

HOUSE BILL REPORT

HB 1054

As Reported by House Committee On:
Health Care & Wellness
Finance

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 Harris, Cody, Orwall, DeBolt, Johnson, McBride, Clibborn, Short, Pettigrew, Robinson, Fey, Kilduff, Riccelli, Ryu, Nealey, Goodman, Tharinger, Stanford, Frame, Stokesbary, Pollet, Jinkins, Haler, Kagi, Hargrove, Fitzgibbon, Appleton, Chapman, Senn, Bergquist, Gregerson, Young, Farrell and Slatter; by request of Attorney General and Department of Health.

Brief History:

Committee Activity:

Health Care & Wellness: 1/24/17, 2/3/17 [DPS];

Finance: 2/20/17, 3/30/17 [DPS(HCW)].

Brief Summary of Substitute Bill

- Prohibits the sale of cigarettes, tobacco products, and vapor products to persons under the age of 21.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Cody, Chair; Macri, Vice Chair; Clibborn, DeBolt, Harris, Jinkins, Maycumber, Riccelli, Robinson, Slatter, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 4 members: Representatives Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Caldier and MacEwen.

Staff: Alexa Silver (786-7190).

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.

Background:

A person who sells cigars, cigarettes, cigarette paper, tobacco, or vapor products to a person under the age of 18 is guilty of a gross misdemeanor. A person under the age of 18 who purchases, possesses, or obtains or who attempts to purchase or obtain cigarettes, tobacco, or vapor 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.

A person who holds a cigarette wholesaler or retailer license is required to prominently display a sign concerning the prohibition of tobacco sales to persons under the age of 18. Similarly, a person who holds a vapor products retailer's license must display a sign concerning the prohibition on vapor products sales to persons under the age of 18. 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 an industrial worksite where minors are not employed; and (2) the device is located at least 10 feet from entrances and exits. "Minor" is defined as a person under the age of 18. A person may not offer a tasting of vapor products to the general public unless the person is a licensed retailer, the tastings are offered within the licensed premises, entry is restricted to persons 18 years of age or older, either the product does not contain nicotine or the customer consents to tasting nicotine, and a disposable mouthpiece is attached to the vapor product if the device is owned by the retailer.

The Liquor and Cannabis Board (LCB) has authority to enforce the laws governing minors' access to tobacco and vapor products. The LCB may work with local county health departments or districts and law enforcement to conduct unannounced inspections to assure compliance. If a peace officer or enforcement officer of the LCB observes a person purchasing or in possession of tobacco or vapor products, and the officer has reasonable grounds to believe the person is under the age of 18, the officer may detain the person for a reasonable period of time and in a reasonable manner to determine his or her identity and date of birth. An LCB officer may also seize tobacco and vapor products in the possession of a minor.

The Department of Health (DOH) may use monies appropriated from the Youth Tobacco and Vapor Products Prevention Account, which includes licensing fees and monetary penalties, for implementation of the laws governing minors' access to tobacco and vapor products. 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 and vapor products are available to persons under the age of 18.

Summary of Substitute Bill:

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

The sign that retailers and wholesalers of tobacco and vapor products must display concerns the prohibition of tobacco and vapor product sales to persons under the age of 21,

respectively. Tobacco 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. A person may not offer a tasting of vapor products to the general public unless, among other things, entry into the licensed premises is restricted to persons 21 years of age and older.

Interagency agreements between the Department of Health and the Liquor and Cannabis Board (LCB) must set enforcement standards to reduce the extent to which tobacco and vapor products are available to persons under the age of 21.

Substitute Bill Compared to Original Bill:

The substitute bill restores current law related to enforcement by: (1) allowing either a peace officer or an LCB enforcement officer (rather than just an LCB enforcement officer) to detain a person who the officer has reasonable grounds to believe is under the age of 18 (rather than 21); and (2) permitting a peace officer or an LCB enforcement officer (rather than just an LCB enforcement officer) to seize tobacco and vapor products in the possession of a person under the age of 18 (rather than 21).

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on January 1, 2018.

Staff Summary of Public Testimony:

(In support) Smoking is the most common preventable cause of death. This bill will save kids from asthma, cancer, heart disease, and stroke. One in five kids smokes or vapes, and one in three young smokers will die of smoking-related illnesses. Nicotine is one of the most addictive substances known. Because kids' brains are still developing, they are more likely to become addicted. Adolescent brains favor immediate pleasure over long-term risk. Raising the smoking age to 21 is four times more effective than raising it to 19. Prevention is the best way to ensure public health.

This bill will make it more difficult for kids to obtain nicotine from their 18- to 20-year-old suppliers. Many high school seniors are 18 years old. Peer pressure is a big motivator, and seniors are the most influential. The younger a person starts smoking, the more likely he or she is to become addicted and have serious health problems later in life. Using tobacco also makes a person more likely to use other drugs. Different substances can be put into an e-cigarette. Kids vape marijuana on school buses. The message that cigarettes are bad has been lost in high school. E-cigarette ads cause confusion and make people think they are healthy.

