

2SHB 1873 - H AMD 814

By Representative Robinson

ADOPTED AS AMENDED 04/26/2019

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

3 **"Part I**
4 **Findings**

5 NEW SECTION. **Sec. 101.** (1) The legislature finds that the use
6 of vapor inhalation products, such as e-cigarettes, e-devices,
7 electronic nicotine delivery systems, and vape pens, has risen at an
8 alarming rate both among adults and youth. The vaping epidemic has
9 reversed decades of progress in reducing youth use of nicotine. Vapor
10 products pose a serious public health risk because of the
11 addictiveness of nicotine, the impact of nicotine on fetal
12 development and adolescent brain development, the risk of liquid
13 nicotine poisoning, and exposure to carcinogens and other toxic
14 chemicals. Although these products have been documented as being
15 interchangeably used by consumers with cigarettes or other tobacco
16 products, and there is nicotine produced or derived from tobacco in
17 the product intended for human consumption and absorption into the
18 human body, the manufacturers, wholesalers, and retailers have not
19 been paying the tax levied on tobacco products pursuant to chapter
20 82.26 RCW. The legislature intends to transition from no tobacco or
21 cigarette tax having been paid on these products to adopting a
22 specific tax rate for tobacco products classified as vapor products
23 in this act. Adoption of this specific tax will resolve claims of
24 nonpayment of tobacco product taxes pursuant to chapter 82.26 RCW.
25 The legislature believes that vapor products containing nicotine have
26 always been subject to taxation pursuant to chapter 82.26 RCW, and
27 passage of this act may not be interpreted as an indication
28 otherwise.

29 (2) Specifically, the legislature finds that:

30 (a) Vapor products are battery-operated devices with cartridges
31 or refillable tanks that contain a mixture of various liquids, such

1 as propylene glycol, glycerol, nicotine, and chemical flavorings. The
2 devices atomize the liquid mixture, producing an aerosol that the
3 user inhales and that bystanders can also breathe in when the user
4 exhales into the air. The aerosol can contain harmful and potentially
5 harmful substances, including volatile organic compounds, ultrafine
6 particles, cancer-causing chemicals, heavy metals, and flavoring such
7 as diacetyl, which has been linked to a serious lung disease. Vapor
8 products may also be used to deliver marijuana or other drugs;

9 (b) In 2016, the federal food and drug administration finalized a
10 rule to extend its regulatory authority to all tobacco products,
11 including e-cigarettes, to improve public health. The food and drug
12 administration's regulatory authority over noncombustible tobacco
13 products includes e-cigarette components and parts, such as e-
14 liquids, cartridges, tank systems, and flavorings;

15 (c) Vapor products are heavily promoted as being far less costly
16 than consuming the equivalent nicotine through cigarettes, with one
17 industry estimate that vapor products are over eighty percent less
18 expensive. Legislative testimony has indicated that refillable
19 nicotine liquid and disposable e-cigarettes are as low as ten and
20 twenty percent of the cost of a pack of cigarettes in Washington. For
21 Washington residents, industry promotions note thousands of dollars
22 in individual savings annually, compared to smoking cigarettes, due
23 in part to consumers and retailers of vapor products not paying the
24 taxes which the state places on cigarettes or other tobacco products;

25 (d) The sale and use of vapor products has rapidly increased over
26 the past several years. The 2018 national youth tobacco survey found
27 that use of e-cigarettes increased seventy-eight percent among high
28 school students and forty-eight percent among middle school students
29 from 2017 to 2018. Last year more than 3.6 million youth used e-
30 cigarettes, making them the most commonly used tobacco products. The
31 legislature finds that vapor products are heavily promoted to attract
32 youth to purchase them, with concomitant addiction to nicotine.
33 Research shows that most young e-cigarette and vapor product users
34 also smoke cigarettes, and that the attraction and low cost
35 availability of vapor products is mitigating the positive benefits
36 from the decline in cigarette use among youth;

37 (e) In Washington, the 2018 healthy youth survey found that
38 thirty percent of twelfth graders, twenty-one percent of tenth
39 graders, and ten percent of eighth graders had used an e-cigarette in
40 the past month. These rates are alarming because an overwhelming

1 majority of smokers begin smoking and become addicted to nicotine as
2 teenagers, and the equipment used may be sold and used
3 interchangeably for marijuana and nicotine. State law now prohibits
4 the sale of vapor products containing nicotine to persons under the
5 age of twenty-one, but the availability of vapor products online and
6 equipment sold separately at retail stores pose enforcement
7 challenges;

8 (f) The low cost of e-cigarettes and nicotine liquids for vapor
9 products, particularly compared to cigarettes, is a key factor in
10 youth access and use. E-cigarettes are advertised as saving smokers
11 thousands of dollars. One survey of adult users has shown that the
12 low price of e-cigarettes compared to other tobacco products is a key
13 reason for their use, and youth are even more sensitive to price than
14 adults. Increasing the price of vapor products will provide parity
15 with the price of other harmful substances. Moreover, a price
16 increase of vapor products will decrease youth access and addiction,
17 just as raising taxes on cigarettes to discourage youth and adult
18 smoking decreased youth access and addiction; and

19 (g) Public health infrastructure and enforcement to prevent youth
20 access to tobacco, including vapor products, in Washington will
21 benefit from the investment of tax revenues and fees established or
22 increased by this act.

23 (3) The legislature finds, therefore, that this act is necessary
24 to protect the public health, safety, and welfare by providing
25 consumers with information about products that are potentially
26 dangerous, providing support for programs that reduce youth access to
27 addictive nicotine products, preventing nicotine poisonings of
28 children, and providing support for many essential public health
29 services and educational programs for which needs and cost are
30 increased due to increased consumption of vapor products.

31 **Part II**

32 **Tax on Vapor Products**

33 NEW SECTION. **Sec. 201.** The definitions in this section apply
34 throughout this chapter unless the context clearly requires
35 otherwise. The definitions in chapters 82.04 and 82.08 RCW apply to
36 this chapter unless the term is defined in this chapter or the
37 context clearly requires otherwise.

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

1 (2) "Business" means any trade, occupation, activity, or
2 enterprise engaged in selling or distributing vapor products in this
3 state.

4 (3) "Indian country" has the same meaning as provided in RCW
5 82.24.010.

6 (4) "Retailer" has the same meaning as provided in RCW
7 70.345.010.

