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**SUBSTITUTE SENATE BILL 6328**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** Senate Health Care (originally sponsored by Senators Dammeier, Hasegawa, Conway, O'Ban, Becker, and Carlyle)

READ FIRST TIME 02/05/16.

1       AN ACT Relating to vapor products in respect to youth substance  
2 use prevention associated with vapor products, amending and renaming  
3 the youth tobacco prevention account, provisions concerning certain  
4 child-resistant packaging, definitions related to "vapor product,"  
5 signage requirements prohibiting vapor product sales to minors,  
6 prohibition of the sale of cannabinoids by vapor product retailers,  
7 prohibition of the purchase and possession of vapor products by  
8 minors, the liquor and cannabis board's enforcement authority over  
9 vapor products, preemption of certain local regulation of vapor  
10 products, labeling and advertisement requirements, and a requirement  
11 for vendor-assisted sales of vapor products in retail establishments;  
12 amending RCW 26.28.080, 70.155.120, and 70.155.130; adding a new  
13 chapter to Title 70 RCW; prescribing penalties; providing a  
14 contingent effective date; and providing contingent expiration dates.

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

16       **Sec. 1.** RCW 26.28.080 and 2013 c 47 s 1 are each amended to read  
17 as follows:

18       (1) Every person who sells or gives, or permits to be sold or  
19 given, to any person under the age of eighteen years any cigar,  
20 cigarette, cigarette paper or wrapper, tobacco in any form, or a  
21 vapor product is guilty of a gross misdemeanor.

1 (2) It (~~shall be no~~) is not a defense to a prosecution for a  
2 violation of this section that the person acted, or was believed by  
3 the defendant to act, as agent or representative of another.

4 (3) For the purposes of this section, "vapor product" (~~means a~~  
5 ~~noncombustible tobacco derived product containing nicotine that~~  
6 ~~employs a mechanical heating element, battery, or circuit, regardless~~  
7 ~~of shape or size, that can be used to heat a liquid nicotine solution~~  
8 ~~contained in cartridges. Vapor product does not include any product~~  
9 ~~that is regulated by the United States food and drug administration~~  
10 ~~under chapter V of the federal food, drug, and cosmetic~~) has the  
11 same meaning as provided in section 4 of this act.

12 **Sec. 2.** RCW 70.155.120 and 1993 c 507 s 13 are each amended to  
13 read as follows:

14 (1) The youth tobacco and vapor products prevention account is  
15 created in the state treasury. All fees collected pursuant to RCW  
16 82.24.520 and 82.24.530 and funds collected by the liquor (~~control~~)  
17 and cannabis board from the imposition of monetary penalties and  
18 samplers' fees shall be deposited into this account, except that ten  
19 percent of all such fees and penalties shall be deposited in the  
20 state general fund.

21 (2) Moneys appropriated from the youth tobacco and vapor products  
22 prevention account to the department of health shall be used by the  
23 department of health for implementation of this chapter, including  
24 collection and reporting of data regarding enforcement and the extent  
25 to which access to tobacco products and vapor products by youth has  
26 been reduced.

27 (3) The department of health shall enter into interagency  
28 agreements with the liquor (~~control~~) and cannabis board to pay the  
29 costs incurred, up to thirty percent of available funds, in carrying  
30 out its enforcement responsibilities under this chapter. Such  
31 agreements shall set forth standards of enforcement, consistent with  
32 the funding available, so as to reduce the extent to which tobacco  
33 products and vapor products are available to individuals under the  
34 age of eighteen. The agreements shall also set forth requirements for  
35 data reporting by the liquor (~~control~~) and cannabis board regarding  
36 its enforcement activities.

37 (4) The department of health and the department of revenue shall  
38 enter into an interagency agreement for payment of the cost of  
39 administering the tobacco retailer licensing system and for the

1 provision of quarterly documentation of tobacco wholesaler, retailer,  
2 and vending machine names and locations.

3 (5) The department of health shall, within up to seventy percent  
4 of available funds, provide grants to local health departments or  
5 other local community agencies to develop and implement coordinated  
6 tobacco intervention strategies to prevent and reduce tobacco use by  
7 youth.

