

HOUSE BILL REPORT

HB 2313

As Reported by House Committee On: Health Care & Wellness

Title: An act relating to protecting youth from tobacco products and vapor products by increasing the minimum legal age of sale of tobacco and vapor products.

Brief Description: Concerning the age of individuals at which sale or distribution of tobacco and vapor products may be made.

Sponsors: Representatives Orwall, Magendanz, S. Hunt, Harris, Cody, Johnson, Stanford, Nealey, Haler, Goodman, Riccelli, DeBolt, Pollet, Short, Kagi, Jinkins, Stokesbary, Kilduff, Reykdal, Van De Wege, McBride, Fey, Bergquist, Tharinger and Frame; by request of Attorney General.

Brief History:

Committee Activity:

Health Care & Wellness: 1/20/16, 1/29/16 [DP].

Brief Summary of Bill

- Prohibits selling or giving tobacco products or vapor products to a person under the age of 21.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 9 members: Representatives Cody, Chair; Clibborn, DeBolt, Jinkins, Johnson, Robinson, Short, Tharinger and Van De Wege.

Minority Report: Do not pass. Signed by 3 members: Representatives Schmick, Ranking Minority Member; Caldier and Moeller.

Staff: Ariele Landstrom (786-7190).

Background:

A person who sells or gives a tobacco product or vapor product to a person under the age of 18 is guilty of a gross misdemeanor.

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.

A person under the age of 18 who purchases, possesses, or obtains, or who attempts to purchase or obtain, cigarettes or tobacco products commits a class 3 civil infraction, which may be penalized with a \$50 fine, up to four hours of community restitution, and participation in a smoking cessation program.

"Vapor product" is defined as a noncombustible tobacco-derived product containing nicotine that employs a mechanical heating element, battery, or circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in cartridges. Vapor product does not include any product that is regulated by the United States Food and Drug Administration under federal law.

A person who holds a wholesale or retail tobacco product license is required to prominently display a copy of their license and display a sign concerning the prohibition of tobacco sales to minors.

Tobacco products may not be sold through a device that mechanically dispenses the products unless: (1) the device is located in a place where minors are prohibited or in a worksite where minors are not employed; and (2) the device is located not less than 10 feet from entrances and exits. "Minor" is defined as a person under the age of 18.

The Liquor and Cannabis Board (LCB) has authority to enforce the laws governing minors' access to tobacco, including the authority to revoke the license of a wholesaler or retailer. The LCB may work with local county health departments or districts and law enforcement to conduct unannounced inspections to assure compliance. An LCB peace officer or enforcement officer who has reasonable grounds to believe a person the officer observed purchasing or in possession of tobacco is under the age of 18 may detain the person for a reasonable period of time and in a reasonable manner to determine the person's identity and date of birth. An LCB officer may also seize tobacco products in the possession of a minor. Sanctions against licensees include cease and desist orders, license revocation, and monetary penalties.

Wholesaler and retailer licensing fees and monetary penalties are deposited in the Youth Tobacco Prevention Account (Account), except for 10 percent, which is deposited in the General Fund. The Department of Health (DOH) may use monies appropriated from the Account for implementation of the laws governing minors' access to tobacco. The DOH is required to enter into an agreement with the LCB to pay for costs incurred for enforcement, and the agreement must set standards of enforcement to reduce the extent to which tobacco products are available to persons under the age of 18. The remainder of the funds in the Account cover the cost of administering the licensing system and provide grants to local health departments or other local community agencies to develop and implement strategies to prevent and reduce youth tobacco use.

Summary of Bill:

A person who sells cigars, cigarettes, tobacco, or a vapor product to a person under the age of 21 is guilty of a gross misdemeanor.

"Vapor product" is defined as any: (1) device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation; (2) cartridge or container of a solution or substance intended to be used with or in such a device; or (3) solution or substance intended for use in such a device, including, but not limited to, concentrated nicotine. "Vapor product" includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, vape pens, or similar products or devices, as well as any parts that can be used to build such products or devices. "Vapor product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

The bill requires signage for wholesalers and retailers that sell tobacco and vapor products to be displayed indicating that the sale of tobacco and vapor products to persons under the age of 21 is prohibited.

Tobacco products or vapor products may not be sold through a vending machine unless the machine is located in a place where persons under the age of 21 are prohibited, or in an industrial worksite where persons under the age of 21 are not employed, and it is located at least 10 feet from entrances and exits.

The LCB and its employees and agents may enter any place of business where tobacco products or vapor products are sold for the purpose of enforcement. A LCB officer who has reasonable grounds to believe a person under the age of 21 is purchasing or attempting to purchase, or is in possession of tobacco products or vapor products may detain the person to ascertain the person's true identity and date of birth.

Liquor and Cannabis Board officers may also seize tobacco products or vapor products in the possession of a person under the age of 21.

Interagency agreements between the DOH and the LCB must set enforcement standards to reduce the extent to which tobacco products are available to persons under the age of 21.

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:

(In support) The Centers for Disease Control (CDC) say 25 percent of high school seniors that smoke have tried to quit at least once and one in 13 kids under the age of 18 will prematurely die from smoke related causes. Tobacco leads to health problems. This bill will save lives. Raising the tobacco and vapor product use age to 21 years will save money in the health care system; use of tobacco products is an economic burden. Raising the minimum age is in the best interests of the state. Many other jurisdictions have raised the smoking age. The first jurisdiction to raise the minimum age was Needham, Massachusetts and the teen smoking rate dropped by half. Raising the minimum age could gut the young market. There is no single policy that the Legislature could adopt to protect youth more than this bill. Tobacco products are in high schools and vapor products use has tripled. Vapor product advertisements are targeted to teens, who are vulnerable. Forty-one percent of tenth graders report getting cigarettes is easy. This bill will decrease youth access to tobacco. Raising the minimum age will prevent teens from smoking in the first place. An overwhelming majority of smokers want to quit, but can not. Brains develop until age 25 and brains of 18 to 21 year olds are very susceptible to addiction. The tobacco industry counts on getting kids to use tobacco products early. Tobacco is a gateway to other substances when teens start using early. The tobacco industry spends much more in our state than the state spends on prevention efforts.

(Opposed) This bill will have a negative impact on retailer sales, particularly for smaller retailers. Retail stores do their best to keep tobacco products out of the hands of minors. The bill will drive business to the tribal lands, military bases, and neighboring states. Retailers already compete with tribes at a disadvantage. This would be better at the federal level so it could apply to everyone. Eighteen year olds are adults and they should be able to make their own choices. Smoking rates have declined.

Persons Testifying: (In support) Representative Orwall, prime sponsor; Jonathan Seib, Molina Healthcare; Bob Ferguson, Office of the Attorney General; John Weisman, Department of Health; Stephen Cook, Washington State Medical Association; Eric Rothenberg, American Heart Association; Sarah Stewart, Mercer Island High School SAFE Club; and Crystal Shen, American Academy of Pediatricians.

(Opposed) Joanie Deutsch, Washington Retail Association; Michelle Reeves, Washington Food Industry Association; Larry Stewart, Washington Association of Neighborhood Stores; and Daniel Kim, Korean American Grocers Association.

Persons Signed In To Testify But Not Testifying: Heidi Henson, Tobacco-Free Alliance of Pierce County; Brad Finegood, King County Department of Community and Human Services; and Sierra Rotakhina, Washington State Board of Health.