8 (5) "Vapor product" means any noncombustible product containing a
9 solution or other consumable substance, regardless of whether it
10 contains nicotine, which employs a mechanical heating element,
11 battery, or electronic circuit regardless of shape or size that can
12 be used to produce vapor from the solution or other substance,
13 including an electronic cigarette, electronic cigar, electronic
14 cigarillo, electronic pipe, or similar product or device. The term
15 also includes any cartridge or other container of liquid nicotine,
16 solution, or other consumable substance, regardless of whether it
17 contains nicotine, that is intended to be used with or in a device
18 that can be used to deliver aerosolized or vaporized nicotine to a
19 person inhaling from the device and is sold for such purpose.

20 (a) The term does not include:

21 (i) Any product approved by the United States food and drug
22 administration for sale as a tobacco cessation product, medical
23 device, or for other therapeutic purposes when such product is
24 marketed and sold solely for such an approved purpose;

25 (ii) Any product that will become an ingredient or component in a
26 vapor product; or

27 (iii) Any product that meets the definition of marijuana, useable
28 marijuana, marijuana concentrates, marijuana-infused products,
29 cigarette, or tobacco products.

30 (b) For purposes of this subsection (10):

31 (i) "Cigarette" has the same meaning as provided in RCW
32 82.24.010; and

33 (ii) "Marijuana," "useable marijuana," "marijuana concentrates,"
34 and "marijuana-infused products" have the same meaning as provided in
35 RCW 69.50.101.

36 NEW SECTION. **Sec. 202.** (1) There is levied and collected a
37 vapor products excise tax equal to thirty-seven percent of the
38 selling price on each retail sale in this state of any vapor product

1 on which the retail sales tax imposed under RCW 82.08.020 is also
2 levied. This tax is:

3 (a) Separate and in addition to the general state retail sales
4 tax imposed in RCW 82.08.020; and

5 (b) Not part of the selling price or gross proceeds of sales for
6 purposes of the taxes imposed under RCW 82.08.020 and chapter 82.04
7 RCW.

8 (2) The vapor products excise tax in this section is imposed on
9 the buyer and must be collected from the buyer by the seller. The
10 vapor products excise tax must be separately itemized from the state
11 and local retail sales tax on the sales receipt provided to the
12 buyer.

13 (3) Sellers are solely liable for the vapor products excise tax
14 under this section, regardless of whether they have collected the tax
15 from the buyer.

16 (4) The tax under this section must be collected by all sellers
17 required to collect the tax imposed in RCW 82.08.020 on retail sales
18 of vapor products.

19 (5) The frequency of reporting and paying the tax imposed in this
20 section must coincide with the seller's reporting frequency for
21 purposes of the taxes imposed in chapters 82.04 and 82.08 RCW.

22 NEW SECTION. **Sec. 203.** To the extent not inconsistent with the
23 provisions of this chapter, the provisions of RCW 82.08.037,
24 82.08.040, RCW 82.08.050 (1) and (2), 82.08.054, 82.08.060,
25 82.08.120, and 82.08.145 and chapter 82.32 RCW apply to the tax
26 imposed in section 202 of this act.

27 NEW SECTION. **Sec. 204.** (1) The legislature intends for the
28 revenues generated by the tax imposed in this chapter to fund
29 foundational public health services; tobacco, vapor product, and
30 other substance abuse prevention; expanded access to training of
31 public health professionals; and the promotion of cancer research.

32 (2) All of the moneys collected from the tax imposed under
33 section 202 of this act must be deposited into the foundational
34 public health services account.

35 NEW SECTION. **Sec. 205.** (1) A bundled transaction that includes
36 a vapor product is subject to the tax imposed under this chapter on
37 the entire selling price of the bundled transaction.

1 (2) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Bundled transaction" means:

4 (i) The sale of two or more products where the products are
5 otherwise distinct and identifiable, are sold for one nonitemized
6 price, and at least one product is a vapor product subject to the tax
7 under this chapter; and

8 (ii) A vapor product provided free of charge with the required
9 purchase of another product. A vapor product is provided free of
10 charge if the sales price of the product purchased does not vary
11 depending on the inclusion of the vapor product provided free of
12 charge.

13 (b) "Distinct and identifiable products" does not include
14 packaging such as containers, boxes, sacks, bags, and bottles, or
15 materials such as wrapping, labels, tags, and instruction guides,
16 that accompany the sale of the products and are incidental or
17 immaterial to the sale thereof.

18 NEW SECTION. **Sec. 206.** The foundational public health services
19 account is created in the state treasury. All of the moneys collected
20 from the tax imposed under section 202 of this act must be deposited
21 into the account. Moneys in the account may be spent only after
22 appropriation. Moneys in the account are to be used for the following
23 purposes:

24 (1) To fund foundational health services. In the 2019-2021
25 biennium, at least twelve million dollars of the funds deposited into
26 the account must be appropriated for this purpose. Beginning in the
27 2021-2023 biennium, fifty percent of the funds deposited into the
28 account, but not less than twelve million dollars each biennium, are
29 to be used for this purpose;

30 (2) To fund tobacco, vapor product, and nicotine control and
31 prevention, and other substance use prevention and education.
32 Beginning in the 2021-2023 biennium, seventeen percent of the funds
33 deposited into the account are to be used for this purpose;

34 (3) To support increased access and training of public health
35 professionals at public health programs at accredited public
36 institutions of higher education in Washington. Beginning in the
37 2021-2023 biennium, five percent of the funds deposited into the
38 account are to be used for this purpose;

1 (4) To fund enforcement by the state liquor and cannabis board of
2 the provisions of this chapter to prevent sales of vapor products to
3 minors and related provisions for control of marketing and product
4 safety, provided that no more than eight percent of the funds
5 deposited into the account may be appropriated for these enforcement
6 purposes; and

7 (5) To fund cancer research. In the 2019-2021 biennium, at least
8 six million dollars of the funds deposited into the account must be
9 appropriated for deposit into the Andy Hill cancer research endowment
10 fund match transfer account created in RCW 43.348.080. Beginning in
11 the 2021-2023 biennium, at least four million dollars of the funds
12 deposited into the account must be appropriated for deposit into the
13 Andy Hill cancer research endowment fund match transfer account
14 created in RCW 43.348.080.

15 NEW SECTION. **Sec. 207.** (1) The taxes imposed by this chapter do
16 not apply to the sale of vapor products by an Indian retailer during
17 the effective period of a vapor product tax contract subject to
18 section 403 of this act or a vapor product tax agreement under
19 section 404 of this act.

20 (2) The definitions in section 402 of this act apply to this
21 section.

