

E2SHB 1873 - S AMD
By Senator Braun

PULLED 04/28/2019

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

3 **"Part I**
4 **Tax on Vapor Products**

5 NEW SECTION. **Sec. 101.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Accessible container" means a container that is intended to
9 be opened. The term does not mean a closed cartridge or closed
10 container that is not intended to be opened such as a disposable e-
11 cigarette.

12 (2) "Affiliated" means related in any way by virtue of any form
13 or amount of common ownership, control, operation, or management.

14 (3) "Board" means the Washington state liquor and cannabis board.

15 (4) "Business" means any trade, occupation, activity, or
16 enterprise engaged in selling or distributing vapor products in this
17 state.

18 (5) "Distributor" mean any person:

19 (a) Engaged in the business of selling vapor products in this
20 state who brings, or causes to be brought, into this state from
21 outside the state any vapor products for sale;

22 (b) Who makes, manufactures, fabricates, or stores vapor products
23 in this state for sale in this state;

24 (c) Engaged in the business of selling vapor products outside
25 this state who ships or transports vapor products to retailers or
26 consumers in this state; or

27 (d) Engaged in the business of selling vapor products in this
28 state who handles for sale any vapor products that are within this
29 state but upon which tax has not been imposed.

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

1 (7) "Manufacturer" has the same meaning as provided in RCW
2 70.345.010.

3 (8) "Manufacturer's representative" means a person hired by a
4 manufacturer to sell or distribute the manufacturer's vapor products
5 and includes employees and independent contractors.

6 (9) "Person" means: Any individual, receiver, administrator,
7 executor, assignee, trustee in bankruptcy, trust, estate, firm,
8 copartnership, joint venture, club, company, joint stock company,
9 business trust, municipal corporation, corporation, limited liability
10 company, association, or society; the state and its departments and
11 institutions; any political subdivision of the state of Washington;
12 and any group of individuals acting as a unit, whether mutual,
13 cooperative, fraternal, nonprofit, or otherwise. Except as provided
14 otherwise in this chapter, "person" does not include any person
15 immune from state taxation, including the United States or its
16 instrumentalities, and federally recognized Indian tribes and
17 enrolled tribal members, conducting business within Indian country.

18 (10) "Place of business" means any place where vapor products are
19 sold or where vapor products are manufactured, stored, or kept for
20 the purpose of sale, including any vessel, vehicle, airplane, or
21 train.

22 (11) "Retail outlet" has the same meaning as provided in RCW
23 70.345.010.

24 (12) "Retailer" has the same meaning as provided in RCW
25 70.345.010.

26 (13) "Sale" has the same meaning as provided in RCW 70.345.010.

27 (14) "Taxpayer" means a person liable for the tax imposed by this
28 chapter.

29 (15) "Vapor product" means any noncombustible product containing
30 a solution or other consumable substance, regardless of whether it
31 contains nicotine, which employs a mechanical heating element,
32 battery, or electronic circuit regardless of shape or size that can
33 be used to produce vapor from the solution or other substance,
34 including an electronic cigarette, electronic cigar, electronic
35 cigarillo, electronic pipe, or similar product or device. The term
36 also includes any cartridge or other container of liquid nicotine,
37 solution, or other consumable substance, regardless of whether it
38 contains nicotine, that is intended to be used with or in a device
39 that can be used to deliver aerosolized or vaporized nicotine to a
40 person inhaling from the device and is sold for such purpose.

1 (a) The term does not include:

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

6 (ii) Any product that will become an ingredient or component in a
7 vapor product manufactured by a distributor; or

8 (iii) Any product that meets the definition of marijuana, useable
9 marijuana, marijuana concentrates, marijuana-infused products,
10 cigarette, or tobacco products.

11 (b) For purposes of this subsection (15):

12 (i) "Cigarette" has the same meaning as provided in RCW
13 82.24.010; and

14 (ii) "Marijuana," "useable marijuana," "marijuana concentrates,"
15 and "marijuana-infused products" have the same meaning as provided in
16 RCW 69.50.101.

17 NEW SECTION. **Sec. 102.** (1) (a) There is levied and collected a
18 tax upon the sale, use, consumption, handling, possession, or
19 distribution of all vapor products in this state as follows:

20 (i) All vapor products other than those taxed under (a) (ii) of
21 this subsection are taxed at a rate equal to twenty-seven cents per
22 milliliter of solution, regardless of whether it contains nicotine,
23 and a proportionate tax at the like rate on all fractional parts of a
24 milliliter thereof.

25 (ii) Any accessible container of solution, regardless of whether
26 it contains nicotine, that is greater than five milliliters, is taxed
27 at a rate equal to nine cents per milliliter of solution and a
28 proportionate tax at the like rate on all fractional parts of a
29 milliliter thereof.

