

**HB 1074 - H AMD 18**

By Representative Schmick

**NOT ADOPTED 02/20/2019**

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

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

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

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

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

14 **Sec. 2.** RCW 70.155.005 and 1993 c 507 s 1 are each amended to  
15 read as follows:

16 (1) The legislature finds that chapter ..., Laws of 2019 (this  
17 act) furthers the public health, safety, and welfare by reducing  
18 youth access to addictive and harmful products.

19 (2) While present state law prohibits the sale and distribution  
20 of tobacco and vapor products to ((minors)) youth under the age of  
21 eighteen, youth obtain ((tobacco)) these products with ease.  
22 ((Availability and lack of enforcement put tobacco products in the  
23 hands of youth.))

24 (3) The legislature recognizes that many people who purchase  
25 cigarettes for minors are eighteen year old high school students. By  
26 decreasing the number of eligible buyers in high school, raising the  
27 minimum legal age to sell tobacco and vapor products will decrease  
28 the access of students to tobacco products. According to the 2014  
29 healthy youth survey, forty-one percent of tenth graders say it is  
30 "sort of easy" to "very easy" to get cigarettes. Nationally, among

1 youth who smoke, more than twice as many get their cigarettes from  
2 social sources than from a store or vending machine.

3 (4) The legislature recognizes that eighty percent of smokers  
4 start by the age of eighteen.

5 (5) The legislature recognizes that jurisdictions across the  
6 country are increasing the age of sale for tobacco products to  
7 nineteen.

8 (6) The legislature recognizes the national institute of medicine  
9 report predicted increasing the tobacco sale age will make the  
10 greatest difference among those ages fifteen to seventeen, who will  
11 no longer be able to pass for legal age and will have a harder time  
12 getting tobacco products from older classmates and friends.

13 (7) The legislature recognizes that reducing the youth smoking  
14 rate will save lives and reduce health care costs. Every year, two  
15 billion eight hundred ten million dollars in health care costs can be  
16 directly attributed to tobacco use in Washington. Smoking-caused  
17 government expenditures cost every Washington household eight hundred  
18 twenty-one dollars per year.

19 (8) Federal law requires states to enforce laws prohibiting sale  
20 and distribution of tobacco products to minors in a manner that can  
21 reasonably be expected to reduce the extent to which the products are  
22 available to minors. It is imperative to effectively reduce the sale,  
23 distribution, and availability of tobacco products to minors.

24 **Sec. 3.** RCW 70.155.010 and 2009 c 278 s 1 are each amended to  
25 read as follows:

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

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

31 (2) "Internet" means any computer network, telephonic network, or  
32 other electronic network.

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

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

38 (~~((5))~~) (4) "Sampling" means the distribution of samples to  
39 members of the public.

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

7       (6) "Vapor product" has the same meaning as defined in RCW  
8 70.345.010.

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

11       The definitions in this section apply throughout this chapter  
12 unless the context clearly requires otherwise.

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

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

17       (3) "Child care facility" has the same meaning as provided in RCW  
18 70.140.020.

19       (4) "Closed system nicotine container" means a sealed, prefilled,  
20 and disposable container of nicotine in a solution or other form in  
21 which such container is inserted directly into an electronic  
22 cigarette, electronic nicotine delivery system, or other similar  
23 product, if the nicotine in the container is inaccessible through  
24 customary or reasonably foreseeable handling or use, including  
25 reasonably foreseeable ingestion or other contact by children.

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

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

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

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

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

38       (a) Sells vapor products to persons other than ultimate  
39 consumers; or

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

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

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

11 ~~(10) ("Minor" refers to an individual who is less than eighteen~~  
12 ~~years old.~~

13 ~~(11))~~ "Person" means any individual, receiver, administrator,  
14 executor, assignee, trustee in bankruptcy, trust, estate, firm,  
15 copartnership, joint venture, club, company, joint stock company,  
16 business trust, municipal corporation, the state and its departments  
17 and institutions, political subdivision of the state of Washington,  
18 corporation, limited liability company, association, society, any  
19 group of individuals acting as a unit, whether mutual, cooperative,  
20 fraternal, nonprofit, or otherwise.

