

2SHB 1054 - H AMD 806

By Representative Stokesbary

WITHDRAWN 03/07/2018

1 Strike everything after the enacting clause and insert the
2 following:

3

4 **"Sec. 1.** RCW 26.28.080 and 2016 sp.s. c 38 s 1 are each amended
5 to read as follows:

6 (1) (~~Every~~) A person who sells or gives, or permits to be sold
7 or given, to any person under the age of (~~eighteen~~) nineteen years
8 any cigar, cigarette, cigarette paper or wrapper, tobacco in any
9 form, or a vapor product is guilty of a gross misdemeanor.

10 (2) It is not a defense to a prosecution for a violation of this
11 section that the person acted, or was believed by the defendant to
12 act, as agent or representative of another.

13 (3) For the purposes of this section, "vapor product" has the
14 same meaning as provided in RCW 70.345.010.

15

16 **Sec. 2.** RCW 70.155.010 and 2009 c 278 s 1 are each amended to
17 read as follows:

18 The definitions set forth in RCW 82.24.010 (~~shall~~) apply to
19 this chapter. In addition, for the purposes of this chapter, unless
20 otherwise required by the context:

21 (1) "Board" means the Washington state liquor (~~control~~) and
22 cannabis board.

23 (2) "Internet" means any computer network, telephonic network,
24 or other electronic network.

25 (3) (~~"Minor" refers to an individual who is less than eighteen~~
26 ~~years old.~~

27

1 ~~(4)~~) "Sample" means a tobacco product distributed to members of
2 the general public at no cost or at nominal cost for product
3 promotion purposes.

4 ~~((5))~~ (4) "Sampling" means the distribution of samples to
5 members of the public.

6 ~~((6))~~ (5) "Tobacco product" means a product that contains
7 tobacco and is intended for human use, including any product defined
8 in RCW 82.24.010(2) or 82.26.010(~~((1))~~) (21), except that for the
9 purposes of RCW 70.155.140 only, "tobacco product" does not include
10 cigars defined in RCW 82.26.010 as to which one thousand units weigh
11 more than three pounds.

12 (6) "Vapor product" has the same meaning as defined in RCW
13 70.345.010.

14

15 **Sec. 3.** RCW 70.345.010 and 2016 1st sp.s. c 38 s 4 are each
16 amended to read as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

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

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

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

26 (4) "Closed system nicotine container" means a sealed,
27 prefilled, and disposable container of nicotine in a solution or
28 other form in which such container is inserted directly into an
29 electronic cigarette, electronic nicotine delivery system, or other
30 similar product, if the nicotine in the container is inaccessible
31 through customary or reasonably foreseeable handling or use,
32 including reasonably foreseeable ingestion or other contact by
33 children.

34

1 (5) "Delivery sale" means any sale of a vapor product to a
2 purchaser in this state where either:

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

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

11 (6) "Delivery seller" means a person who makes delivery sales.

12 (7) "Distributor" means any person who:

13 (a) Sells vapor products to persons other than ultimate
14 consumers; or

15 (b) Is engaged in the business of selling vapor products in this
16 state and who brings, or causes to be brought, into this state from
17 outside of the state any vapor products for sale.

18 (8) "Liquid nicotine container" means a package from which
19 nicotine in a solution or other form is accessible through normal
20 and foreseeable use by a consumer and that is used to hold soluble
21 nicotine in any concentration. "Liquid nicotine container" does not
22 include closed system nicotine containers.

23 (9) "Manufacturer" means a person who manufactures and sells
24 vapor products.

25 (10) "Minor" refers to an individual who is less than
26 (~~eighteen~~) nineteen years old.

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

1 (12) "Place of business" means any place where vapor products
2 are sold or where vapor products are manufactured, stored, or kept
3 for the purpose of sale.

4 (13) "Playground" means any public improved area designed,
5 equipped, and set aside for play of six or more children which is
6 not intended for use as an athletic playing field or athletic court,
7 including but not limited to any play equipment, surfacing, fencing,
8 signs, internal pathways, internal land forms, vegetation, and
9 related structures.

10 (14) "Retail outlet" means each place of business from which
11 vapor products are sold to consumers.

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

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

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

20 (17) "School" has the same meaning as provided in RCW
21 70.140.020.

22 (18) "Self-service display" means a display that contains vapor
23 products and is located in an area that is openly accessible to
24 customers and from which customers can readily access such products
25 without the assistance of a salesperson. A display case that holds
26 vapor products behind locked doors does not constitute a self-
27 service display.

28 (19) "Vapor product" means any noncombustible product that may
29 contain nicotine and that employs a heating element, power source,
30 electronic circuit, or other electronic, chemical, or mechanical
31 means, regardless of shape or size, that can be used to produce
32 vapor or aerosol from a solution or other substance.

33 (a) "Vapor product" includes any electronic cigarette,
34 electronic cigar, electronic cigarillo, electronic pipe, or similar

1 product or device and any vapor cartridge or other container that
2 may contain nicotine in a solution or other form that is intended to
3 be used with or in an electronic cigarette, electronic cigar,
4 electronic cigarillo, electronic pipe, or similar product or device.

5 (b) "Vapor product" does not include any product that meets the
6 definition of marijuana, useable marijuana, marijuana concentrates,
7 marijuana-infused products, cigarette, or tobacco products.

8 (c) For purposes of this subsection (19), "marijuana," "useable
9 marijuana," "marijuana concentrates," and "marijuana-infused
10 products" have the same meaning as provided in RCW 69.50.101.