30 (b) The tax in this section must be imposed based on the volume
31 of the solution as listed by the manufacturer.

32 (2) (a) The tax under this section must be collected at the time
33 the distributor: (i) Brings, or causes to be brought, into this state
34 from without the state vapor products for sale; (ii) makes,
35 manufactures, fabricates, or stores vapor products in this state for
36 sale in this state; (iii) ships or transports vapor products to
37 retailers or consumers in this state; or (iv) handles for sale any
38 vapor products that are within this state but upon which tax has not
39 been imposed.

1 (b) The tax imposed under this section must also be collected by
2 the department from the consumer of vapor products where the tax
3 imposed under this section was not paid by the distributor on such
4 vapor products.

5 (3) (a) The moneys collected under this section must be deposited
6 as follows:

7 (i) Fifty percent into the Andy Hill cancer research endowment
8 fund match transfer account created in RCW 43.348.080; and

9 (ii) Fifty percent into the foundational public health services
10 account created in section 103 of this act.

11 (b) The funding provided under this subsection is intended to
12 supplement and not supplant general fund investments in cancer
13 research and foundational public health services.

14 NEW SECTION. **Sec. 103.** The foundational public health services
15 account is created in the state treasury. Half of all of the moneys
16 collected from the tax imposed on vapor products under RCW 66.44.010
17 must be deposited into the account. Moneys in the account may be
18 spent only after appropriation. Moneys in the account are to be used
19 for the following purposes:

20 (1) To fund foundational health services. In the 2019-2021
21 biennium, at least twelve million dollars of the funds deposited into
22 the account must be appropriated for this purpose. Beginning in the
23 2021-2023 biennium, fifty percent of the funds deposited into the
24 account, but not less than twelve million dollars each biennium, are
25 to be used for this purpose;

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

30 (3) To support increased access and training of public health
31 professionals at public health programs at accredited public
32 institutions of higher education in Washington. Beginning in the
33 2021-2023 biennium, five percent of the funds deposited into the
34 account are to be used for this purpose;

35 (4) To fund enforcement by the state liquor and cannabis board of
36 the provisions of this chapter to prevent sales of vapor products to
37 minors and related provisions for control of marketing and product
38 safety, provided that no more than eight percent of the funds

1 deposited into the account may be appropriated for these enforcement
2 purposes.

3 NEW SECTION. **Sec. 104.** It is the intent and purpose of this
4 chapter to levy a tax on all vapor products sold, used, consumed,
5 handled, possessed, or distributed within this state. It is the
6 further intent and purpose of this chapter to impose the tax only
7 once on all vapor products in this state. Nothing in this chapter may
8 be construed to exempt any person taxable under any other law or
9 under any other tax imposed under this title.

10 NEW SECTION. **Sec. 105.** The tax imposed by section 102 of this
11 act does not apply with respect to any vapor products which under the
12 Constitution and laws of the United States may not be made the
13 subject of taxation by this state.

14 NEW SECTION. **Sec. 106.** (1) Every distributor must keep at each
15 place of business complete and accurate records for that place of
16 business, including itemized invoices, of vapor products held,
17 purchased, manufactured, brought in or caused to be brought in from
18 without the state, or shipped or transported to retailers in this
19 state, and of all sales of vapor products made.

20 (2) These records must show the names and addresses of
21 purchasers, the inventory of all vapor products, and other pertinent
22 papers and documents relating to the purchase, sale, or disposition
23 of vapor products. All invoices and other records required by this
24 section to be kept must be preserved for a period of five years from
25 the date of the invoices or other documents or the date of the
26 entries appearing in the records.

27 (3) At any time during usual business hours the department,
28 board, or its duly authorized agents or employees may enter any place
29 of business of a distributor, without a search warrant, and inspect
30 the premises, the records required to be kept under this chapter, and
31 the vapor products contained therein, to determine whether or not all
32 the provisions of this chapter are being fully complied with. If the
33 department, board, or any of its agents or employees are denied free
34 access or are hindered or interfered with in making such examination,
35 the registration certificate issued under RCW 82.32.030 of the
36 distributor at such premises are subject to revocation by the

1 department, and any licenses issued under chapter 70.345, 82.26, or
2 82.24 RCW are subject to suspension or revocation by the board.

3 NEW SECTION. **Sec. 107.** Every person required to be licensed
4 under chapter 70.345 RCW who sells vapor products to persons other
5 than the ultimate consumer must render with each sale itemized
6 invoices showing the seller's name and address, the purchaser's name
7 and address, the date of sale, and all prices. The person must
8 preserve legible copies of all such invoices for five years from the
9 date of sale.