8 **Sec. 3.** RCW 70.155.130 and 1993 c 507 s 14 are each amended to  
9 read as follows:

10 This chapter and chapter 70.--- RCW (the new chapter created in  
11 section 22 of this act) preempt(~~(s)~~) political subdivisions from  
12 adopting or enforcing requirements for the licensure and regulation  
13 of tobacco and vapor product promotions and sales (~~(within retail~~  
14 ~~stores)) at retail, except that political subdivisions that have  
15 adopted ordinances prohibiting sampling by January 1, 1993, may  
16 continue to enforce these ordinances. No political subdivision may:  
17 (1) Impose fees or license requirements on retail businesses for  
18 possessing or selling cigarettes (~~(or)~~) tobacco, or vapor products,  
19 other than general business taxes or license fees not primarily  
20 levied on (~~(tobacco)~~) such products; or (2) regulate or prohibit  
21 activities covered by RCW 70.155.020 through 70.155.080 or chapter  
22 70.--- RCW (the new chapter created in section 22 of this act). This  
23 chapter does not otherwise preempt political subdivisions from  
24 adopting ordinances regulating the sale, purchase, use, or promotion  
25 of tobacco products not inconsistent with chapter 507, Laws of 1993.~~

26 NEW SECTION. **Sec. 4.** DEFINITIONS. The definitions in this  
27 section apply throughout this chapter unless the context clearly  
28 requires otherwise.

29 (1) "Board" means the Washington state liquor and cannabis board.

30 (2) "Business" means any trade, occupation, activity, or  
31 enterprise engaged in for the purpose of selling or distributing  
32 vapor products in this state.

33 (3) "Child care facility" has the same meaning as provided in RCW  
34 70.140.020.

35 (4) "Delivery sale" means any sale of a vapor product to a  
36 purchaser in this state where either:

1 (a) The purchaser submits the order for such sale by means of a  
2 telephonic or other method of voice transmission, the mails or any  
3 other delivery service, or the internet or other online service; or

4 (b) The vapor product is delivered by use of the mails or of a  
5 delivery service. The foregoing sales of vapor products constitute a  
6 delivery sale regardless of whether the seller is located within or  
7 without this state. "Delivery sale" does not include a sale of any  
8 vapor product not for personal consumption to a retailer.

9 (5) "Delivery seller" means a person who makes delivery sales.

10 (6) "Liquid nicotine container" means a bottle or other container  
11 of a liquid or other substance containing nicotine where the liquid  
12 or substance is sold, marketed, or intended for use in a vapor  
13 product. A "liquid nicotine container" does not include a liquid or  
14 other substance containing nicotine in a cartridge that is sold,  
15 marketed, or intended for use in a vapor product, provided that such  
16 cartridge is prefilled and sealed by the manufacturer, and not  
17 intended to be opened by the consumer.

18 (7) "Manufacturer" means a person who manufactures and sells  
19 vapor products.

20 (8) "Minor" refers to an individual who is less than eighteen  
21 years old.

22 (9) "Person" means any individual, receiver, administrator,  
23 executor, assignee, trustee in bankruptcy, trust, estate, firm,  
24 copartnership, joint venture, club, company, joint stock company,  
25 business trust, municipal corporation, the state and its departments  
26 and institutions, political subdivision of the state of Washington,  
27 corporation, limited liability company, association, society, any  
28 group of individuals acting as a unit, whether mutual, cooperative,  
29 fraternal, nonprofit, or otherwise.

30 (10) "Place of business" means any place where vapor products are  
31 sold or where vapor products are manufactured, stored, or kept for  
32 the purpose of sale.

33 (11) "Playground" means any public improved area designed,  
34 equipped, and set aside for play of six or more children which is not  
35 intended for use as an athletic playing field or athletic court,  
36 including but not limited to any play equipment, surfacing, fencing,  
37 signs, internal pathways, internal land forms, vegetation, and  
38 related structures.

39 (12) "Retail outlet" means each place of business from which  
40 vapor products are sold to consumers.

1 (13) "Retailer" means any person engaged in the business of  
2 selling vapor products to ultimate consumers.

