

HOUSE BILL REPORT

HB 2158

As Reported by House Committee On:

Commerce & Labor

Title: An act relating to changing enforcement provisions for licensed sellers of cigarettes, tobacco, and herbal cigarettes without changing monetary penalties on retailers.

Brief Description: Relating to changing enforcement provisions for licensed sellers of cigarettes, tobacco, and herbal cigarettes without changing monetary penalties on retailers.

Sponsors: Representatives Edwards, Clements, Conway, Wood and Kenney.

Brief History:

Committee Activity:

Commerce & Labor: 2/27/01 [DPS].

Brief Summary of Substitute Bill

- Includes herbal cigarettes in the regulations on cigarettes for purposes of licensing, sales to minors, and enforcement.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; B. Chandler, Republican Vice Chair; Wood, Democratic Vice Chair; Hunt, Kenney, Lisk and McMorris.

Staff: Sydney Forrester (786-7120).

Background:

Cigarettes are regulated and taxed by the Department of Revenue. The Liquor Control Board is appointed as an enforcement agent for sales to minors.

The cigarette statute includes provisions regarding:

- separate licensure for retail sales, wholesale distribution, and vending machine sales;

- taxes imposed and the distribution of tax funds collected;
- tax stamps;
- bonds;
- violations and penalties;
- seizure and forfeiture; and
- the transportation of cigarettes.

The Liquor Control Board has authority to suspend or revoke licenses issued under the cigarette regulations, and to impose monetary penalties, issue cease and desist orders, and seek injunctive relief for violations.

Herbal cigarettes— are not defined or regulated under existing laws. Herbal cigarettes do not contain tobacco and are marketed under such names as Herbal Gold, Ecstasy, Magic, and Cannabis Free.

Last year the Federal Trade Commission filed a complaint against herbal cigarette manufactures for claims made by the manufacturers that herbal cigarettes are a safe alternative to smoking. As part of the settlement of that complaint, warnings now are required on herbal cigarette packages to indicate the cigarettes: (1) are dangerous to health; and (2) produce carbon monoxide and tar.

Summary of Substitute Bill:

Herbal cigarettes are incorporated into the definition of cigarettes and are regulated in the same way as cigarettes. A license is required for wholesale and retail sales. The license fees and corresponding rights and duties for herbal cigarette licenses are the same as for cigarettes. Herbal cigarettes are added to the prohibition against selling or giving cigarettes or tobacco products to minors, making the sale or gift of herbal cigarettes to minors a gross misdemeanor.

Substitute Bill Compared to Original Bill:

The substitute bill adds the substantive provisions to the original bill.

Appropriation: None.

Fiscal Note: Requested on February 27, 2001.

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

Testimony For: (HB 1719 and PSHB 1719) Herbal cigarettes contain many of the same

contents as cigarettes even though they don't contain tobacco. They produce tar and tobacco and are dangerous to health, especially to developing youth. The packaging of herbal cigarettes is targeted at juveniles. Packaging uses clever names, cute characters, candy flavorings, and colorful images. Washington is one of the national leaders on limiting youth access to tobacco. Herbal cigarettes are a dangerous way to hook kids on smoking. Herbal cigarettes are just as harmful as standard cigarettes and should be regulated like cigarettes by prohibiting the sale to minors.

Testimony Against: (HB 1719 and PSHB 1719) The title of the original bill and the proposed substitute is too broad and does not include herbal cigarettes. Section 8 of the bill and Section 10 of the substitute regarding sales below cost could implicate market sampling of tobacco products. NOTE: SHB 2158 does not include provisions related to sales below cost and its title is tailored to herbal cigarettes.

Testified: (In support HB 1719 and PSHB 1719) Lizzy Pachaud, Public Health of Seattle-King County; and Scott Neal, Seattle-King County Tobacco Prevention Unit Youth Access Task Force.

(In opposition HB 1719 and PSHB 1719) Mark Triplett, Smokeless Tobacco Council; T K Bentler, Washington Association of Neighborhood Stores; and Stu Halsan, Smokeless Tobacco Products.

(Neutral PSHB 1719) Leslie Cushman, Department of Revenue.