10 NEW SECTION. **Sec. 108.** (1) Every retailer must procure itemized
11 invoices of all vapor products purchased. The invoices must show the
12 seller's name and address, the date of purchase, and all prices and
13 discounts.

14 (2) The retailer must keep at each retail outlet copies of
15 complete, accurate, and legible invoices for that retail outlet or
16 place of business. All invoices required to be kept under this
17 section must be preserved for five years from the date of purchase.

18 (3) At any time during usual business hours the department,
19 board, or its duly authorized agents or employees may enter any
20 retail outlet without a search warrant, and inspect the premises for
21 invoices required to be kept under this section and the vapor
22 products contained in the retail outlet, to determine whether or not
23 all the provisions of this chapter are being fully complied with. If
24 the department, board, or any of its agents or employees are denied
25 free access or are hindered or interfered with in making the
26 inspection, the registration certificate issued under RCW 82.32.030
27 of the retailer at the premises is subject to revocation by the
28 department, and any licenses issued under chapter 70.345, 82.26, or
29 82.24 RCW are subject to suspension or revocation by the board.

30 NEW SECTION. **Sec. 109.** (1)(a) Where vapor products upon which
31 the tax imposed by this chapter has been reported and paid are
32 shipped or transported outside this state by the distributor to a
33 person engaged in the business of selling vapor products, to be sold
34 by that person, or are returned to the manufacturer by the
35 distributor or destroyed by the distributor, or are sold by the
36 distributor to the United States or any of its agencies or
37 instrumentalities, or are sold by the distributor to any Indian

1 tribal organization, credit of such tax may be made to the
2 distributor in accordance with rules prescribed by the department.

3 (b) For purposes of this subsection (1), the following
4 definitions apply:

5 (i) "Indian distributor" means a federally recognized Indian
6 tribe or tribal entity that would otherwise meet the definition of
7 "distributor" under section 101 of this act, if federally recognized
8 Indian tribes and tribal entities were not excluded from the
9 definition of "person" in section 101 of this act.

10 (ii) "Indian retailer" means a federally recognized Indian tribe
11 or tribal entity that would otherwise meet the definition of
12 "retailer" under section 101 of this act, if federally recognized
13 Indian tribes and tribal entities were not excluded from the
14 definition of "person" in section 101 of this act.

15 (iii) "Indian tribal organization" means a federally recognized
16 Indian tribe, or tribal entity, and includes an Indian distributor or
17 retailer that is owned by an Indian who is an enrolled tribal member
18 conducting business under tribal license or similar tribal approval
19 within Indian country.

20 (2) Credit allowed under this section must be determined based on
21 the tax rate in effect for the period for which the tax imposed by
22 this chapter, for which a credit is sought, was paid.

23 NEW SECTION. **Sec. 110.** All of the provisions contained in
24 chapter 82.32 RCW not inconsistent with the provisions of this
25 chapter have full force and application with respect to taxes imposed
26 under the provisions of this chapter.

27 NEW SECTION. **Sec. 111.** The department must authorize, as duly
28 authorized agents, enforcement officers of the board to enforce
29 provisions of this chapter. These officers are not employees of the
30 department.

31 NEW SECTION. **Sec. 112.** (1) The department may by rule establish
32 the invoice detail required under section 106 of this act for a
33 distributor and for those invoices required to be provided to
34 retailers under section 108 of this act.

35 (2) If a retailer fails to keep invoices as required under
36 section 108 of this act, the retailer is liable for the tax owed on

1 any uninvoiced vapor products but not penalties and interest, except
2 as provided in subsection (3) of this section.

3 (3) If the department finds that the nonpayment of tax by the
4 retailer was willful or if in the case of a second or plural
5 nonpayment of tax by the retailer, penalties and interest must be
6 assessed in accordance with chapter 82.32 RCW.

7 NEW SECTION. **Sec. 113.** (1) No person may transport or cause to
8 be transported in this state vapor products for sale other than: (a)
9 A licensed distributor under chapter 70.345 RCW, or a manufacturer's
10 representative authorized to sell or distribute vapor products in
11 this state under chapter 70.345 RCW; (b) a licensed retailer under
12 chapter 70.345 RCW; (c) a seller with a valid delivery sale license
13 under chapter 70.345 RCW; or (d) a person who has given notice to the
14 board in advance of the commencement of transportation.

15 (2) When transporting vapor products for sale, the person must
16 have in his or her actual possession, or cause to have in the actual
17 possession of those persons transporting such vapor products on his
18 or her behalf, invoices or delivery tickets for the vapor products,
19 which must show the true name and address of the consignor or seller,
20 the true name and address of the consignee or purchaser, and the
21 quantity and brands of the vapor products being transported.

