

SENATE BILL REPORT

SB 6157

As of February 2, 2016

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: Senators Miloscia, Lias, Keiser, Litzow, McCoy, Chase, Conway, Pedersen, McAuliffe and Frockt; by request of Attorney General.

Brief History:

Committee Activity: Commerce & Labor: 2/01/16.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Jarrett Sacks (786-7448)

Background: A person who sells or gives a tobacco or vapor product to anyone under the age of 18 is guilty of a gross misdemeanor. An individual under 18 years of age who purchases, attempts to purchase, or possesses a tobacco or vapor product is guilty of a class 3 civil infraction.

Wholesale and retail tobacco product licensees are required to prominently display a copy of their license and a sign concerning the prohibition of tobacco sales to minors. 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.

An LCB peace or enforcement officer, who has grounds to believe a person purchasing or possessing of tobacco is under the age of 18, may detain the person to determine the person's identity and date of birth. An LCB officer may also seize tobacco products in the possession of a minor.

Tobacco products cannot be sold through cigarette machines 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 10 or more feet from entrances and exits.

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.

In general, wholesaler and retailer licensing fees and monetary penalties are deposited in the Youth Tobacco Prevention Account (Account). The Department of Health (DOH) may use monies appropriated from the Account for implementation of the laws governing minors' access to tobacco. 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 availability of tobacco products 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 and agencies to develop and implement strategies to reduce youth tobacco use.

"Vapor product" means 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.

Summary of Bill: The legal smoking age in Washington State is increased from 18 years of age to 21. 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. Corresponding statutes regarding signage requirements for retailers and wholesalers, LCB enforcement, and the Youth Tobacco Prevention Account are changed to conform with the increase in legal smoking age.

The definition of "vapor product" is changed to mean:

- a device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;
- a cartridge or container of a solution or substance intended to be used with or in such a device; or
- a solution or substance intended for use in such a device, including, but not limited to, concentrated nicotine.

A "vapor product" includes any electronic cigarettes or similar devices, as well as the parts used to build the device. A "vapor product" does not include any product approved by the U.S. 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 that purpose.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The bill will improve the health for all citizens of the state and prevent people from smoking and dying early. Taxing cigarettes no longer works. Nicotine is highly addictive and teenagers are more susceptible to its addictive properties. The younger someone starts, the more likely they will be an addict, and it is too easy for minors to access. Over 100,000 people in Washington will die prematurely due to

smoking. Other localities that have increased the smoking age have seen dramatic decreases in teen smoking. A research poll showed that 65% of Washingtonians support increasing the smoking age.

CON: 18-year-olds are adults and can join the military, buy a house, and purchase lottery tickets; not allowing them to buy cigarettes seems arbitrary. The smoking age should be left to the federal government. People will just go to tribal reservations and army bases to buy cigarettes, which will hurt smaller convenience stores.

Persons Testifying: PRO: Dr. Anthony Chen, Tacoma Pierce County Health Department; Bob Ferguson, Attorney General; John Wiesman, Secretary, Department of Health; Sarah Stewart, Mercer Island High School SAFE; Dr. Crystal Chen, American Academy of Pediatricians, WA Chapter; David Foster, Campaign for Tobacco Free Kids/Lung Association; Pat Godfrey, Alcoholism and Substance Abuse Administrative Board; Stacia Wasmundt, Thurston TOGETHER!; Jonathan Seib, Molina Healthcare of Washington; Gloria Pitkin, Washington State Commission on Hispanic Affairs.

CON: Larry Stewart, Washington Association of Neighborhood Stores; Michelle Reeves, Washington Food Industry Association; Joe Baba, WA Vape Association; Mark Johnson, Washington Retail Association; Daniel Kim, Korean American Grocers Association.

Persons Signed In To Testify But Not Testifying: No one.