
HOUSE BILL 1296

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By Representatives Vick, Kirby, Pettigrew, Blake, Buys, MacEwen, Rodne, Walsh, Condotta, G. Hunt, Hayes, Carlyle, and Sawyer

Read first time 01/16/15. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to establishing special license endorsements for
2 cigar lounges and retail tobacconist shops; amending RCW 70.160.060;
3 and adding a new section to chapter 82.26 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.26
6 RCW to read as follows:

7 (1)(a) A person holding a tobacco products retailer's license
8 issued under this chapter may apply through the business licensing
9 system under chapter 19.02 RCW for a special endorsement as a cigar
10 lounge or retail tobacconist shop subject to the requirements of this
11 section.

12 (b) The board may charge a reasonable fee per special endorsement
13 application under this section, as deemed necessary by the board, for
14 the purpose of reimbursing the board for costs directly related to
15 the board's administration of special endorsements issued under this
16 section.

17 (2) The board must issue an endorsement as a cigar lounge to a
18 business that has submitted an affidavit to the board certifying that
19 it:

20 (a) Is an establishment or part of an establishment specifically
21 designated for the smoking of tobacco products, purchased on the

1 premises or elsewhere, which is physically separated from any areas
2 of the same or adjacent location where smoking is prohibited under
3 state law. For the purposes of this subsection, "physically
4 separated" means an area that is enclosed on all sides by solid,
5 impermeable walls or windows extending from the floor to ceiling with
6 self-closing doors;

7 (b) Will not allow cigarettes to be smoked in the area designated
8 in (a) of this subsection;

9 (c) Holds a valid spirits, beer, and wine license in good
10 standing from the board;

11 (d) Has a valid uniform business identifier number and, if it is
12 an established business with reportable gross receipts, has paid all
13 applicable state business and occupation taxes in the year prior to
14 application for endorsement;

15 (e) In the year immediately preceding initial application or
16 renewal, derived at least twenty-five thousand dollars of the
17 business' annual gross income from the combination of the sale of
18 tobacco products, tobacco products related paraphernalia, and the
19 rental of on- site humidor space. In the case where this is the first
20 endorsement application, the applicant may use any year prior to the
21 initial application to meet the requirements of this subsection or
22 must show proof that it has purchased, at wholesale, at least twelve
23 thousand five hundred dollars in tobacco products and tobacco
24 products related paraphernalia;

25 (f) Has obtained a signed letter, on appropriate letterhead, from
26 a heating, ventilation, and air-conditioning, and refrigeration
27 contractor holding a valid registration with the department of labor
28 and industries pursuant to chapter 18.27 RCW, which certifies that
29 the ventilation and exhaust system for the area designated in (a) of
30 this subsection:

31 (i) Is separate and distinct from the location's general heating,
32 ventilation, and air-conditioning system;

33 (ii) Has an air flow, as calculated in cubic feet per minute,
34 that will provide for at least thirteen or more air changes within
35 the space served by the ventilation and exhaust system;

36 (iii) Uses the correct quantity of filters recommended by the
37 manufacturer of the ventilation and exhaust system and that those
38 filters have a minimum efficiency rating value of 14 or higher. For
39 the purposes of this subsection, "minimum efficiency rating value"
40 means the air-cleaning performance rating value as expressed in

1 American society of heating, refrigerating, and air-conditioning
2 engineers standard 52.2-2007; and

3 (iv) Uses a loose-fill, rechargeable-type sorbent material
4 positioned across the airflow in such a configuration that gaseous
5 contaminants will have a residence time of one-tenth of one second or
6 more within the sorbent material. For the purposes of this section,
7 "residence time" must be calculated consistent with the
8 recommendations outlined in Chapter 46 of the 2011 American society
9 of heating, refrigerating, and air-conditioning engineers handbook -
10 HVAC applications entitled "Control of Gaseous Indoor Air
11 Contaminants";

12 (g) Has on file, from each employee that may work in the area
13 designated in (a) of this subsection, a signed acknowledgment that
14 the employee has been advised of and accepts that environmental
15 tobacco smoke may be present in their potential work area. The
16 acknowledgment must contain the signature of the employee, the
17 employer, and a disinterested third-party witness;

18 (h) Will post signage indicating that environmental tobacco smoke
19 may be present in the establishment or part of the establishment.
20 This signage must be in the form and manner provided by the board and
21 must be placed in a conspicuous location at each entry to the area
22 designated in (a) of this subsection.

23 (3) The board must issue an endorsement as a retail tobacconist
24 shop to a business that has submitted an affidavit to the board
25 certifying that it:

26 (a) Is an establishment whose primary purpose is the sale of
27 tobacco products and tobacco product related paraphernalia and that
28 is physically separated from any adjacent location where smoking is
29 prohibited under state law. For the purposes of this subsection,
30 "physically separated" means an area that is enclosed on all sides by
31 solid, impermeable walls or windows extending from the floor to
32 ceiling with self-closing doors;

33 (b) Will not allow cigarettes to be smoked in the area designated
34 in (a) of this subsection;

35 (c) Will prohibit entry into the area designated in subsection
36 (2)(a) of this section to any person under the age of eighteen;