22 (3) In any case where the department or the board, or any peace
23 officer of the state, has knowledge or reasonable grounds to believe
24 that any vehicle is transporting vapor products in violation of this
25 section, the department, board, or peace officer is authorized to
26 stop the vehicle and to inspect it for contraband vapor products.

27 (4) This section does not apply to a motor carrier or freight
28 forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier
29 as defined in Title 49 U.S.C. Sec. 40102.

30 NEW SECTION. **Sec. 114.** The board must compile and maintain a
31 current record of the names of all distributors, retailers, and
32 delivery sales licenses under chapter 70.345 RCW and the status of
33 their license or licenses. The information must be updated on a
34 monthly basis and published on the board's official internet web
35 site. This information is not subject to the confidentiality
36 provisions of RCW 82.32.330 and must be disclosed to manufacturers,
37 distributors, retailers, and the general public upon request.

1 NEW SECTION. **Sec. 115.** (1) No person engaged in or conducting
2 business as a distributor or retailer in this state may:

3 (a) Make, use, or present or exhibit to the department or the
4 board any invoice for any of the vapor products taxed under this
5 chapter that bears an untrue date or falsely states the nature or
6 quantity of the goods invoiced; or

7 (b) Fail to produce on demand of the department or the board all
8 invoices of all the vapor products taxed under this chapter within
9 five years prior to such demand unless the person can show by
10 satisfactory proof that the nonproduction of the invoices was due to
11 causes beyond the person's control.

12 (2) (a) No person, other than a licensed distributor, retailer or
13 delivery sales licensee, or manufacturer's representative, may
14 transport vapor products for sale in this state for which the taxes
15 imposed under this chapter have not been paid unless:

16 (i) Notice of the transportation has been given as required under
17 section 113 of this act;

18 (ii) The person transporting the vapor products actually
19 possesses invoices or delivery tickets showing the true name and
20 address of the consignor or seller, the true name and address of the
21 consignee or purchaser, and the quantity and brands of vapor products
22 being transported; and

23 (iii) The vapor products are consigned to or purchased by a
24 person in this state who is licensed under chapter 70.345 RCW.

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

26 (3) Any person licensed under chapter 70.345 RCW as a
27 distributor, and any person licensed under chapter 70.345 RCW as a
28 retailer, may not operate in any other capacity unless the additional
29 appropriate license is first secured, except as otherwise provided by
30 law. A violation of this subsection (3) is a misdemeanor.

31 (4) The penalties provided in this section are in addition to any
32 other penalties provided by law for violating the provisions of this
33 chapter or the rules adopted under this chapter.

34 (5) This section does not apply to a motor carrier or freight
35 forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier
36 as defined in Title 49 U.S.C. Sec. 40102.

37 NEW SECTION. **Sec. 116.** (1) A retailer that obtains vapor
38 products from an unlicensed distributor or any other person that is
39 not licensed under chapter 70.345 RCW must be licensed both as a

1 retailer and a distributor and is liable for the tax imposed under
2 section 102 of this act with respect to the vapor products acquired
3 from the unlicensed person that are held for sale, handling, or
4 distribution in this state. For the purposes of this subsection,
5 "person" includes both persons defined in this act and any person
6 immune from state taxation, such as the United States or its
7 instrumentalities, and federally recognized Indian tribes and
8 enrolled tribal members, conducting business within Indian country.

9 (2) Every distributor licensed under chapter 70.345 RCW may sell
10 vapor products to retailers located in Washington only if the
11 retailer has a current retailer's license under chapter 70.345 RCW.

12 NEW SECTION. **Sec. 117.** A manufacturer that has manufacturer's
13 representatives who sell or distribute the manufacturer's vapor
14 products in this state must provide the board a list of the names and
15 addresses of all such representatives and must ensure that the list
16 provided to the board is kept current. A manufacturer's
17 representative is not authorized to distribute or sell vapor products
18 in this state unless the manufacturer that hired the representative
19 has a valid distributor's license under chapter 70.345 RCW and that
20 manufacturer provides the board a current list of all of its
21 manufacturer's representatives as required by this section. A
22 manufacturer's representative must carry a copy of the distributor's
23 license of the manufacturer that hired the representative at all
24 times when selling or distributing the manufacturer's vapor products.

25 NEW SECTION. **Sec. 118.** (1) Any vapor products in the possession
26 of a person selling vapor products in this state acting as a
27 distributor or retailer and who is not licensed as required under
28 chapter 70.345 RCW, or a person who is selling vapor products in
29 violation of RCW 82.24.550(6), may be seized without a warrant by any
30 agent of the department, agent of the board, or law enforcement
31 officer of this state. Any vapor products seized under this
32 subsection are deemed forfeited.