22 NEW SECTION. **Sec. 208.** The department must authorize, as duly
23 authorized agents, enforcement officers of the board to enforce
24 provisions of this chapter. These officers are not employees of the
25 department.

26 NEW SECTION. **Sec. 209.** The board must compile and maintain a
27 current record of the names of all distributors, retailers, and
28 delivery sales licenses under chapter 70.345 RCW and the status of
29 their license or licenses. The information must be updated on a
30 monthly basis and published on the board's official internet web
31 site. This information is not subject to the confidentiality
32 provisions of RCW 82.32.330 and must be disclosed to manufacturers,
33 distributors, retailers, and the general public upon request.

34 **Part III**

35 **Conforming Amendments**

1 **Sec. 301.** RCW 66.08.145 and 2016 sp.s. c 38 s 29 are each
2 amended to read as follows:

3 (1) The liquor and cannabis board may issue subpoenas in
4 connection with any investigation, hearing, or proceeding for the
5 production of books, records, and documents held under this chapter
6 or chapters 70.155, 70.158, 70.345, 82.24, (~~and~~) 82.26 (~~RCW~~), and
7 82.--- RCW (the new chapter created in section 603 of this act), and
8 books and records of common carriers as defined in RCW 81.80.010, or
9 vehicle rental agencies relating to the transportation or possession
10 of cigarettes, vapor products, or other tobacco products.

11 (2) The liquor and cannabis board may designate individuals
12 authorized to sign subpoenas.

13 (3) If any person is served a subpoena from the board for the
14 production of records, documents, and books, and fails or refuses to
15 obey the subpoena for the production of records, documents, and books
16 when required to do so, the person is subject to proceedings for
17 contempt, and the board may institute contempt of court proceedings
18 in the superior court of Thurston county or in the county in which
19 the person resides.

20 **Sec. 302.** RCW 66.44.010 and 1998 c 18 s 1 are each amended to
21 read as follows:

22 (1) All county and municipal peace officers are hereby charged
23 with the duty of investigating and prosecuting all violations of this
24 title, and the penal laws of this state relating to the manufacture,
25 importation, transportation, possession, distribution and sale of
26 liquor, and all fines imposed for violations of this title and the
27 penal laws of this state relating to the manufacture, importation,
28 transportation, possession, distribution and sale of liquor (~~shall~~)
29 belong to the county, city or town wherein the court imposing the
30 fine is located, and (~~shall~~) must be placed in the general fund for
31 payment of the salaries of those engaged in the enforcement of the
32 provisions of this title and the penal laws of this state relating to
33 the manufacture, importation, transportation, possession,
34 distribution and sale of liquor(~~(:—PROVIDED, That)).~~ However, all
35 fees, fines, forfeitures and penalties collected or assessed by a
36 district court because of the violation of a state law (~~shall~~) must
37 be remitted as provided in chapter 3.62 RCW as now exists or is later
38 amended.

1 (2) In addition to any and all other powers granted, the board
2 (~~shall have~~) has the power to enforce the penal provisions of this
3 title and the penal laws of this state relating to the manufacture,
4 importation, transportation, possession, distribution and sale of
5 liquor and vapor products.

6 (3) In addition to the other duties under this section, the board
7 (~~shall~~) must enforce chapters 82.24 (~~and~~) 82.26 ((RCW)), and
8 82.--- RCW (the new chapter created in section 603 of this act).

9 (4) The board may appoint and employ, assign to duty and fix the
10 compensation of, officers to be designated as liquor enforcement
11 officers. Such liquor enforcement officers (~~shall~~) have the power,
12 under the supervision of the board, to enforce the penal provisions
13 of this title and the penal laws of this state relating to the
14 manufacture, importation, transportation, possession, distribution
15 and sale of liquor and vapor products. They (~~shall~~) have the power
16 and authority to serve and execute all warrants and process of law
17 issued by the courts in enforcing the penal provisions of this title
18 or of any penal law of this state relating to the manufacture,
19 importation, transportation, possession, distribution and sale of
20 liquor, and the provisions of chapters 82.24 (~~and~~) 82.26 ((RCW)) and
21 82.--- RCW (the new chapter created in section 603 of this act).
22 They (~~shall~~) have the power to arrest without a warrant any person
23 or persons found in the act of violating any of the penal provisions
24 of this title or of any penal law of this state relating to the
25 manufacture, importation, transportation, possession, distribution
26 and sale of liquor, and the provisions of chapters 82.24 (~~and~~) 82.26 ((RCW)), and
27 82.--- RCW (the new chapter created in section 603
28 of this act).

29 **Sec. 303.** RCW 70.345.090 and 2016 sp.s. c 38 s 17 are each
30 amended to read as follows:

31 (1) No person may conduct a delivery sale or otherwise ship or
32 transport, or cause to be shipped or transported, any vapor product
33 ordered or purchased by mail or through the internet to any person
34 unless such seller has a valid delivery sale license as required
35 under this chapter.

36 (2) No person may conduct a delivery sale or otherwise ship or
37 transport, or cause to be shipped or transported, any vapor product
38 ordered or purchased by mail or through the internet to any person

1 under the minimum age required for the legal sale of vapor products
2 as provided under RCW (~~(70.345.140)~~) 26.28.080.

3 (3) A delivery sale licensee must provide notice on its mail
4 order or internet sales forms of the minimum age required for the
5 legal sale of vapor products in Washington state as provided by RCW
6 (~~(70.345.140)~~) 26.28.080.

7 (4) A delivery sale licensee must not accept a purchase or order
8 from any person without first obtaining the full name, birth date,
9 and residential address of that person and verifying this information
10 through an independently operated third-party database or aggregate
11 of databases, which includes data from government sources, that are
12 regularly used by government and businesses for the purpose of age
13 and identity verification and authentication.

14 (5) A delivery sale licensee must accept payment only through a
15 credit or debit card issued in the purchaser's own name. The licensee
16 must verify that the card is issued to the same person identified
17 through identity and age verification procedures in subsection (4) of
18 this section.

19 (6) A delivery sale licensee must collect and remit vapor product
20 excise taxes due in accordance with chapter 82.--- RCW (the new
21 chapter created in section 603 of this act).

