

# HOUSE BILL REPORT

## SHB 1435

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### As Passed Legislature

**Title:** An act relating to licensing administration for cigarettes and tobacco products.

**Brief Description:** Modifying licensing provisions for cigarettes and tobacco products.

**Sponsors:** House Committee on Commerce & Labor (originally sponsored by Representatives Condotta and Conway; by request of Liquor Control Board).

#### **Brief History:**

##### **Committee Activity:**

Commerce & Labor: 2/4/09, 2/13/09 [DPS];

Finance: 2/24/09, 3/2/09 [DPS(CL)].

##### **Floor Activity**

Passed House: 3/10/09, 96-0.

Passed Senate: 4/7/09, 47-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Provides the Liquor Control Board with administrative authority to approve, deny, suspend, and revoke retail, wholesale, or distributor cigarette and tobacco products licenses.
- Requires that applicants for a tobacco retailer license undergo a criminal background check.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

**Staff:** Kate Moeur (786-5793) and Joan Elgee (786-7106)

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### HOUSE COMMITTEE ON FINANCE

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill by Committee on Commerce & Labor be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

**Staff:** Joseph Archuleta (786-7192)

**Background:**

Persons selling cigarettes or tobacco products in this state are required to hold either a wholesaler or retailer cigarette license or a distributor or retailer tobacco products license (for all tobacco products other than cigarettes) through the Department of Licensing's Master License Service. The license fee for cigarette wholesalers or tobacco products distributors is \$650 for the first location and \$115 for each additional place of business. The license fee for cigarette or tobacco products retailers is \$93 for each location. A criminal background check is required for a cigarette wholesaler license and a tobacco distributor license.

The Department of Revenue (Department) is charged with adopting rules regarding the regulation of cigarette and tobacco wholesaler, distributor, and retailer licensees. The Department has the authority to refrain from issuing a license if the Department has reasonable cause to believe that an applicant is willfully withholding information or providing false or misleading information. Cigarette wholesalers are required to affix a stamp, designed and issued by the Department, onto each package of cigarettes for the purposes of identifying whether the cigarette tax levy has been paid for each unit.

The Washington State Liquor Control Board (Board) is charged with enforcing the tax on tobacco products provisions. The Board's Tobacco Tax Enforcement Unit was formed in June of 1997 to enforce assessment of unpaid tobacco taxes for state collection by the Department. The Tobacco Tax Enforcement Unit ensures that people who sell tobacco in Washington are properly licensed, have paid the appropriate state taxes, and do not sell tobacco to those under 18 years of age.

**Summary of Substitute Bill:**

The Liquor Control Board (Board) is given the administrative authority, currently vested in the Department, to approve, deny, suspend, or revoke retail, wholesale, or distributor cigarette and tobacco products licenses. A criminal background check is required for a wholesaler's, retailer's, and distributor's license. The Board may consider any prior criminal conduct of the applicant, including an administrative violation history record with the Board. If the Board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing under the Administrative Procedure Act.

Cigarette and tobacco licenses must be exhibited in the place of business for which they are issued and in the manner currently required for the display of a master license.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony (Commerce & Labor):**

(In support) This bill is Liquor Control Board request legislation and deals primarily with discount shops that do not also have a liquor license. These individuals are currently allowed to obtain a tobacco permit through the Department of Licensing's Master License Service and have not necessarily undergone a background check. Because 75 percent of the cost of a cigarette is tax, it can be quite profitable to sell cigarettes without paying the proper taxes. This would allow the Liquor Control Board to be able to revoke a license if a retailer had not paid the proper taxes. The use of tobacco is a major public health problem and one of the goals is to get people, especially minors, to stop using tobacco. Provisions that will make it more difficult for those who have committed crimes to get a tobacco retail license will help prevent more people from selling tobacco to minors.

(Opposed) None.

**Staff Summary of Public Testimony (Finance):**

(In support) This bill is Liquor Control Board request legislation and deals primarily with discount shops that do not have a liquor license. These individuals are currently allowed to obtain a tobacco permit through the Department of Licensing's Master License Service and have not necessarily undergone a background check. Because 75 percent of the cost of a cigarette is tax, it can be quite profitable to sell cigarettes without paying the proper taxes. This would allow the Liquor Control Board to be able to revoke a license if a retailer had not paid the proper taxes. The use of tobacco is a major public health problem and one of the goals is to get people, especially minors, to stop using tobacco. Provisions that will make it more difficult for those who have committed crimes to get a tobacco retail license will help prevent more people from selling tobacco to minors.

(Opposed) None.

**Persons Testifying (Commerce & Labor):** Rick Garza, Washington State Liquor Control Board; and Brian Peyton, Washington State Department of Health.

**Persons Testifying (Finance):** Representative Condotta, prime sponsor; and Rick Garza, Washington State Liquor Control Board.

**Persons Signed In To Testify But Not Testifying (Commerce & Labor):** None.

**Persons Signed In To Testify But Not Testifying (Finance):** None.