33 (2) Any vapor products in the possession of a person who is not a
34 licensed distributor, delivery seller, manufacturer's representative,
35 or retailer and who transports vapor products for sale without having
36 provided notice to the board required under section 113 of this act,
37 or without invoices or delivery tickets showing the true name and
38 address of the consignor or seller, the true name and address of the

1 consignee or purchaser, and the quantity and brands of vapor products
2 being transported may be seized and are subject to forfeiture.

3 (3) All conveyances, including aircraft, vehicles, or vessels
4 that are used, or intended for use to transport, or in any manner to
5 facilitate the transportation, for the purpose of sale or receipt of
6 vapor products under subsection (2) of this section, may be seized
7 and are subject to forfeiture except:

8 (a) A conveyance used by any person as a common or contract
9 carrier having in actual possession invoices or delivery tickets
10 showing the true name and address of the consignor or seller, the
11 true name of the consignee or purchaser, and the quantity and brands
12 of the vapor products transported, unless it appears that the owner
13 or other person in charge of the conveyance is a consenting party or
14 privy to a violation of this chapter;

15 (b) A conveyance subject to forfeiture under this section by
16 reason of any act or omission of which the owner establishes to have
17 been committed or omitted without his or her knowledge or consent; or

18 (c) A conveyance encumbered by a bona fide security interest if
19 the secured party neither had knowledge of nor consented to the act
20 or omission.

21 (4) Property subject to forfeiture under subsections (2) and (3)
22 of this section may be seized by any agent of the department, the
23 board, or law enforcement officer of this state upon process issued
24 by any superior court or district court having jurisdiction over the
25 property. Seizure without process may be made if:

26 (a) The seizure is incident to an arrest or a search warrant or
27 an inspection under an administrative inspection warrant; or

28 (b) The department, board, or law enforcement officer has
29 probable cause to believe that the property was used or is intended
30 to be used in violation of this chapter and exigent circumstances
31 exist making procurement of a search warrant impracticable.

32 (5) This section may not be construed to require the seizure of
33 vapor products if the department's agent, board's agent, or law
34 enforcement officer reasonably believes that the vapor products are
35 possessed for personal consumption by the person in possession of the
36 vapor products.

37 (6) Any vapor products seized by a law enforcement officer must
38 be turned over to the board as soon as practicable.

1 (7) This section does not apply to a motor carrier or freight
2 forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier
3 as defined in Title 49 U.S.C. Sec. 40102.

4 NEW SECTION. **Sec. 119.** (1) In all cases of seizure of any vapor
5 products made subject to forfeiture under this chapter, the
6 department or board must proceed as provided in RCW 82.24.135.

7 (2) When vapor products are forfeited under this chapter, the
8 department or board may:

9 (a) Retain the property for official use or upon application by
10 any law enforcement agency of this state, another state, or the
11 District of Columbia, or of the United States for the exclusive use
12 of enforcing this chapter or the laws of any other state or the
13 District of Columbia or of the United States; or

14 (b) Sell the vapor products at public auction to the highest
15 bidder after due advertisement. Before delivering any of the goods to
16 the successful bidder, the department or board must require the
17 purchaser to pay the proper amount of any tax due. The proceeds of
18 the sale must be first applied to the payment of all proper expenses
19 of any investigation leading to the seizure and of the proceedings
20 for forfeiture and sale, including expenses of seizure, maintenance
21 of custody, advertising, and court costs. The balance of the proceeds
22 and all money must be deposited in the general fund of the state.
23 Proper expenses of investigation include costs incurred by any law
24 enforcement agency or any federal, state, or local agency.

25 (3) The department or the board may return any property seized
26 under the provisions of this chapter when it is shown that there was
27 no intention to violate the provisions of this chapter. When any
28 property is returned under this section, the department or the board
29 may return the property to the parties from whom they were seized if
30 and when such parties have paid the proper amount of tax due under
31 this chapter.

32 NEW SECTION. **Sec. 120.** When the department or the board has
33 good reason to believe that any of the vapor products taxed under
34 this chapter are being kept, sold, offered for sale, or given away in
35 violation of the provisions of this chapter, it may make affidavit of
36 facts describing the place or thing to be searched, before any judge
37 of any court in this state, and the judge must issue a search warrant
38 directed to the sheriff, any deputy, police officer, or duly

1 authorized agent of the department or the board commanding him or her
2 diligently to search any building, room in a building, place, or
3 vehicle as may be designated in the affidavit and search warrant, and
4 to seize the vapor products and hold them until disposed of by law.

5 NEW SECTION. **Sec. 121.** (1)(a) Where vapor products upon which
6 the tax imposed by this chapter has been reported and paid are
7 shipped or transported outside this state by the distributor to a
8 person engaged in the business of selling vapor products, to be sold
9 by that person, or are returned to the manufacturer by the
10 distributor or destroyed by the distributor, or are sold by the
11 distributor to the United States or any of its agencies or
12 instrumentalities, or are sold by the distributor to any Indian
13 tribal organization, credit of such tax may be made to the
14 distributor in accordance with rules prescribed by the department.