22 (7) Before a delivery sale licensee delivers an initial purchase
23 to any person, the licensee must verify the identity and delivery
24 address of the purchaser by mailing or shipping to the purchaser a
25 notice of sale and certification form confirming that the addressee
26 is in fact the person placing the order. The purchaser must return
27 the signed certification form to the licensee before the initial
28 shipment of product. Certification forms are not required for repeat
29 customers. In the alternative, before a seller delivers an initial
30 purchase to any person, the seller must first obtain from the
31 prospective customer an electronic certification, such as by email,
32 that includes a declaration that, at a minimum, the prospective
33 customer is over the minimum age required for the legal sale of a
34 vapor product, and the credit or debit card used for payment has been
35 issued in the purchaser's name.

36 (~~(7)~~) (8) A delivery sale licensee must include on shipping
37 documents a clear and conspicuous statement which includes, at a
38 minimum, that the package contains vapor products, Washington law
39 prohibits sales to those under the minimum age established by this

1 chapter, and violations may result in sanctions to both the licensee
2 and the purchaser.

3 ~~((8))~~ (9) A person who knowingly violates this section is
4 guilty of a class C felony, except that the maximum fine that may be
5 imposed is five thousand dollars.

6 ~~((9))~~ (10) In addition to or in lieu of any other civil or
7 criminal remedy provided by law, a person who has violated this
8 section is subject to a civil penalty of up to five thousand dollars
9 for each violation. The attorney general, acting in the name of the
10 state, may seek recovery of the penalty in a civil action in superior
11 court.

12 ~~((10))~~ (11) The attorney general may seek an injunction in
13 superior court to restrain a threatened or actual violation of this
14 section and to compel compliance with this section.

15 ~~((11))~~ (12) Any violation of this section is not reasonable in
16 relation to the development and preservation of business and is an
17 unfair and deceptive act or practice and an unfair method of
18 competition in the conduct of trade or commerce in violation of RCW
19 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for
20 violation of this section lies solely with the attorney general.
21 Remedies provided by chapter 19.86 RCW are cumulative and not
22 exclusive.

23 ~~((12))~~ (13)(a) In any action brought under this section, the
24 state is entitled to recover, in addition to other relief, the costs
25 of investigation, expert witness fees, costs of the action, and
26 reasonable attorneys' fees.

27 (b) If a court determines that a person has violated this
28 section, the court shall order any profits, gain, gross receipts, or
29 other benefit from the violation to be disgorged and paid to the
30 state treasurer for deposit in the general fund.

31 ~~((13))~~ (14) Unless otherwise expressly provided, the penalties
32 or remedies, or both, under this section are in addition to any other
33 penalties and remedies available under any other law of this state.

34 ~~((14))~~ (15) A licensee who violates this section is subject to
35 license suspension or revocation by the board.

36 ~~((15))~~ (16) The board may adopt by rule additional requirements
37 for mail or internet sales.

38 ~~((16))~~ (17) The board must not adopt rules prohibiting internet
39 sales.

1 **Sec. 304.** RCW 70.345.160 and 2016 sp.s. c 38 s 24 are each
2 amended to read as follows:

3 (1) The board must have, in addition to the board's other powers
4 and authorities, the authority to enforce the provisions of this
5 chapter and chapter 82.--- RCW (the new chapter created in section
6 603 of this act).

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

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

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

24 (5) Upon a determination by the secretary of health or a local
25 health jurisdiction that a vapor product may be injurious to human
26 health or poses a significant risk to public health:

27 (a) The board, in consultation with the department of health and
28 local county health jurisdictions, may cause a vapor product
29 substance or solution sample, purchased or obtained from any vapor
30 product retailer, distributor, or delivery sale licensee, to be
31 analyzed by an analyst appointed or designated by the board;

32 (b) If the analyzed vapor product contains an ingredient,
33 substance, or solution present in quantities injurious to human
34 health or posing a significant risk to public health, as determined
35 by the secretary of health or a local health jurisdiction, the board
36 may suspend the license of the retailer or delivery sale licensee
37 unless the retailer or delivery sale licensee agrees to remove the
38 product from sales; and

39 (c) If upon a finding from the secretary of health or local
40 health jurisdiction that the vapor product poses an injurious risk to

1 public health or significant public health risk, the retailer or
2 delivery sale licensee does not remove the product from sale, the
3 secretary of health or local health officer may file for an
4 injunction in superior court prohibiting the sale or distribution of
5 that specific vapor product substance or solution.

6 (6) Nothing in subsection (5) of this section permits a total ban
7 on the sale or use of vapor products.

8 (7) Product found to be in violation of the provisions of this
9 chapter or chapter 82.--- RCW (the new chapter created in section 603
10 of this act) are subject to seizure.

11 **Sec. 305.** RCW 82.24.510 and 2013 c 144 s 50 are each amended to
12 read as follows:

13 (1) The licenses issuable under this chapter are as follows:

14 (a) A wholesaler's license.

15 (b) A retailer's license.

16 (2) Application for the licenses must be made through the
17 business licensing system under chapter 19.02 RCW. The board must
18 adopt rules regarding the regulation of the licenses. The board may
19 refrain from the issuance of any license under this chapter if the
20 board has reasonable cause to believe that the applicant has
21 willfully withheld information requested for the purpose of
22 determining the eligibility of the applicant to receive a license, or
23 if the board has reasonable cause to believe that information
24 submitted in the application is false or misleading or is not made in
25 good faith. In addition, for the purpose of reviewing an application
26 for a wholesaler's license or retailer's license and for considering
27 the denial, suspension, or revocation of any such license, the board
28 may consider any prior criminal conduct of the applicant, including
29 an administrative violation history record with the board and a
30 criminal history record information check within the previous five
31 years, in any state, tribal, or federal jurisdiction in the United
32 States, its territories, or possessions, and the provisions of RCW
33 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board
34 may, in its discretion, grant or refuse the wholesaler's license or
35 retailer's license, subject to the provisions of RCW 82.24.550.

36 (3) No person may qualify for a wholesaler's license or a
37 retailer's license under this section without first undergoing a
38 criminal background check. The background check must be performed by
39 the board and must disclose any criminal conduct within the previous

1 five years in any state, tribal, or federal jurisdiction in the
2 United States, its territories, or possessions. A person who
3 possesses a valid license on July 22, 2001, is subject to this
4 subsection and subsection (2) of this section beginning on the date
5 of the person's business license expiration under chapter 19.02 RCW,
6 and thereafter. If the applicant or licensee also has a license
7 issued under chapter 66.24 (~~(66.24)~~), 82.26, or 70.345 RCW, the
8 background check done under the authority of chapter 66.24 (~~(66.24)~~),
9 82.26, or 70.345 RCW satisfies the requirements of this section.