Tobacco causes significant health problems for military members, which makes recruitment a challenge. Military members who use tobacco are less combat ready, less physically fit, and take longer to heal if they are injured. Raising the age to use tobacco will make the military more ready to serve our country and at a lower cost. Society has decided that there are things that are counter to the health of young people, such as the drinking age, gambling in casinos, and carrying a concealed firearm.

This bill will reduce the smoking rate for pregnant women who are 20 years old or younger. Babies who are born premature and at a low birth weight are expensive to the medical system. A significant portion of the annual Medicaid budget is spent on smoking-related medical services.

California, Hawaii, and 200 municipalities have already raised the age for using tobacco and have not lost revenue. The real impact will be in the future. Each pack of cigarettes leads to \$7 of health care costs. This bill has broad support from health plans, health care providers, and the public.

(Opposed) The loss of tobacco sales means a loss of other sales, as well. Retailers in border areas or near reservations could see a loss in sales across the border. Raising the legal age is unnecessary because retailers have a 95 percent tobacco compliance rate. People aged 18 to 21 often live on their own.

(Other) The provisions in the bill removing a peace officer's authority to enforce the law related to underage sales should be removed.

Persons Testifying: (In support) Representative Harris, prime sponsor; Bob Ferguson, Attorney General; Brigadier General John Tuohy, Washington Air National Guard; John Wiesman, Secretary of Health; Hannah Stewart; Aiden Rees; Michael Alston, American Academy of Pediatrics; Miles Schoenberg; Joelle Fathi; Katie Kolan, Washington State Medical Association; David Foster, Tobacco Free Kids, American Heart Association, and the American Cancer Society Cancer Action Network; Ryan Day, March of Dimes; Patricia Seib, Molina Healthcare of Washington; and Madeline Grant, Seattle Cancer Care Alliance.

(Opposed) Mark Johnson, Washington Retail Association.

(Other) James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill by Committee on Health Care & Wellness be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Lytton, Chair; Frame, Vice Chair; Nealey, Ranking Minority Member; Dolan, Pollet, Springer, Stokesbary and Wylie.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Assistant Ranking Minority Member; Condotta and Wilcox.

Staff: Rachelle Harris (786-7137).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Health Care & Wellness:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on January 1, 2018.

Staff Summary of Public Testimony:

(In support) Nicotine is the most addictive substance around. When New York City raised their legal smoking age to 21, they did not experience such a dramatic loss of revenue as the fiscal note indicates. One of the main reasons people do not enter the military is because they cannot pass the physical exam due to smoking. Smoking harms the health and readiness of our soldiers and military. Raising the smoking age will result in fewer kids smoking. It will help cut out the social connections that currently allow minors to have access to cigarettes. This will result in a short term revenue loss to the state, and that should be celebrated. More importantly, the long-term savings from health costs alone will outweigh those costs. Secondhand smoke exposure increases rates of childhood illnesses and increase costs overall. Governor Gregoire sued big tobacco, and the state continues to receive revenues from that litigation. Use of nicotine products among teenagers is skyrocketing at an alarming pace. This bill will have an effect not only on youth use of tobacco, but also on adult use.

(Opposed) Eighteen year olds are legally adults and should be trusted to make decisions themselves about whether or not to smoke. The bill will do nothing to stop over-border purchases or use of tobacco. Raising the age will add to the revenue loss problem. Overall, tobacco use has declined in the past decade. There will be substantial impacts to local businesses. Loss in tobacco sales for retailers will mean losses in other sales as well. The fiscal note does not account for this additional impact. Current retailer compliance with not selling to minors is very good in this state. This policy change should be at a federal level and with more aggressive tribal compacts.

(Other) The Department of Revenue (DOR) looked at a variety of data sources to come up with the estimates in the fiscal note. It is important to compare similar cases when evaluating studies, in this instance New York City was used as one example. California and Hawaii's legislation are examples that are more similar. The DOR's conclusion was that an increase in the smoking age will likely result in a reduction in state revenue.

Persons Testifying: (In support) Representative Harris, prime sponsor; Bob Ferguson and Dave Horn, Attorney General's Office; John Wiesman, Department of Health; Nancy Bickford, Washington Military Department; Erika Phelps Nishiguchi; Hannah Stewart; Lili Helsby; Carly Cashman-DiBiase; Mary McHale, American Cancer Society Cancer Action

Network, American Heart Association, and American Lung Association; David Foster, Campaign for Tobacco Free Kids; Patricia Seib, Molina Health Care; Kaitlyn Gregoire and Josh Bruland, Students Against Destructive Decisions; and Brad Tower, Hidden River Middle School.

(Opposed) William Stewart, Washington Association of Neighborhood Stores; and Carolyn Logue, Washington Retail Association and Washington Association of Neighborhood Stores.

(Other) David Duvall, Department of Revenue.

Persons Signed In To Testify But Not Testifying: Dave Knudsen, Washington Association of Health Plans.