11

12 **Sec. 4.** RCW 70.155.020 and 1993 c 507 s 3 are each amended to
13 read as follows:

14 A person who holds a license issued under RCW 82.24.520 or
15 82.24.530 shall:

16 (1) Display the license or a copy in a prominent location at the
17 outlet for which the license is issued; and

18 (2) Display a sign concerning the prohibition of tobacco sales
19 to minors.

20 Such sign shall:

21 (a) Be posted so that it is clearly visible to anyone purchasing
22 tobacco products from the licensee;

23 (b) Be designed and produced by the department of health to
24 read: "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE ((18)) 19
25 IS STRICTLY PROHIBITED BY STATE LAW. IF YOU ARE UNDER ((18)) 19, YOU
26 COULD BE PENALIZED FOR PURCHASING A TOBACCO PRODUCT; PHOTO ID
27 REQUIRED"; and

28 (c) Be provided free of charge by the liquor ((~~control~~)) and
29 cannabis board.

30

31 **Sec. 5.** RCW 70.345.070 and 2016 1st sp.s. c 38 s 12 are each
32 amended to read as follows:

33 (1) Except as provided in subsection (2) of this section, a
34 person who holds a retailer's license issued under this chapter must

1 display a sign concerning the prohibition of vapor product sales to
2 minors. Such sign must:

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

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

10 (c) Be provided free of charge by the department of health.

11 (2) For persons also licensed under RCW 82.24.510 or 82.26.150,
12 the board may issue a sign to read: "The sale of tobacco or vapor
13 products to persons under age (~~(eighteen))~~ nineteen is strictly
14 prohibited by state law. If you are under age (~~(eighteen))~~ nineteen,
15 you could be penalized for purchasing a tobacco or vapor product;
16 photo id required," provided free of charge by the board.

17 (3) A person who holds a license issued under this chapter must
18 display the license or a copy in a prominent location at the outlet
19 for which the license is issued.

20

21 **Sec. 6.** RCW 70.345.100 and 2016 1st sp.s. c 38 s 19 are each
22 amended to read as follows:

23 (1) No person may offer a tasting of vapor products to the
24 general public unless:

25 (a) The person is a licensed retailer under RCW 70.345.020;

26 (b) The tastings are offered only within the licensed premises
27 operated by the licensee and the products tasted are not removed
28 from within the licensed premises by the customer;

29 (c) Entry into the licensed premises is restricted to persons
30 (~~(eighteen))~~ nineteen years of age or older;

31 (d) The vapor product being offered for tasting contains zero
32 milligrams per milliliter of nicotine or the customer explicitly
33 consents to a tasting of a vapor product that contains nicotine; and

34

1 (e) If the customer is tasting from a vapor device owned and
2 maintained by the retailer, a disposable mouthpiece tip is attached
3 to the vapor product being used by the customer for tasting or the
4 vapor device is disposed of after each tasting.

5 (2) A violation of this section is a misdemeanor.

6

7 **Sec. 7.** RCW 70.155.030 and 1994 c 202 s 1 are each amended to
8 read as follows:

9 (1) No person shall sell or permit to be sold any tobacco
10 product through any device that mechanically dispenses tobacco
11 products unless the device is located fully within premises from
12 which (~~minors~~) persons under the age of nineteen are prohibited or
13 in industrial worksites where (~~minors~~) persons under the age of
14 nineteen are not employed and not less than ten feet from all
15 entrance or exit ways to and from each premise.

16 (2) The board shall adopt rules that allow an exception to the
17 requirement that a device be located not less than ten feet from all
18 entrance or exit ways to and from a premise if it is architecturally
19 impractical for the device to be located not less than ten feet from
20 all entrance and exit ways.

21

22 **Sec. 8.** RCW 70.155.120 and 2016 1st sp.s. c 38 s 2 are each
23 amended to read as follows:

24 (1) The youth tobacco and vapor products prevention account is
25 created in the state treasury. All fees collected pursuant to RCW
26 82.24.520, 82.24.530, 82.26.160, and 82.26.170 and funds collected
27 by the liquor and cannabis board from the imposition of monetary
28 penalties shall be deposited into this account, except that ten
29 percent of all such fees and penalties shall be deposited in the
30 state general fund.

31 (2) Moneys appropriated from the youth tobacco and vapor
32 products prevention account to the department of health shall be
33 used by the department of health for implementation of this chapter,
34 including collection and reporting of data regarding enforcement and

1 the extent to which access to tobacco products and vapor products by
2 youth has been reduced.

3 (3) The department of health shall enter into interagency
4 agreements with the liquor and cannabis board to pay the costs
5 incurred, up to thirty percent of available funds, in carrying out
6 its enforcement responsibilities under this chapter. Such agreements
7 shall set forth standards of enforcement, consistent with the
8 funding available, so as to reduce the extent to which tobacco
9 products and vapor products are available to individuals under the
10 age of (~~eighteen~~) nineteen. The agreements shall also set forth
11 requirements for data reporting by the liquor and cannabis board
12 regarding its enforcement activities.

13 (4) The department of health, the liquor and cannabis board, and
14 the department of revenue shall enter into an interagency agreement
15 for payment of the cost of administering the tobacco retailer
16 licensing system and for the provision of quarterly documentation of
17 tobacco wholesaler, retailer, and vending machine names and
18 locations.

19 (5) The department of health shall, within up to seventy percent
20 of available funds, provide grants to local health departments or
21 other local community agencies to develop and implement coordinated
22 tobacco and vapor product intervention strategies to prevent and
23 reduce tobacco and vapor product use by youth.

24

25 NEW SECTION. **Sec. 9.** This act takes effect January 1, 2019.

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27 NEW SECTION. **Sec. 10.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected."

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32 Correct the title.

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EFFECT: Lowers the age of a person who can be sold cigars,

cigarettes, tobacco, or vapor products to 19, instead of 21.

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