10 (4) Each such license expires on the business license expiration
11 date, and each such license must be continued annually if the
12 licensee has paid the required fee and complied with all the
13 provisions of this chapter and the rules of the board made pursuant
14 thereto.

15 (5) Each license and any other evidence of the license that the
16 board requires must be exhibited in each place of business for which
17 it is issued and in the manner required for the display of a business
18 license.

19 **Sec. 306.** RCW 82.24.550 and 2015 c 86 s 307 are each amended to
20 read as follows:

21 (1) The board must enforce the provisions of this chapter. The
22 board may adopt, amend, and repeal rules necessary to enforce the
23 provisions of this chapter.

24 (2) The department may adopt, amend, and repeal rules necessary
25 to administer the provisions of this chapter. The board may revoke or
26 suspend the license or permit of any wholesale or retail cigarette
27 dealer in the state upon sufficient cause appearing of the violation
28 of this chapter or upon the failure of such licensee to comply with
29 any of the provisions of this chapter.

30 (3) A license may not be suspended or revoked except upon notice
31 to the licensee and after a hearing as prescribed by the board. The
32 board, upon finding that the licensee has failed to comply with any
33 provision of this chapter or any rule adopted under this chapter,
34 must, in the case of the first offense, suspend the license or
35 licenses of the licensee for a period of not less than thirty
36 consecutive business days, and, in the case of a second or further
37 offense, must suspend the license or licenses for a period of not
38 less than ninety consecutive business days nor more than twelve
39 months, and, in the event the board finds the licensee has been

1 guilty of willful and persistent violations, it may revoke the
2 license or licenses.

3 (4) Any licenses issued under chapter 82.26 or 70.345 RCW to a
4 person whose license or licenses have been suspended or revoked under
5 this section must also be suspended or revoked during the period of
6 suspension or revocation under this section.

7 (5) Any person whose license or licenses have been revoked under
8 this section may reapply to the board at the expiration of one year
9 from the date of revocation of the license or licenses. The license
10 or licenses may be approved by the board if it appears to the
11 satisfaction of the board that the licensee will comply with the
12 provisions of this chapter and the rules adopted under this chapter.

13 (6) A person whose license has been suspended or revoked may not
14 sell cigarettes, vapor products, or tobacco products or permit
15 cigarettes, vapor products, or tobacco products to be sold during the
16 period of such suspension or revocation on the premises occupied by
17 the person or upon other premises controlled by the person or others
18 or in any other manner or form whatever.

19 (7) Any determination and order by the board, and any order of
20 suspension or revocation by the board of the license or licenses
21 issued under this chapter, or refusal to reinstate a license or
22 licenses after revocation is reviewable by an appeal to the superior
23 court of Thurston county. The superior court must review the order or
24 ruling of the board and may hear the matter de novo, having due
25 regard to the provisions of this chapter and the duties imposed upon
26 the board.

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

30 (9) For purposes of this section ~~((7))~~:

31 (a) "Tobacco products" has the same meaning as provided in RCW
32 82.26.010; and

33 (b) "Vapor products" has the same meaning as provided in section
34 201 of this act.

35 **Sec. 307.** RCW 82.26.060 and 2009 c 154 s 3 are each amended to
36 read as follows:

37 (1) Every distributor ~~((shall))~~ must keep at each place of
38 business complete and accurate records for that place of business,
39 including itemized invoices, of tobacco products held, purchased,

1 manufactured, brought in or caused to be brought in from without the
2 state, or shipped or transported to retailers in this state, and of
3 all sales of tobacco products made.

4 (2) These records (~~shall~~) must show the names and addresses of
5 purchasers, the inventory of all tobacco products, and other
6 pertinent papers and documents relating to the purchase, sale, or
7 disposition of tobacco products. All invoices and other records
8 required by this section to be kept (~~shall~~) must be preserved for a
9 period of five years from the date of the invoices or other documents
10 or the date of the entries appearing in the records.

11 (3) At any time during usual business hours the department,
12 board, or its duly authorized agents or employees, may enter any
13 place of business of a distributor, without a search warrant, and
14 inspect the premises, the records required to be kept under this
15 chapter, and the tobacco products contained therein, to determine
16 whether or not all the provisions of this chapter are being fully
17 complied with. If the department, board, or any of its agents or
18 employees, are denied free access or are hindered or interfered with
19 in making such examination, the registration certificate issued under
20 RCW 82.32.030 of the distributor at such premises (~~shall be~~) is
21 subject to revocation, and any licenses issued under this chapter or
22 chapter 82.24 or 70.345 RCW are subject to suspension or revocation,
23 by the department or board.

24 **Sec. 308.** RCW 82.26.080 and 2005 c 180 s 5 are each amended to
25 read as follows:

26 (1) Every retailer (~~shall~~) must procure itemized invoices of
27 all tobacco products purchased. The invoices (~~shall~~) must show the
28 seller's name and address, the date of purchase, and all prices and
29 discounts.

30 (2) The retailer (~~shall~~) must keep at each retail outlet copies
31 of complete, accurate, and legible invoices for that retail outlet or
32 place of business. All invoices required to be kept under this
33 section (~~shall~~) must be preserved for five years from the date of
34 purchase.

35 (3) At any time during usual business hours the department,
36 board, or its duly authorized agents or employees may enter any
37 retail outlet without a search warrant, and inspect the premises for
38 invoices required to be kept under this section and the tobacco
39 products contained in the retail outlet, to determine whether or not

1 all the provisions of this chapter are being fully complied with. If
2 the department, board, or any of its agents or employees, are denied
3 free access or are hindered or interfered with in making the
4 inspection, the registration certificate issued under RCW 82.32.030
5 of the retailer at the premises is subject to revocation, and any
6 licenses issued under this chapter or chapter 82.24 or 70.345 RCW are
7 subject to suspension or revocation by the department.

8 **Sec. 309.** RCW 82.26.150 and 2013 c 144 s 52 are each amended to
9 read as follows:

10 (1) The licenses issuable by the board under this chapter are as
11 follows:

12 (a) A distributor's license; and

13 (b) A retailer's license.