3 (14)(a) "Sale" means any transfer, exchange, or barter, in any  
4 manner or by any means whatsoever, for a consideration, and includes  
5 and means all sales made by any person.

6 (b) The term "sale" includes a gift by a person engaged in the  
7 business of selling vapor products, for advertising, promoting, or as  
8 a means of evading the provisions of this chapter.

9 (15) "School" has the same meaning as provided in RCW 70.140.020.

10 (16) "Self-service display" means a display that contains vapor  
11 products and is located in an area that is openly accessible to  
12 customers and from which customers can readily access such products  
13 without the assistance of a salesperson. A display case that holds  
14 vapor products behind locked doors does not constitute a self-service  
15 display.

16 (17) "Vapor product" means any noncombustible product that may  
17 contain nicotine and that employs a heating element, power source,  
18 electronic circuit, or other electronic, chemical, or mechanical  
19 means, regardless of shape or size, that can be used to produce vapor  
20 from a solution or other substance. "Vapor product" includes any  
21 electronic cigarette, electronic cigar, electronic cigarillo,  
22 electronic pipe, or similar product or device and any vapor cartridge  
23 or other container that may contain nicotine in a solution or other  
24 form that is intended to be used with or in an electronic cigarette,  
25 electronic cigar, electronic cigarillo, electronic pipe, or similar  
26 product or device. "Vapor product" does not include any product  
27 regulated as a drug or device by the United States food and drug  
28 administration under chapter V of the federal food, drug, and  
29 cosmetic act.

30 NEW SECTION. **Sec. 5.** RETAILER'S LICENSES REQUIRED. (1)(a) No  
31 person may engage in or conduct business as a retailer in this state  
32 after the effective date of this section, without a valid license  
33 issued under this chapter. No person engaged in or conducting  
34 business as a retailer in this state may sell or give, or permit to  
35 sell or give, a product that contains any amount of any cannabinoid,  
36 synthetic cannabinoid, cathinone, or methcathinone.

37 (b) A violation of this subsection (1) is punishable as a class C  
38 felony according to chapter 9A.20 RCW.

1 (2)(a) No person engaged in or conducting business as a retailer  
2 in this state may:

3 (i) Refuse to allow the board, on demand, to make a full  
4 inspection of any place of business where any of the vapor products  
5 licensed under this chapter are sold, stored, or handled, or  
6 otherwise hinder or prevent such inspection; or

7 (ii) Make, use, or present or exhibit to the board any invoice  
8 for any of the vapor products licensed under this chapter that bears  
9 an untrue date or falsely states the nature or quantity of the goods  
10 invoiced.

11 (b) A violation of this subsection (2) is a gross misdemeanor.

12 (3) The penalties provided in this section are in addition to any  
13 other penalties provided by law for violating the provisions of this  
14 chapter.

15 NEW SECTION. **Sec. 6.** LICENSE APPLICATION, APPROVAL, AND  
16 DISPLAY. (1) Application for a retailer's license must be made  
17 through the business licensing system under chapter 19.02 RCW.  
18 Applications must be made on a form prescribed by the board. Upon  
19 receipt of a complete application for a retailer's license and the  
20 license fee required by this chapter, the board must issue the  
21 license.

22 (2) Each license issued under this chapter expires on the  
23 business license expiration date. The license must be continued  
24 annually if the licensee has paid the required fee and complied with  
25 all the provisions of this chapter.

26 (3) Each license and any other evidence of the license required  
27 under this chapter must be exhibited in each place of business for  
28 which it is issued and in the manner required for the display of a  
29 business license.

30 NEW SECTION. **Sec. 7.** LICENSE FEES. (1) A fee of ninety-three  
31 dollars must accompany each retailer's license application or license  
32 renewal application. A separate license is required for each separate  
33 location at which the retailer operates, except that delivery sellers  
34 need only obtain a license for their principal place of business.

35 (2) The fee imposed under subsection (1) of this section does not  
36 apply to any person applying for a retailer's license or for renewal  
37 of a retailer's license if the person has a valid retailer's license

1 under RCW 82.24.510 or 82.26.150 for the place of business associated  
2 with the retailer's license application or renewal application.