37 (d) Has a valid uniform business identifier number and, if an
38 established business with reportable gross receipts, has paid all
39 applicable state business and occupation taxes in the year prior to
40 application for endorsement;

1 (e) In the year immediately preceding initial application or
2 renewal, derived at least seventy-five percent of the business'
3 annual gross income from the combination of the sale of tobacco
4 products and tobacco product related paraphernalia. In the case where
5 this is the first endorsement application, the applicant may use any
6 year prior to the initial application to meet the requirements of
7 this subsection or must show proof that it has purchased, at
8 wholesale, at least twenty- five thousand dollars in tobacco products
9 and tobacco products related paraphernalia;

10 (f) Has obtained a signed letter, on appropriate letterhead, from
11 a heating, ventilation, and air-conditioning, and refrigeration
12 contractor holding a valid registration with the department of labor
13 and industries pursuant to chapter 18.27 RCW, which certifies that
14 the ventilation and exhaust system for the area designated in (a) of
15 this subsection:

16 (i) Is separate and distinct from the location's general heating,
17 ventilation, and air-conditioning system;

18 (ii) Has an airflow, as calculated in cubic feet per minute, that
19 provides for at least thirteen or more air changes within the space
20 served by the ventilation and exhaust system;

21 (iii) Uses the correct quantity of filters recommended by the
22 manufacturer of the ventilation and exhaust system and that those
23 filters have a minimum efficiency rating value of 14 or higher. For
24 the purposes of this subsection, "minimum efficiency rating value"
25 means the air-cleaning performance rating value as expressed in
26 American society of heating, refrigerating, and air-conditioning
27 engineers standard 52.2-2007; and

28 (iv) Uses a loose-fill, rechargeable-type sorbent material
29 positioned across the airflow in such a configuration that gaseous
30 contaminants will have a residence time of one-tenth of one second or
31 more within the sorbent material. For the purposes of this section,
32 "residence time" must be calculated consistent with the
33 recommendations outlined in Chapter 46 of the 2011 American society
34 of heating, refrigerating, and air-conditioning engineers handbook -
35 HVAC applications entitled "Control of Gaseous Indoor Air
36 Contaminants";

37 (g) Has on file, from each employee that may work in the area
38 designated in (a) of this subsection, a signed acknowledgment that
39 the employee has been advised of and accepts that environmental
40 tobacco smoke may be present in their potential work area. The

1 acknowledgment must contain the signature of the employee, the
2 employer, and a disinterested third-party witness;

3 (h) Will post signage indicating that environmental tobacco smoke
4 may be present in the establishment or part of the establishment.
5 This signage must be in the form and manner provided by the board and
6 must be placed in a conspicuous location at each entry to the area
7 designated in (a) of this subsection.

8 (4) No employer may discharge, threaten to discharge, demote,
9 deny a promotion to, sanction, discipline, retaliate against, harass,
10 or otherwise discriminate against an employee, employed by the
11 employer on or before the effective date of this section, solely for
12 refusing to consent to or sign the acknowledgment required in
13 subsections (2)(g) or (3)(g) of this section.

14 (5) The affidavits required under this section must be submitted
15 in a form and manner as prescribed by the board to effectively
16 administer the provisions of this chapter.

17 (6) The board may request additional documentation or information
18 from an applicant in order to verify that the business meets the
19 requirements of this section. The applicant must comply with requests
20 from the department under this subsection or the board may withhold
21 issuance of an endorsement.

22 (7) Endorsements granted under this section are effective for the
23 same period as provided in the tobacco products retailer's license
24 granted to the applicant under this chapter. However, the affidavit
25 required under this section must be completed and verified each year
26 by the board.

27 (8) An endorsement issued under this section is transferrable.

28 (9) Endorsement decisions by the board must be made no later than
29 twenty-one business days following the submittal of a completed
30 affidavit. Rejections of an application for an endorsement under this
31 section may be appealed under the same process provided for other
32 licenses issued by the board.

33 (10) At no point during any calendar year may the board allow the
34 total number of cigar lounge endorsements in the state to exceed
35 forty or the total number of retail tobacco shop endorsements in the
36 state to exceed seventy-five. The board must administer the
37 distribution of cigar lounge or retail tobacco shop endorsements and
38 must ensure that the collective number of cigar lounge or retail
39 tobacco shop endorsements located within all counties with a
40 population of over five hundred thousand never exceed one-half of the

1 endorsements allowed under this subsection for each endorsement
2 respectively. Renewing applicants must be given priority over new
3 applicants for endorsements under these limitations.

4 **Sec. 2.** RCW 70.160.060 and 1995 c 369 s 60 are each amended to
5 read as follows:

6 This chapter is not intended to:

7 (1) Regulate smoking in a private enclosed workplace, within a
8 public place, even though such workplace may be visited by
9 nonsmokers, excepting places in which smoking is prohibited by the
10 chief of the Washington state patrol, through the director of fire
11 protection, or by other law, ordinance, or regulation;

12 (2) Regulate use or smoking of tobacco products, as that term is
13 defined under chapter 82.26 RCW, in a public place or place of
14 employment that holds a valid endorsement to their tobacco products
15 retailer's license under section 1 of this act. The liquor control
16 board has sole enforcement authority under this chapter regarding the
17 designated areas which receive an endorsement under section 1 of this
18 act.

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