14 (2) Application for the licenses must be made through the
15 business licensing system under chapter 19.02 RCW. The board may
16 adopt rules regarding the regulation of the licenses. The board may
17 refuse to issue any license under this chapter if the board has
18 reasonable cause to believe that the applicant has willfully withheld
19 information requested for the purpose of determining the eligibility
20 of the applicant to receive a license, or if the board has reasonable
21 cause to believe that information submitted in the application is
22 false or misleading or is not made in good faith. In addition, for
23 the purpose of reviewing an application for a distributor's license
24 or retailer's license and for considering the denial, suspension, or
25 revocation of any such license, the board may consider criminal
26 conduct of the applicant, including an administrative violation
27 history record with the board and a criminal history record
28 information check within the previous five years, in any state,
29 tribal, or federal jurisdiction in the United States, its
30 territories, or possessions, and the provisions of RCW 9.95.240 and
31 chapter 9.96A RCW do not apply to such cases. The board may, in its
32 discretion, issue or refuse to issue the distributor's license or
33 retailer's license, subject to the provisions of RCW 82.26.220.

34 (3) No person may qualify for a distributor's license or a
35 retailer's license under this section without first undergoing a
36 criminal background check. The background check must be performed by
37 the board and must disclose any criminal conduct within the previous
38 five years in any state, tribal, or federal jurisdiction in the
39 United States, its territories, or possessions. If the applicant or

1 licensee also has a license issued under chapter 66.24 (~~(or)~~) 82.24,
2 or 70.345 RCW, the background check done under the authority of
3 chapter 66.24, 70.345, or 82.24 RCW satisfies the requirements of
4 this section.

5 (4) Each license issued under this chapter expires on the
6 business license expiration date. The license must be continued
7 annually if the licensee has paid the required fee and complied with
8 all the provisions of this chapter and the rules of the board adopted
9 pursuant to this chapter.

10 (5) Each license and any other evidence of the license required
11 under this chapter must be exhibited in each place of business for
12 which it is issued and in the manner required for the display of a
13 business license.

14 **Sec. 310.** RCW 82.26.220 and 2015 c 86 s 308 are each amended to
15 read as follows:

16 (1) The board must enforce this chapter. The board may adopt,
17 amend, and repeal rules necessary to enforce this chapter.

18 (2) The department may adopt, amend, and repeal rules necessary
19 to administer this chapter. The board may revoke or suspend the
20 distributor's or retailer's license of any distributor or retailer of
21 tobacco products in the state upon sufficient cause showing a
22 violation of this chapter or upon the failure of the licensee to
23 comply with any of the rules adopted under it.

24 (3) A license may not be suspended or revoked except upon notice
25 to the licensee and after a hearing as prescribed by the board. The
26 board, upon finding that the licensee has failed to comply with any
27 provision of this chapter or of any rule adopted under it, must, in
28 the case of the first offense, suspend the license or licenses of the
29 licensee for a period of not less than thirty consecutive business
30 days, and in the case of a second or further offense, suspend the
31 license or licenses for a period of not less than ninety consecutive
32 business days but not more than twelve months, and in the event the
33 board finds the licensee has been guilty of willful and persistent
34 violations, it may revoke the license or licenses.

35 (4) Any licenses issued under chapter 82.24 or 70.345 RCW to a
36 person whose license or licenses have been suspended or revoked under
37 this section must also be suspended or revoked during the period of
38 suspension or revocation under this section.

1 (5) Any person whose license or licenses have been revoked under
2 this section may reapply to the board at the expiration of one year
3 of the license or licenses. The license or licenses may be approved
4 by the board if it appears to the satisfaction of the board that the
5 licensee will comply with the provisions of this chapter and the
6 rules adopted under it.

7 (6) A person whose license has been suspended or revoked may not
8 sell tobacco products, vapor products, or cigarettes or permit
9 tobacco products, vapor products, or cigarettes to be sold during the
10 period of suspension or revocation on the premises occupied by the
11 person or upon other premises controlled by the person or others or
12 in any other manner or form.

13 (7) Any determination and order by the board, and any order of
14 suspension or revocation by the board of the license or licenses
15 issued under this chapter, or refusal to reinstate a license or
16 licenses after revocation is reviewable by an appeal to the superior
17 court of Thurston county. The superior court must review the order or
18 ruling of the board and may hear the matter de novo, having due
19 regard to the provisions of this chapter and the duties imposed upon
20 the board.

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

24 **Sec. 311.** RCW 82.32.300 and 1997 c 420 s 9 are each amended to
25 read as follows:

26 (1) The administration of this and chapters 82.04 through 82.27
27 RCW of this title is vested in the department (~~(of revenue which~~
28 ~~shall))~~, which must prescribe forms and rules of procedure for the
29 determination of the taxable status of any person, for the making of
30 returns and for the ascertainment, assessment and collection of taxes
31 and penalties imposed thereunder.

32 (2) The department (~~(of revenue shall))~~ must make and publish
33 rules and regulations, not inconsistent therewith, necessary to
34 enforce provisions of this chapter and chapters 82.02 through 82.23B
35 and 82.27 RCW, and the liquor (~~(control))~~ and cannabis board
36 (~~(shall))~~ must make and publish rules necessary to enforce chapters
37 82.24 (~~(and))~~, 82.26 ((RCW)), and 82.--- RCW (the new chapter created
38 in section 603 of this act), which (~~(shall have))~~ has the same force

1 and effect as if specifically included therein, unless declared
2 invalid by the judgment of a court of record not appealed from.

3 (3) The department may employ such clerks, specialists, and other
4 assistants as are necessary. Salaries and compensation of such
5 employees (~~shall~~) must be fixed by the department and (~~shall be~~)
6 charged to the proper appropriation for the department.

7 (4) The department (~~shall~~) must exercise general supervision of
8 the collection of taxes and, in the discharge of such duty, may
9 institute and prosecute such suits or proceedings in the courts as
10 may be necessary and proper.

11 **Part IV**
12 **Tribal Compacting**

13 **Sec. 401.** RCW 43.06.450 and 2001 c 235 s 1 are each amended to
14 read as follows:

15 The legislature intends to further the government-to-government
16 relationship between the state of Washington and Indians in the state
17 of Washington by authorizing the governor to enter into contracts
18 concerning the sale of cigarettes and vapor products. The legislature
19 finds that these cigarette tax and vapor product tax contracts will
20 provide a means to promote economic development, provide needed
21 revenues for tribal governments and Indian persons, and enhance
22 enforcement of the state's cigarette tax (~~law~~) and vapor product
23 tax, ultimately saving the state money and reducing conflict. In
24 addition, it is the intent of the legislature that the negotiations
25 and the ensuing contracts (~~shall~~) have no impact on the state's
26 share of the proceeds under the master settlement agreement entered
27 into on November 23, 1998, by the state. Chapter 235, Laws of 2001
28 (~~does~~) and this act do not constitute a grant of taxing authority
29 to any Indian tribe nor (~~does it~~) do they provide precedent for the
30 taxation of non-Indians on fee land.