3 NEW SECTION.           **Sec. 8.**           ENFORCEMENT—LICENSE SUSPENSION,  
4 REVOCATION. (1) The board, or its enforcement officers, has the  
5 authority to enforce provisions of this chapter.

6       (2) The board may revoke or suspend a retailer's license issued  
7 under this chapter upon sufficient cause showing a violation of this  
8 chapter.

9       (3) A license may not be suspended or revoked except upon notice  
10 to the licensee and after a hearing as prescribed by the board. The  
11 board, upon finding that the licensee has failed to comply with any  
12 provision of this chapter, may, in the case of the first offense,  
13 suspend the license or licenses of the licensee for a period of not  
14 less than thirty consecutive business days, and in the case of a  
15 second or further offense, suspend the license or licenses for a  
16 period of not less than ninety consecutive business days but not more  
17 than twelve months, and in the event the board finds the licensee has  
18 been guilty of willful and persistent violations, it may revoke the  
19 license or licenses.

20       (4) Any retailer's licenses issued under chapter 82.24 or 82.26  
21 RCW to a person whose license or licenses have been suspended or  
22 revoked under this section must also be suspended or revoked during  
23 the period of suspension or revocation under this section.

24       (5) Any person whose license or licenses have been revoked under  
25 this section may reapply to the board at the expiration of one year  
26 of the license or licenses. The license or licenses may be approved  
27 by the board if it appears to the satisfaction of the board that the  
28 licensee will comply with the provisions of this chapter.

29       (6) A person whose license has been suspended or revoked may not  
30 sell vapor products or permit vapor products to be sold during the  
31 period of suspension or revocation on the premises occupied by the  
32 person or upon other premises controlled by the person or others or  
33 in any other manner or form.

34       (7) Any determination and order by the board, and any order of  
35 suspension or revocation by the board of the license or licenses  
36 issued under this chapter, or refusal to reinstate a license or  
37 licenses after revocation is reviewable by an appeal to the superior  
38 court of Thurston county. The superior court must review the order or  
39 ruling of the board and may hear the matter de novo, having due

1 regard to the provisions of this chapter and the duties imposed upon  
2 the board.

3 (8) If the board makes an initial decision to deny a license or  
4 renewal, or suspend or revoke a license, the applicant may request a  
5 hearing subject to the applicable provisions under Title 34 RCW.

6 NEW SECTION. **Sec. 9.** SIGNAGE. (1) A person who holds a license  
7 issued under this chapter must display a sign concerning the  
8 prohibition of vapor product sales to minors. Such sign must:

9 (a) Be posted so that it is clearly visible to anyone purchasing  
10 vapor products from the licensee;

11 (b) Be designed and produced by the department of health to read:  
12 "The sale of vapor products to persons under age eighteen is strictly  
13 prohibited by state law. If you are under age eighteen, you could be  
14 penalized for purchasing a vapor product; photo id required;" and

15 (c) Be provided free of charge by the board.

16 (2) In lieu of the sign required by subsection (1) of this  
17 section, for persons also licensed under RCW 82.24.520 or 82.24.530,  
18 the board may issue a sign to read: "The sale of tobacco or vapor  
19 products to persons under age eighteen is strictly prohibited by  
20 state law. If you are under age eighteen, you could be penalized for  
21 purchasing a tobacco or vapor product; photo id required," provided  
22 free of charge by the board.

23 NEW SECTION. **Sec. 10.** LABELING AND ADVERTISEMENT REQUIREMENTS.

24 (1) A manufacturer that sells, offers for sale, or distributes a  
25 vapor product shall label the vapor product with: (a) A warning  
26 regarding the harmful effects of nicotine; (b) a warning to keep the  
27 vapor product away from children; (c) a warning that vaping is  
28 illegal for those under the age of eighteen; and (d) the amount of  
29 milligrams per milliliter of nicotine contained in the product.

30 (2) A manufacturer or retailer that advertises a vapor product  
31 shall include in any advertisement a: (a) Warning regarding the  
32 harmful effects of nicotine; (b) warning to keep the vapor product  
33 away from children; and (c) warning that vaping is illegal for those  
34 under the age of eighteen.