21 ~~((12))~~ (11) "Place of business" means any place where vapor  
22 products are sold or where vapor products are manufactured, stored,  
23 or kept for the purpose of sale.

24 ~~((13))~~ (12) "Playground" means any public improved area  
25 designed, equipped, and set aside for play of six or more children  
26 which is not intended for use as an athletic playing field or  
27 athletic court, including but not limited to any play equipment,  
28 surfacing, fencing, signs, internal pathways, internal land forms,  
29 vegetation, and related structures.

30 ~~((14))~~ (13) "Retail outlet" means each place of business from  
31 which vapor products are sold to consumers.

32 ~~((15))~~ (14) "Retailer" means any person engaged in the business  
33 of selling vapor products to ultimate consumers.

34 ~~((16))~~ (15)(a) "Sale" means any transfer, exchange, or barter,  
35 in any manner or by any means whatsoever, for a consideration, and  
36 includes and means all sales made by any person.

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

1 ((~~17~~)) (16) "School" has the same meaning as provided in RCW  
2 70.140.020.

3 ((~~18~~)) (17) "Self-service display" means a display that  
4 contains vapor products and is located in an area that is openly  
5 accessible to customers and from which customers can readily access  
6 such products without the assistance of a salesperson. A display case  
7 that holds vapor products behind locked doors does not constitute a  
8 self-service display.

9 ((~~19~~)) (18) "Vapor product" means any noncombustible product  
10 that may contain nicotine and that employs a heating element, power  
11 source, electronic circuit, or other electronic, chemical, or  
12 mechanical means, regardless of shape or size, that can be used to  
13 produce vapor or aerosol from a solution or other substance.

14 (a) "Vapor product" includes any electronic cigarette, electronic  
15 cigar, electronic cigarillo, electronic pipe, or similar product or  
16 device and any vapor cartridge or other container that may contain  
17 nicotine in a solution or other form that is intended to be used with  
18 or in an electronic cigarette, electronic cigar, electronic  
19 cigarillo, electronic pipe, or similar product or device.

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

23 (c) For purposes of this subsection ((~~19~~)) (18), "marijuana,"  
24 "useable marijuana," "marijuana concentrates," and "marijuana-infused  
25 products" have the same meaning as provided in RCW 69.50.101.

26 **Sec. 5.** RCW 70.155.020 and 1993 c 507 s 3 are each amended to  
27 read as follows:

28 A person who holds a license issued under RCW 82.24.520 or  
29 82.24.530 shall:

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

32 (2) Display a sign concerning the prohibition of tobacco sales to  
33 ((~~minors~~)) persons under the age of nineteen.

34 Such sign shall:

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

37 (b) Be designed and produced by the department of health to read:  
38 "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE ((~~18~~)) 19 IS  
39 STRICTLY PROHIBITED BY STATE LAW. ((~~IF YOU ARE UNDER 18, YOU COULD BE~~

1 ~~PENALIZED FOR PURCHASING A TOBACCO PRODUCT;~~) PHOTO ID REQUIRED UPON  
2 REQUEST"; and

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

5 **Sec. 6.** RCW 70.345.070 and 2016 1st sp.s. c 38 s 12 are each  
6 amended to read as follows:

7 (1) Except as provided in subsection (2) of this section, a  
8 person who holds a retailer's license issued under this chapter must  
9 display a sign concerning the prohibition of vapor product sales to  
10 (~~minors~~) persons under the age of nineteen. Such sign must:

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

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

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

19 (2) For persons also licensed under RCW 82.24.510 or 82.26.150,  
20 the board may issue a sign to read: "The sale of tobacco or vapor  
21 products to persons under age (~~eighteen~~) nineteen is strictly  
22 prohibited by state law. (~~If you are under age eighteen, you could~~  
23 ~~be penalized for purchasing a tobacco or vapor product;~~) Photo id  
24 required(~~r~~) upon request." The sign must be provided free of charge  
25 by the board.