31 NEW SECTION. **Sec. 402.** A new section is added to chapter 43.06
32 RCW to read as follows:

33 (1) The governor may enter into vapor product tax contracts
34 concerning the sale of vapor products. All vapor product tax
35 contracts must meet the requirements for vapor product tax contracts
36 under this section.

1 (2) Vapor product tax contracts must be in regard to retail sales
2 in which Indian retailers make delivery and physical transfer of
3 possession of the vapor products from the seller to the buyer within
4 Indian country, and are not in regard to transactions by non-Indian
5 retailers. In addition, contracts may address the legal age of sale
6 for vapor products pursuant to section 11, chapter 15, Laws of 2019.

7 (3) A vapor product tax contract with a tribe must provide for a
8 tribal vapor product tax in lieu of all state vapor product taxes and
9 state and local sales and use taxes on sales of vapor products in
10 Indian country by Indian retailers. The tribe may allow an exemption
11 for sales to tribal members.

12 (4) Vapor product tax contracts must provide that retailers must
13 purchase vapor products only from:

14 (a) Wholesalers or manufacturers licensed to do business in the
15 state of Washington;

16 (b) Out-of-state wholesalers or manufacturers who, although not
17 licensed to do business in the state of Washington, agree to comply
18 with the terms of the vapor product tax contract, are certified to
19 the state as having so agreed, and do in fact so comply. However, the
20 state may in its sole discretion exercise its administrative and
21 enforcement powers over such wholesalers or manufacturers to the
22 extent permitted by law;

23 (c) A tribal wholesaler that purchases only from a wholesaler or
24 manufacturer described in (a), (b), or (d) of this subsection; and

25 (d) A tribal manufacturer.

26 (5) Vapor product tax contracts must be for renewable periods of
27 no more than eight years.

28 (6) Vapor product tax contracts must include provisions for
29 compliance, such as transport and notice requirements, inspection
30 procedures, recordkeeping, and audit requirements.

31 (7) Tax revenue retained by a tribe must be used for essential
32 government services. Use of tax revenue for subsidization of vapor
33 products and food retailers is prohibited.

34 (8) The vapor product tax contract may include provisions to
35 resolve disputes using a nonjudicial process, such as mediation.

36 (9) The governor may delegate the power to negotiate vapor
37 product tax contracts to the department of revenue. The department of
38 revenue must consult with the liquor and cannabis board during the
39 negotiations.

1 (10) Information received by the state or open to state review
2 under the terms of a contract is subject to the provisions of RCW
3 82.32.330.

4 (11) It is the intent of the legislature that the liquor and
5 cannabis board and the department of revenue continue the division of
6 duties and shared authority under chapter 82.--- RCW (the new chapter
7 created in section 603 of this act) and therefore the liquor and
8 cannabis board is responsible for enforcement activities that come
9 under the terms of chapter 82.--- RCW (the new chapter created in
10 section 603 of this act).

11 (12) Each vapor product tax contract must include a procedure for
12 notifying the other party that a violation has occurred, a procedure
13 for establishing whether a violation has in fact occurred, an
14 opportunity to correct such violation, and a provision providing for
15 termination of the contract should the violation fail to be resolved
16 through this process, such termination subject to mediation should
17 the terms of the contract so allow. A contract must provide for
18 termination of the contract if resolution of a dispute does not occur
19 within twenty-four months from the time notification of a violation
20 has occurred. Intervening violations do not extend this time period.
21 In addition, the contract must include provisions delineating the
22 respective roles and responsibilities of the tribe, the department of
23 revenue, and the liquor and cannabis board.

24 (13) The definitions in this subsection apply throughout this
25 section unless the context clearly requires otherwise.

26 (a) "Essential government services" means services such as tribal
27 administration, public facilities, fire, police, public health,
28 education, job services, sewer, water, environmental and land use,
29 transportation, utility services, and economic development.

30 (b) "Indian country" has the same meaning as provided in RCW
31 82.24.010.

32 (c) "Indian retailer" or "retailer" means:

33 (i) A retailer wholly owned and operated by an Indian tribe;

34 (ii) A business wholly owned and operated by a tribal member and
35 licensed by the tribe; or

36 (iii) A business owned and operated by the Indian person or
37 persons in whose name the land is held in trust.

38 (d) "Indian tribe" or "tribe" means a federally recognized Indian
39 tribe located within the geographical boundaries of the state of
40 Washington.

1 (e) "Vapor products" has the same meaning as provided in section
2 201 of this act.

3 NEW SECTION. **Sec. 403.** A new section is added to chapter 43.06
4 RCW to read as follows:

5 (1) The governor is authorized to enter into vapor product tax
6 contracts with federally recognized Indian tribes located within the
7 geographical boundaries of the state of Washington. Each contract
8 adopted under this section must provide that the tribal vapor product
9 tax rate be one hundred percent of the state vapor product tax and
10 state and local sales and use taxes. The tribal vapor product tax is
11 in lieu of the state vapor product tax and state and local sales and
12 use taxes, as provided in section 402(3) of this act.

13 (2) A vapor product tax contract under this section is subject to
14 section 402 of this act and is separate from a cigarette tax contract
15 subject to RCW 43.06.455 or 43.06.466.

16 NEW SECTION. **Sec. 404.** A new section is added to chapter 43.06
17 RCW to read as follows:

18 (1) The governor may enter into a vapor product tax agreement
19 with the Puyallup Tribe of Indians concerning the sale of vapor
20 products, subject to the limitations in this section. The legislature
21 intends to address the uniqueness of the Puyallup Indian reservation
22 and its selling environment through pricing and compliance
23 strategies, rather than through the imposition of equivalent taxes.
24 The governor may delegate the authority to negotiate a vapor product
25 tax agreement with the Puyallup Tribe to the department of revenue.
26 The department of revenue must consult with the liquor and cannabis
27 board during the negotiations. An agreement under this section is
28 separate from an agreement under RCW 43.06.465.

29 (2) Any agreement must require the tribe to impose a tribal vapor
30 product tax with a tax rate that is ninety percent of the state vapor
31 product tax. This tribal tax is in lieu of the combined state and
32 local sales and use taxes and the state vapor product tax, and as
33 such these state taxes are not imposed during the term of the
34 agreement on any transaction governed by the agreement. The tribal
35 vapor product tax must increase or decrease at the time of any
36 increase or decrease in the state vapor product tax so as to remain
37 at a level that is ninety percent of the rate of the state vapor
38 product tax.

