
**Technology, Telecommunications
& Energy Committee**

HB 2027

Brief Description: Regulating the sale of cigarettes.

Sponsors: Representatives Kirby, Delvin, Morris, DeBolt and Sullivan.

Brief Summary of Bill

- Establishes requirements for the delivery of cigarettes ordered by telephone, mail, or the internet.

Hearing Date: 2/28/03

Staff: Matt Cooper (786-7106).

Background:

The federal Jenkins Act requires interstate shippers of cigarettes to notify a state monthly of the company's intent to ship cigarettes into that state. The Department of Revenue is the agency designated to receive this notice for Washington.

The Liquor Control Board administers current tobacco regulation and taxation. Washington law imposes excise (\$1.425/pack) and sales taxes (6.5% state tax, plus up to 2% local sales tax) on cigarettes, and requires sellers to place tax stamps on cigarettes to indicate the excise tax has been paid.

The state Minors' Access to Tobacco Products Act (Act), limits youth access to tobacco products and is administered by the Liquor Control Board. The Act requires warnings that tobacco sales to anyone under age 18 are illegal, imposes restrictions on free samples of tobacco products, and restricts the placement of tobacco vending machines.

State law makes selling or giving cigarettes to anyone in Washington under the age of 18 a misdemeanor. There are also separate provisions for civil penalties for businesses who sell tobacco to minors.

Summary of Bill:

Delivery sales are orders for cigarettes taken by telephone, mail, or the internet delivered by mail or delivery service. Anyone making delivery sales of cigarettes must ensure that no sales are made to persons under the age of 18 and comply with notice, delivery, and tax requirements.

Anyone offering delivery sales of cigarettes must register with the Department of Revenue (Department). Sellers must provide the Department with their business name and address and must file a disclosure statement with the Department each month. This disclosure statement must list each person that has received a delivery sale of cigarettes, along with the amount and brand purchased. Businesses that already comply with the federal Jenkens Act would not be required to file an additional disclosure statement.

When a purchaser places an order for a delivery sale of cigarettes, the seller must verify the age of the purchaser, either by photocopy of the purchaser's identification, or through a commercial database. The seller must then mail or e-mail the purchaser a disclosure that contains the federal tobacco warning, a warning that sales to minors are unlawful, and a statement that cigarettes are taxable.

The seller must collect and remit to the Department any taxes which are due on cigarettes shipped to buyers in Washington.

Shipments must be made by a means that will ensure that deliveries are made to adults only. The delivery person must verify the age of any person accepting delivery who appears to be under the age of 27. Shipping documents enclosed with the shipment must include the federal tobacco warning.

The Department is responsible for administering the Act. Any violations of the Act are punishable by a civil penalty.

Appropriation: None.

Fiscal Note: Requested on February 27, 2003.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.