dollars for each
15 subsequent violation;

16 (b) For violations of RCW 70.155.030, one hundred dollars for each
17 day upon which such violation occurred;

18 (c) For violations of RCW 70.155.040, one hundred dollars for each
19 violation;

20 (d) For violations of RCW 70.155.050 and 70.155.060, three hundred
21 dollars for each violation;

22 (e) For violations of RCW 70.155.070, one thousand dollars for each
23 violation.

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

27 (6) The liquor control board may issue a cease and desist order to
28 any person who is found by the liquor control board to have violated or
29 intending to violate the provisions of this chapter, RCW
30 26.28.080(~~((4))~~) or 82.24.500, requiring such person to cease specified
31 conduct that is in violation. The issuance of a cease and desist order
32 shall not preclude the imposition of other sanctions authorized by this
33 statute or any other provision of law.

34 (7) The liquor control board may seek injunctive relief to enforce
35 the provisions of RCW 26.28.080(~~((4))~~) or 82.24.500 or this chapter.
36 The liquor control board may initiate legal action to collect civil
37 penalties imposed under this chapter if the same have not been paid
38 within thirty days after imposition of such penalties. In any action
39 filed by the liquor control board under this chapter, the court may, in

1 addition to any other relief, award the liquor control board reasonable
2 attorneys' fees and costs.

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

5 (9) The liquor control board may reduce or waive either the
6 penalties or the suspension or revocation of a license, or both, as set
7 forth in this chapter where the elements of proof are inadequate or
8 where there are mitigating circumstances. Mitigating circumstances may
9 include, but are not limited to, an exercise of due diligence by a
10 retailer. Further, the board may exceed penalties set forth in this
11 chapter based on aggravating circumstances."

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15 On page 1, line 3 of the title, after "tobacco;" strike the
16 remainder of the title and insert "amending RCW 70.155.080 and
17 70.155.100; creating a new section; and prescribing penalties."

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