1 (3) The agreement must include a provision requiring the tribe to
2 transmit thirty percent of the tribal tax revenue on all vapor
3 products sales to the state. The funds must be transmitted to the
4 state treasurer on a quarterly basis for deposit by the state
5 treasurer into the general fund. The remaining tribal tax revenue
6 must be used for essential government services, as that term is
7 defined in section 402 of this act.

8 (4) The agreement is limited to retail sales in which Indian
9 retailers make delivery and physical transfer of possession of the
10 vapor products from the seller to the buyer within Indian country,
11 and are not in regard to transactions by non-Indian retailers. In
12 addition, agreements may address the legal age of sale for vapor
13 products pursuant to section 11, chapter 15, Laws of 2019.

14 (5) (a) The agreement must include a provision to price and sell
15 the vapor products so that the retail selling price is not less than
16 the price paid by the retailer for the vapor products.

17 (b) The tribal tax is in addition to the retail selling price.

18 (c) The agreement must include a provision to assure the price
19 paid to the retailer includes the tribal tax.

20 (d) If the tribe is acting as a distributor to tribal retailers,
21 the retail selling price must not be less than the price the tribe
22 paid for such vapor products plus the tribal tax.

23 (6) (a) The agreement must include provisions regarding
24 enforcement and compliance by the tribe in regard to enrolled tribal
25 members who sell vapor products and must describe the individual and
26 joint responsibilities of the tribe, the department of revenue, and
27 the liquor and cannabis board.

28 (b) The agreement must include provisions for tax administration
29 and compliance, such as transport and notice requirements, inspection
30 procedures, recordkeeping, and audit requirements.

31 (c) The agreement must include provisions for sharing of
32 information among the tribe, the department of revenue, and the
33 liquor and cannabis board.

34 (7) The agreement must provide that retailers must purchase vapor
35 products only from distributors or manufacturers licensed to do
36 business in the state of Washington.

37 (8) The agreement must be for a renewable period of no more than
38 eight years.

39 (9) The agreement must include provisions to resolve disputes
40 using a nonjudicial process, such as mediation, and must include a

1 dispute resolution protocol. The protocol must include a procedure
2 for notifying the other party that a violation has occurred, a
3 procedure for establishing whether a violation has in fact occurred,
4 an opportunity to correct such violation, and a provision providing
5 for termination of the agreement should the violation fail to be
6 resolved through this process, such termination subject to mediation
7 should the terms of the agreement so allow. An agreement must provide
8 for termination of the agreement if resolution of a dispute does not
9 occur within twenty-four months from the time notification of a
10 violation has occurred. Intervening violations do not extend this
11 time period.

12 (10) Information received by the state or open to state review
13 under the terms of an agreement is subject to RCW 82.32.330.

14 (11) It is the intent of the legislature that the liquor and
15 cannabis board and the department of revenue continue the division of
16 duties and shared authority under chapter 82.--- RCW (the new chapter
17 created in section 603 of this act).

18 (12) The definitions in this subsection apply throughout this
19 section unless the context clearly requires otherwise.

20 (a) "Indian country" has the same meaning as provided in RCW
21 82.24.010.

22 (b) "Indian retailer" or "retailer" means:

23 (i) A retailer wholly owned and operated by an Indian tribe; or

24 (ii) A business wholly owned and operated by an enrolled tribal
25 member and licensed by the tribe.

26 (c) "Indian tribe" or "tribe" means the Puyallup Tribe of
27 Indians, which is a federally recognized Indian tribe located within
28 the geographical boundaries of the state of Washington.

29 (d) "Vapor products" has the same meaning as provided in section
30 201 of this act.

31 NEW SECTION. **Sec. 405.** A new section is added to chapter 82.08
32 RCW to read as follows:

33 (1) The tax levied by RCW 82.08.020 does not apply to sales of
34 vapor products by an Indian retailer during the effective period of a
35 vapor product tax contract subject to section 403 of this act or a
36 vapor product tax agreement under section 404 of this act.

37 (2) The definitions in section 402 of this act apply to this
38 section.

1 the fiscal biennium ending June 30, 2021, from the foundational
2 public health services account to the department of health for the
3 purposes of tobacco, vapor product, and nicotine control and
4 prevention, and other substance use prevention and education. In
5 spending funds under this section, the department must follow best
6 practices for comprehensive tobacco control programs as described by
7 the centers for disease control.

8 **Part VI**

9 **Miscellaneous Provisions**

10 NEW SECTION. **Sec. 601.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 602.** If any part of this act is found to be
15 in conflict with federal requirements that are a prescribed condition
16 to the allocation of federal funds to the state, the conflicting part
17 of this act is inoperative solely to the extent of the conflict and
18 with respect to the agencies directly affected, and this finding does
19 not affect the operation of the remainder of this act in its
20 application to the agencies concerned. Rules adopted under this act
21 must meet federal requirements that are a necessary condition to the
22 receipt of federal funds by the state.

23 NEW SECTION. **Sec. 603.** Part II of this act constitutes a new
24 chapter in Title 82 RCW.

25 NEW SECTION. **Sec. 604.** The provisions of RCW 82.32.805 and
26 82.32.808 do not apply to this act.

27 NEW SECTION. **Sec. 605.** Except as provided in section 606 of
28 this act, this act takes effect October 1, 2019.

29 NEW SECTION. **Sec. 606.** Section 407 of this act takes effect
30 January 1, 2020."

31 Correct the title.

EFFECT: (1) Amends the definition of vapor product to include containers of liquid nicotine.

(2) Renames the Essential Public Health Services Account the Foundational Public Health Services Account.

(3) Adjusts distributions from the Foundational Public Health Services Account.

(4) Eliminates the requirement that vapor product tax contracts with Indian tribes require that retailers not sell vapor products to anyone who is under the state legal age for the purchase of vapor products. Instead permits the Governor to seek government-to-government consultations with Indian tribes regarding raising the minimum legal age of sale pursuant to vapor product tax contracts.

(5) Updates internal references to reflect recently passed session law.

(6) Appropriates \$696,000 to the LCB for enforcement purposes.

(7) Appropriates \$232,000 to the University of Washington for training of public health professionals.

(8) Appropriates \$240,000 to the Department of Health for tobacco and other substance use prevention programs.

--- END ---