35 NEW SECTION. **Sec. 11.** LABELING AND ADVERTISING REQUIREMENTS.

36 (1) A manufacturer that sells, offers for sale, or distributes a  
37 vapor product shall label the vapor product with a: (a) Warning



1 regarding the harmful effects of nicotine; (b) warning to keep the  
2 vapor product away from children; and (c) warning that vaping is  
3 illegal for those under the age of eighteen.

4 (2) A manufacturer or retailer that advertises a vapor product  
5 shall include in any advertisement a: (a) Warning regarding the  
6 harmful effects of nicotine; (b) warning to keep the vapor product  
7 away from children; and (c) warning that vaping is illegal for those  
8 under the age of eighteen.

9 (3)(a) This section expires on the effective date of the final  
10 regulations issued by the United States food and drug administration  
11 or by any other federal agency, when such regulations mandate warning  
12 or advertisement requirements for vapor products.

13 (b) The board must provide notice of the expiration date of this  
14 section to affected parties, the chief clerk of the house of  
15 representatives, the secretary of the senate, the office of the code  
16 reviser, and others as deemed appropriate by the board.

17 NEW SECTION. **Sec. 12.** PURCHASING, POSSESSING BY PERSONS UNDER  
18 EIGHTEEN—CIVIL INFRACTION—JURISDICTION. (1) A person under the age  
19 of eighteen who purchases or attempts to purchase, possesses, or  
20 obtains or attempts to obtain vapor products commits a class 3 civil  
21 infraction under chapter 7.80 RCW and is subject to a fine as set out  
22 in chapter 7.80 RCW or participation in up to four hours of community  
23 restitution, or both. The court may also require participation in a  
24 smoking cessation program. This provision does not apply if a person  
25 under the age of eighteen, with parental authorization, is  
26 participating in a controlled purchase as part of a board, law  
27 enforcement, or local health department activity.

28 (2) Municipal and district courts within the state have  
29 jurisdiction for enforcement of this section.

30 NEW SECTION. **Sec. 13.** AGE IDENTIFICATION REQUIREMENT. (1) When  
31 there may be a question of a person's right to purchase or obtain  
32 vapor products by reason of age, the retailer or agent thereof, must  
33 require the purchaser to present any one of the following officially  
34 issued forms of identification that shows the purchaser's age and  
35 bears his or her signature and photograph: (a) Liquor control  
36 authority card of identification of a state or province of Canada;  
37 (b) driver's license, instruction permit, or identification card of a  
38 state or province of Canada; (c) "identocard" issued by the

1 Washington state department of licensing under chapter 46.20 RCW; (d)  
2 United States military identification; (e) passport; (f) enrollment  
3 card, issued by the governing authority of a federally recognized  
4 Indian tribe located in Washington, that incorporates security  
5 features comparable to those implemented by the department of  
6 licensing for Washington drivers' licenses. At least ninety days  
7 prior to implementation of an enrollment card under this subsection,  
8 the appropriate tribal authority must give notice to the board. The  
9 board must publish and communicate to licensees regarding the  
10 implementation of each new enrollment card; or (g) merchant marine  
11 identification card issued by the United States coast guard.

12 (2) It is a defense to a prosecution under RCW 26.28.080 that the  
13 person making a sale reasonably relied on any of the officially  
14 issued identification as defined in subsection (1) of this section.  
15 The board must waive the suspension or revocation of a license if the  
16 licensee clearly establishes that he or she acted in good faith to  
17 prevent violations and a violation occurred despite the licensee's  
18 exercise of due diligence.

19 NEW SECTION. **Sec. 14.** VENDOR-ASSISTED SALES REQUIREMENT. (1) It  
20 is unlawful to sell or distribute vapor products at a retail  
21 establishment in this state by any means other than vendor-assisted  
22 sales where the customer has no direct access to the product except  
23 through the assistance of the seller.

24 (2) It is unlawful to sell or distribute vapor products from  
25 self-service displays.