15 (b) For purposes of this subsection (1), the following
16 definitions apply:

17 (i) "Indian distributor" means a federally recognized Indian
18 tribe or tribal entity that would otherwise meet the definition of
19 "distributor" under section 101 of this act, if federally recognized
20 Indian tribes and tribal entities were not excluded from the
21 definition of "person" in section 101 of this act.

22 (ii) "Indian retailer" means a federally recognized Indian tribe
23 or tribal entity that would otherwise meet the definition of
24 "retailer" under section 101 of this act, if federally recognized
25 Indian tribes and tribal entities were not excluded from the
26 definition of "person" in section 101 of this act.

27 (iii) "Indian tribal organization" means a federally recognized
28 Indian tribe, or tribal entity, and includes an Indian distributor or
29 retailer that is owned by an Indian who is an enrolled tribal member
30 conducting business under tribal license or similar tribal approval
31 within Indian country.

32 (2) Credit allowed under this section must be determined based on
33 the tax rate in effect for the period for which the tax imposed by
34 this chapter, for which a credit is sought, was paid.

35 NEW SECTION. **Sec. 122.** (1) Preexisting inventories of vapor
36 products are subject to the tax imposed in section 102 of this act.
37 All retailers and other distributors must report the tax due under
38 section 102 of this act on preexisting inventories of vapor products

1 on a form, as prescribed by the department, on or before October 31,
2 2019, and the tax due on such preexisting inventories must be paid on
3 or before January 31, 2020.

4 (2) Reports under subsection (1) of this section not filed with
5 the department by October 31, 2019, are subject to a late filing
6 penalty equal to the greater of two hundred fifty dollars or ten
7 percent of the tax due under section 102 of this act on the
8 taxpayer's preexisting inventories.

9 (3) The department must notify the taxpayer of the amount of tax
10 due under section 102 of this act on preexisting inventories, which
11 is subject to applicable penalties under RCW 82.32.090 (2) through
12 (7) if unpaid after January 31, 2020. Amounts due in accordance with
13 this section are not considered to be substantially underpaid for the
14 purposes of RCW 82.32.090(2).

15 (4) Interest, at the rate provided in RCW 82.32.050(2), must be
16 computed daily beginning February 1, 2020, on any remaining tax due
17 under section 102 of this act on preexisting inventories until paid.

18 (5) A retailer required to comply with subsection (1) of this
19 section is not required to obtain a distributor license as otherwise
20 required under chapter 70.345 RCW as long as the retailer:

21 (a) Does not sell vapor products other than to ultimate
22 consumers; and

23 (b) Does not meet the definition of "distributor" in section 101
24 of this act other than with respect to the sale of that retailer's
25 preexisting inventory of vapor products.

26 (6) Taxes may not be collected under section 102 of this act from
27 consumers with respect to any vapor products acquired before the
28 effective date of this section.

29 (7) For purposes of this section, "preexisting inventory" means
30 an inventory of vapor products located in this state as of the moment
31 that section 102 of this act takes effect and held by a distributor
32 for sale, handling, or distribution in this state.

33 Part II

34 Conforming Amendments

35 **Sec. 201.** RCW 66.08.145 and 2016 sp.s. c 38 s 29 are each
36 amended to read as follows:

37 (1) The liquor and cannabis board may issue subpoenas in
38 connection with any investigation, hearing, or proceeding for the

1 production of books, records, and documents held under this chapter
2 or chapters 70.155, 70.158, 70.345, 82.24, (~~and~~) 82.26 ((RCW)), and
3 82.--- RCW (the new chapter created in section 408 of this act), and
4 books and records of common carriers as defined in RCW 81.80.010, or
5 vehicle rental agencies relating to the transportation or possession
6 of cigarettes, vapor products, or other tobacco products.

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

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

16 **Sec. 202.** RCW 66.44.010 and 1998 c 18 s 1 are each amended to
17 read as follows:

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

35 (2) In addition to any and all other powers granted, the board
36 (~~shall have~~) has the power to enforce the penal provisions of this
37 title and the penal laws of this state relating to the manufacture,
38 importation, transportation, possession, distribution and sale of
39 liquor.

1 (3) In addition to the other duties under this section, the board
2 (~~shall~~) must enforce chapters 82.24 (~~and~~), 82.26 ((RCW)), and
3 82.--- RCW (the new chapter created in section 408 of this act).