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

29 **Sec. 7.** RCW 70.345.100 and 2016 1st sp.s. c 38 s 19 are each  
30 amended to read as follows:

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

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

34 (b) The tastings are offered only within the licensed premises  
35 operated by the licensee and the products tasted are not removed from  
36 within the licensed premises by the customer;

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

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

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

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

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

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

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

23 **Sec. 9.** RCW 70.345.080 and 2017 c 210 s 1 are each amended to  
24 read as follows:

25 (1) No person may offer a vapor product for sale in an open,  
26 unsecured display that is accessible to the public without the  
27 intervention of a store employee.

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

30 (3) Retail establishments are exempt from subsections (1) and (2)  
31 of this section if ~~((minors))~~ persons under the age of nineteen are  
32 not allowed in the store and such prohibition is posted clearly on  
33 all entrances.

34 **Sec. 10.** RCW 70.155.120 and 2016 1st sp.s. c 38 s 2 are each  
35 amended to read as follows:

36 (1) The youth tobacco and vapor products prevention account is  
37 created in the state treasury. All fees collected pursuant to RCW

1 82.24.520, 82.24.530, 82.26.160, and 82.26.170 and funds collected by  
2 the liquor and cannabis board from the imposition of monetary  
3 penalties shall be deposited into this account, except that ten  
4 percent of all such fees and penalties shall be deposited in the  
5 state general fund.

6 (2) Moneys appropriated from the youth tobacco and vapor products  
7 prevention account to the department of health shall be used by the  
8 department of health for implementation of this chapter, including  
9 collection and reporting of data regarding enforcement and the extent  
10 to which access to tobacco products and vapor products by youth has  
11 been reduced.

12 (3) The department of health shall enter into interagency  
13 agreements with the liquor and cannabis board to pay the costs  
14 incurred, up to thirty percent of available funds, in carrying out  
15 its enforcement responsibilities under this chapter. Such agreements  
16 shall set forth standards of enforcement, consistent with the funding  
17 available, so as to reduce the extent to which tobacco products and  
18 vapor products are available to individuals under the age of  
19 (~~eighteen~~) nineteen. The agreements shall also set forth  
20 requirements for data reporting by the liquor and cannabis board  
21 regarding its enforcement activities.

22 (4) The department of health, the liquor and cannabis board, and  
23 the department of revenue shall enter into an interagency agreement  
24 for payment of the cost of administering the tobacco retailer  
25 licensing system and for the provision of quarterly documentation of  
26 tobacco wholesaler, retailer, and vending machine names and  
27 locations.

28 (5) The department of health shall, within up to seventy percent  
29 of available funds, provide grants to local health departments or  
30 other local community agencies to develop and implement coordinated  
31 tobacco and vapor product intervention strategies to prevent and  
32 reduce tobacco and vapor product use by youth.

33 NEW SECTION. **Sec. 11.** In recognition of the sovereign authority  
34 of tribal governments, the governor may seek government-to-government  
35 consultations with Indian tribes regarding raising the minimum legal  
36 age of sale in compacts entered into pursuant to RCW 43.06.455,  
37 43.06.465, and 43.06.466. The office of the governor shall report to  
38 the appropriate committees of the legislature regarding the status of  
39 such consultations no later than December 1, 2020.



1        NEW SECTION.    **Sec. 12.**    This act takes effect January 1, 2020.

2        NEW SECTION.    **Sec. 13.**    If any provision of this act or its  
3 application to any person or circumstance is held invalid, the  
4 remainder of the act or the application of the provision to other  
5 persons or circumstances is not affected."

6        Correct the title.

EFFECT: Lowers the age of a person who can be sold or given cigars, cigarettes, tobacco, or vapor products from twenty-one to nineteen years old. Replaces intent language that focused on raising the legal age to purchase tobacco to individuals 21 or older, with information about raising the age to 19 years old.

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