
SUBSTITUTE HOUSE BILL 2158

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Edwards, Clements, Conway, Wood and Kenney)

Read first time 02/27/2001. Referred to Committee on .

1 AN ACT Relating to changing enforcement provisions for licensed
2 sellers of cigarettes, tobacco, and herbal cigarettes without changing
3 monetary penalties on retailers; amending RCW 82.24.010, 26.28.080, and
4 70.155.010; and prescribing penalties.

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

6 **Sec. 1.** RCW 82.24.010 and 1997 c 420 s 3 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter:

10 (1) "Board" means the liquor control board.

11 (2) "Cigarette" means any roll for smoking made wholly or in part
12 of tobacco, irrespective of size or shape and irrespective of the
13 tobacco being flavored, adulterated, or mixed with any other
14 ingredient, where such roll has a wrapper or cover made of paper or any
15 material, except where such wrapper is wholly or in the greater part
16 made of natural leaf tobacco in its natural state. As used in this
17 chapter, "cigarette" includes herbal cigarettes.

18 (3) "Herbal cigarette" means any roll for smoking made without use
19 of tobacco or controlled substances and with any other combination of

1 organic matter that reasonably mimics tobacco cigarettes in their use
2 or appearance.

3 (4) "Indian tribal organization" means a federally recognized
4 Indian tribe, or tribal entity, and includes an Indian wholesaler or
5 retailer that is owned by an Indian who is an enrolled tribal member
6 conducting business under tribal license or similar tribal approval
7 within Indian country. For purposes of this chapter "Indian country"
8 is defined in the manner set forth in 18 U.S.C. Sec. 1151.

9 ~~((+4))~~ (5) "Precollection obligation" means the obligation of a
10 seller otherwise exempt from the tax imposed by this chapter to collect
11 the tax from that seller's buyer.

12 ~~((+5))~~ (6) "Retailer" means every person, other than a wholesaler,
13 who purchases, sells, offers for sale or distributes any one or more of
14 the articles taxed ~~((herein))~~ under this chapter, irrespective of
15 quantity or amount, or the number of sales, and all persons operating
16 under a retailer's registration certificate.

17 ~~((+6))~~ (7) "Retail selling price" means the ordinary, customary or
18 usual price paid by the consumer for each package of cigarettes, less
19 the tax levied by this chapter and less any similar tax levied by this
20 state.

21 ~~((+7))~~ (8) "Stamp" means the stamp or stamps by use of which the
22 tax levy under this chapter is paid or identification is made of those
23 cigarettes with respect to which no tax is imposed.

24 ~~((+8))~~ (9) "Wholesaler" means every person who purchases, sells,
25 or distributes any one or more of the articles taxed herein to
26 retailers for the purpose of resale only.

27 ~~((+9))~~ (10) The meaning attributed, in chapter 82.04 RCW, to the
28 words "person," "sale," "business" and "successor" applies equally in
29 this chapter.

30 **Sec. 2.** RCW 26.28.080 and 1994 sp.s. c 7 s 437 are each amended to
31 read as follows:

32 Every person who sells or gives, or permits to be sold or given to
33 any person under the age of eighteen years any cigar, cigarette,
34 cigarette paper or wrapper, herbal cigarette, or tobacco in any form is
35 guilty of a gross misdemeanor.

36 It shall be no defense to a prosecution for a violation of this
37 section that the person acted, or was believed by the defendant to act,
38 as agent or representative of another.

1 **Sec. 3.** RCW 70.155.010 and 1993 c 507 s 2 are each amended to read
2 as follows:

3 The definitions set forth in RCW 82.24.010 shall apply to RCW
4 70.155.020 through 70.155.130. In addition, for the purposes of this
5 chapter, unless otherwise required by the context:

6 (1) "Board" means the Washington state liquor control board.

7 (2) "Herbal cigarette" means any roll for smoking made without use
8 of tobacco or controlled substances and with any other combination of
9 organic matter that reasonably mimics tobacco cigarettes in their use
10 or appearance.

11 (3) "Minor" refers to an individual who is less than eighteen years
12 old.

13 (~~(3)~~) (4) "Public place" means a public street, sidewalk, or
14 park, or any area open to the public in a publicly owned and operated
15 building.

16 (~~(4)~~) (5) "Sample" means a tobacco product distributed to members
17 of the general public at no cost or at nominal cost for product
18 promotion purposes.

19 (~~(5)~~) (6) "Sampler" means a person engaged in the business of
20 sampling other than a retailer.

21 (~~(6)~~) (7) "Sampling" means the distribution of samples to members
22 of the general public in a public place.

23 (~~(7)~~) (8) "Tobacco product" means a product that contains tobacco
24 and is intended for human consumption. For the purposes of this
25 chapter, "tobacco product" also includes herbal cigarettes.

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