26 (3) Retail establishments are exempt from subsections (1) and (2)  
27 of this section if minors are not allowed in the store and such  
28 prohibition is posted clearly on all entrances.

29 (4) Subsections (1) and (2) of this section do not apply to  
30 delivery sales of vapor products if the delivery seller meets the age  
31 verification requirements set forth in subsection (5) of this  
32 section.

33 (5) No person may mail, ship, or otherwise cause to be delivered  
34 any vapor product in connection with a delivery sale unless prior to  
35 its sale to the purchaser, the person verifies that the purchaser is  
36 at least eighteen years of age through a commercially available  
37 database, or aggregate of databases, that is regularly used by  
38 government and businesses for the purpose of age and identity  
39 verification.

1        NEW SECTION.    **Sec. 15.**    CHILD-RESISTANT PACKAGING REQUIREMENT.

2    (1) Any liquid nicotine container that is sold at retail in this  
3    state must satisfy the child-resistant effectiveness standards set  
4    forth in 16 C.F.R. Sec. 1700.15(b), as in effect on the effective  
5    date of this section, when tested in accordance with the method  
6    described in 16 C.F.R. Sec. 1700.20, as in effect on the effective  
7    date of this section.

8        (2) Any person that engages in retail sales of liquid nicotine  
9    containers in violation of this section is guilty of a gross  
10    misdemeanor.

11        (3)(a) This section expires on the effective date of the final  
12    regulations issued by the United States food and drug administration  
13    or by any other federal agency, when such regulations mandate child-  
14    resistant effectiveness standards for liquid nicotine containers.

15        (b) The board must provide notice of the expiration date of this  
16    section to affected parties, the chief clerk of the house of  
17    representatives, the secretary of the senate, the office of the code  
18    reviser, and others as deemed appropriate by the board.

19        NEW SECTION.    **Sec. 16.**    USE OF VAPOR PRODUCTS IN CERTAIN PUBLIC  
20    PLACES. (1) Indoor areas. The use of vapor products is prohibited in  
21    the following indoor areas:

22        (a) Inside a child care facility, provided that a child care  
23    facility that is home-based is excluded from this paragraph when  
24    children enrolled in such child care facility are not present;

25        (b) Schools; and

26        (c) Elevators.

27        (2) Outdoor areas. The use of vapor products is prohibited in the  
28    following outdoor areas:

29        (a) Real property that is under the control of a child care  
30    facility and upon which the child care facility is located, provided  
31    that a child care facility that is home-based is excluded from this  
32    paragraph when children enrolled in such child care facility are not  
33    present;

34        (b) Real property that is under the control of a school and upon  
35    which the school is located; and

36        (c) Playgrounds, during the hours between sunrise and sunset,  
37    when one or more persons under twelve years of age are present at  
38    such playground.

1        NEW SECTION.    **Sec. 17.**    PENALTIES, SANCTIONS, AND ACTIONS AGAINST  
2 LICENSEES. (1) The board may impose a monetary penalty as set forth  
3 in subsection (2) of this section, if the board finds that the  
4 licensee has violated RCW 26.28.080 or any other provision of this  
5 chapter.

6        (2) The sanctions that the board may impose against a person  
7 licensed under this chapter based upon one or more findings under  
8 subsection (1) of this section may not exceed the following:

9        (a) A monetary penalty of one hundred dollars for the first  
10 violation within any two-year period;

11        (b) A monetary penalty of three hundred dollars for the second  
12 violation within any two-year period;

13        (c) A monetary penalty of one thousand dollars for the third  
14 violation within any two-year period; and

15        (d) A monetary penalty of one thousand five hundred dollars for  
16 the fourth or subsequent violation within any two-year period.

17        (3) The board may impose a monetary penalty upon any person other  
18 than a licensed retailer if the board finds that the person has  
19 violated RCW 26.28.080.

20        (4) The monetary penalty that the board may impose based upon one  
21 or more findings under subsection (3) of this section may not exceed  
22 fifty dollars for the first violation and one hundred dollars for  
23 each subsequent violation.

24        (5) The board may develop and offer a class for retail clerks and  
25 use this class in lieu of a monetary penalty for the clerk's first  
26 violation.