4 (4) The board may appoint and employ, assign to duty and fix the
5 compensation of, officers to be designated as liquor enforcement
6 officers. Such liquor enforcement officers (~~shall~~) have the power,
7 under the supervision of the board, to enforce the penal provisions
8 of this title and the penal laws of this state relating to the
9 manufacture, importation, transportation, possession, distribution
10 and sale of liquor. They (~~shall~~) have the power and authority to
11 serve and execute all warrants and process of law issued by the
12 courts in enforcing the penal provisions of this title or of any
13 penal law of this state relating to the manufacture, importation,
14 transportation, possession, distribution and sale of liquor, and the
15 provisions of chapters 82.24 (~~and~~), 82.26 ((RCW)), and 82.--- RCW
16 (the new chapter created in section 408 of this act). They (~~shall~~)
17 have the power to arrest without a warrant any person or persons
18 found in the act of violating any of the penal provisions of this
19 title or of any penal law of this state relating to the manufacture,
20 importation, transportation, possession, distribution and sale of
21 liquor, and the provisions of chapters 82.24 (~~and~~), 82.26 ((RCW)),
22 and 82.--- RCW (the new chapter created in section 408 of this act).

23 **Sec. 203.** RCW 82.24.510 and 2013 c 144 s 50 are each amended to
24 read as follows:

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

26 (a) A wholesaler's license.

27 (b) A retailer's license.

28 (2) Application for the licenses must be made through the
29 business licensing system under chapter 19.02 RCW. The board must
30 adopt rules regarding the regulation of the licenses. The board may
31 refrain from the issuance of any license under this chapter if the
32 board has reasonable cause to believe that the applicant has
33 willfully withheld information requested for the purpose of
34 determining the eligibility of the applicant to receive a license, or
35 if the board has reasonable cause to believe that information
36 submitted in the application is false or misleading or is not made in
37 good faith. In addition, for the purpose of reviewing an application
38 for a wholesaler's license or retailer's license and for considering
39 the denial, suspension, or revocation of any such license, the board

1 may consider any prior criminal conduct of the applicant, including
2 an administrative violation history record with the board and a
3 criminal history record information check within the previous five
4 years, in any state, tribal, or federal jurisdiction in the United
5 States, its territories, or possessions, and the provisions of RCW
6 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board
7 may, in its discretion, grant or refuse the wholesaler's license or
8 retailer's license, subject to the provisions of RCW 82.24.550.

9 (3) No person may qualify for a wholesaler's license or a
10 retailer's license under this section without first undergoing a
11 criminal background check. The background check must be performed by
12 the board and must disclose any criminal conduct within the previous
13 five years in any state, tribal, or federal jurisdiction in the
14 United States, its territories, or possessions. A person who
15 possesses a valid license on July 22, 2001, is subject to this
16 subsection and subsection (2) of this section beginning on the date
17 of the person's business license expiration under chapter 19.02 RCW,
18 and thereafter. If the applicant or licensee also has a license
19 issued under chapter 66.24 (~~(66.24)~~), 82.26, or 70.345 RCW, the
20 background check done under the authority of chapter 66.24 (~~(66.24)~~),
21 82.26, or 70.345 RCW satisfies the requirements of this section.

22 (4) Each such license expires on the business license expiration
23 date, and each such license must be continued annually if the
24 licensee has paid the required fee and complied with all the
25 provisions of this chapter and the rules of the board made pursuant
26 thereto.

27 (5) Each license and any other evidence of the license that the
28 board requires must be exhibited in each place of business for which
29 it is issued and in the manner required for the display of a business
30 license.

31 **Sec. 204.** RCW 82.24.550 and 2015 c 86 s 307 are each amended to
32 read as follows:

33 (1) The board must enforce the provisions of this chapter. The
34 board may adopt, amend, and repeal rules necessary to enforce the
35 provisions of this chapter.

36 (2) The department may adopt, amend, and repeal rules necessary
37 to administer the provisions of this chapter. The board may revoke or
38 suspend the license or permit of any wholesale or retail cigarette
39 dealer in the state upon sufficient cause appearing of the violation

1 of this chapter or upon the failure of such licensee to comply with
2 any of the provisions of this chapter.

3 (3) A license may not be suspended or revoked except upon notice
4 to the licensee and after a hearing as prescribed by the board. The
5 board, upon finding that the licensee has failed to comply with any
6 provision of this chapter or any rule adopted under this chapter,
7 must, in the case of the first offense, suspend the license or
8 licenses of the licensee for a period of not less than thirty
9 consecutive business days, and, in the case of a second or further
10 offense, must suspend the license or licenses for a period of not
11 less than ninety consecutive business days nor more than twelve
12 months, and, in the event the board finds the licensee has been
13 guilty of willful and persistent violations, it may revoke the
14 license or licenses.