27        (6) The board may issue a cease and desist order to any person  
28 who is found by the board to have violated or intending to violate  
29 the provisions of this chapter or RCW 26.28.080, requiring such  
30 person to cease specified conduct that is in violation. The issuance  
31 of a cease and desist order does not preclude the imposition of other  
32 sanctions authorized by this statute or any other provision of law.

33        (7) The board may seek injunctive relief to enforce the  
34 provisions of RCW 26.28.080 or this chapter. The board may initiate  
35 legal action to collect civil penalties imposed under this chapter if  
36 the same have not been paid within thirty days after imposition of  
37 such penalties. In any action filed by the board under this chapter,  
38 the court may, in addition to any other relief, award the board  
39 reasonable attorneys' fees and costs.

1 (8) All proceedings under subsections (1) through (6) of this  
2 section must be conducted in accordance with chapter 34.05 RCW.

3 (9) The board may reduce or waive either the penalties or the  
4 suspension or revocation of a license, or both, as set forth in this  
5 chapter where the elements of proof are inadequate or where there are  
6 mitigating circumstances. Mitigating circumstances may include, but  
7 are not limited to, an exercise of due diligence by a retailer.  
8 Further, the board may exceed penalties set forth in this chapter  
9 based on aggravating circumstances.

10 NEW SECTION. **Sec. 18.** LIQUOR AND CANNABIS BOARD AUTHORITY. (1)

11 The board must have, in addition to the board's other powers and  
12 authorities, the authority to enforce the provisions of this chapter.

13 (2) The board and the board's authorized agents or employees have  
14 full power and authority to enter any place of business where vapor  
15 products are sold for the purpose of enforcing the provisions of this  
16 chapter.

17 (3) For the purpose of enforcing the provisions of this chapter,  
18 a peace officer or enforcement officer of the board who has  
19 reasonable grounds to believe a person observed by the officer  
20 purchasing, attempting to purchase, or in possession of vapor  
21 products is under eighteen years of age, may detain such person for a  
22 reasonable period of time and in such a reasonable manner as is  
23 necessary to determine the person's true identity and date of birth.  
24 Further, vapor products possessed by persons under eighteen years of  
25 age are considered contraband and may be seized by a peace officer or  
26 enforcement officer of the board.

27 (4) The board may work with local county health departments or  
28 districts and local law enforcement agencies to conduct random,  
29 unannounced, inspections to assure compliance.

30 NEW SECTION. **Sec. 19.** YOUTH TOBACCO AND VAPOR PRODUCTS

31 PREVENTION ACCOUNT—SOURCE AND USE OF FUNDS. All fees collected  
32 pursuant to this chapter and funds collected by the board from the  
33 imposition of monetary penalties must be deposited into the youth  
34 tobacco and vapor products prevention account created by RCW  
35 70.155.120, except that ten percent of all such fees and penalties  
36 must be deposited in the state general fund.

1        NEW SECTION.    **Sec. 20.**    EXEMPTIONS. This chapter does not apply  
2 to a motor carrier or a freight forwarder as defined in 49 U.S.C.  
3 Sec. 13102 or an air carrier as defined in 49 U.S.C. Sec. 40102.

4        NEW SECTION.    **Sec. 21.**    SEVERABILITY. If any provision of this  
5 act or its application to any person or circumstance is held invalid,  
6 the remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

8        NEW SECTION.    **Sec. 22.**    NEW CHAPTER CREATION. Sections 3 through  
9 20 of this act constitute a new chapter in Title 70 RCW.

10       NEW SECTION.    **Sec. 23.**    EFFECTIVE DATE. (1) Sections 5 through 7  
11 of this act take effect thirty days after the Washington state liquor  
12 and cannabis board prescribes the form for an application for a  
13 license required under section 6 of this act.

14       (2) The Washington state liquor and cannabis board must provide  
15 written notice of the effective date of sections 5 through 7 of this  
16 act to affected parties, the chief clerk of the house of  
17 representatives, the secretary of the senate, the office of the code  
18 reviser, and others as deemed appropriate by the department.

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