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

19 (5) Any person whose license or licenses have been revoked under
20 this section may reapply to the board at the expiration of one year
21 from the date of revocation of the license or licenses. The license
22 or licenses may be approved by the board if it appears to the
23 satisfaction of the board that the licensee will comply with the
24 provisions of this chapter and the rules adopted under this chapter.

25 (6) A person whose license has been suspended or revoked may not
26 sell cigarettes, vapor products, or tobacco products or permit
27 cigarettes, vapor products, or tobacco products to be sold during the
28 period of such suspension or revocation on the premises occupied by
29 the person or upon other premises controlled by the person or others
30 or in any other manner or form whatever.

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

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

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

5 (a) "Tobacco products" has the same meaning as provided in RCW
6 82.26.010; and

7 (b) "Vapor products" has the same meaning as provided in section
8 101 of this act.

9 **Sec. 205.** RCW 82.26.060 and 2009 c 154 s 3 are each amended to
10 read as follows:

11 (1) Every distributor (~~(shall)~~) must keep at each place of
12 business complete and accurate records for that place of business,
13 including itemized invoices, of tobacco products held, purchased,
14 manufactured, brought in or caused to be brought in from without the
15 state, or shipped or transported to retailers in this state, and of
16 all sales of tobacco products made.

17 (2) These records (~~(shall)~~) must show the names and addresses of
18 purchasers, the inventory of all tobacco products, and other
19 pertinent papers and documents relating to the purchase, sale, or
20 disposition of tobacco products. All invoices and other records
21 required by this section to be kept (~~(shall)~~) must be preserved for a
22 period of five years from the date of the invoices or other documents
23 or the date of the entries appearing in the records.

24 (3) At any time during usual business hours the department,
25 board, or its duly authorized agents or employees, may enter any
26 place of business of a distributor, without a search warrant, and
27 inspect the premises, the records required to be kept under this
28 chapter, and the tobacco products contained therein, to determine
29 whether or not all the provisions of this chapter are being fully
30 complied with. If the department, board, or any of its agents or
31 employees, are denied free access or are hindered or interfered with
32 in making such examination, the registration certificate issued under
33 RCW 82.32.030 of the distributor at such premises (~~(shall be)~~) is
34 subject to revocation, and any licenses issued under this chapter or
35 chapter 82.24 or 70.345 RCW are subject to suspension or revocation,
36 by the department or board.

37 **Sec. 206.** RCW 82.26.080 and 2005 c 180 s 5 are each amended to
38 read as follows:

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

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

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

22 **Sec. 207.** RCW 82.26.150 and 2013 c 144 s 52 are each amended to
23 read as follows:

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

- 26 (a) A distributor's license; and
- 27 (b) A retailer's license.

28 (2) Application for the licenses must be made through the
29 business licensing system under chapter 19.02 RCW. The board may
30 adopt rules regarding the regulation of the licenses. The board may
31 refuse to issue any license under this chapter if the board has
32 reasonable cause to believe that the applicant has willfully withheld
33 information requested for the purpose of determining the eligibility
34 of the applicant to receive a license, or if the board has reasonable
35 cause to believe that information submitted in the application is
36 false or misleading or is not made in good faith. In addition, for
37 the purpose of reviewing an application for a distributor's license
38 or retailer's license and for considering the denial, suspension, or
39 revocation of any such license, the board may consider criminal

1 conduct of the applicant, including an administrative violation
2 history record with the board and a criminal history record
3 information check within the previous five years, in any state,
4 tribal, or federal jurisdiction in the United States, its
5 territories, or possessions, and the provisions of RCW 9.95.240 and
6 chapter 9.96A RCW do not apply to such cases. The board may, in its
7 discretion, issue or refuse to issue the distributor's license or
8 retailer's license, subject to the provisions of RCW 82.26.220.

9 (3) No person may qualify for a distributor's license or a
10 retailer's license under this section without first undergoing a
11 criminal background check. The background check must be performed by
12 the board and must disclose any criminal conduct within the previous
13 five years in any state, tribal, or federal jurisdiction in the
14 United States, its territories, or possessions. If the applicant or
15 licensee also has a license issued under chapter 66.24 (~~(06)~~), 82.24,
16 or 70.345 RCW, the background check done under the authority of
17 chapter 66.24, 70.345, or 82.24 RCW satisfies the requirements of
18 this section.

19 (4) Each license issued under this chapter expires on the
20 business license expiration date. The license must be continued
21 annually if the licensee has paid the required fee and complied with
22 all the provisions of this chapter and the rules of the board adopted
23 pursuant to this chapter.

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

28 **Sec. 208.** RCW 82.26.220 and 2015 c 86 s 308 are each amended to
29 read as follows:

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

32 (2) The department may adopt, amend, and repeal rules necessary
33 to administer this chapter. The board may revoke or suspend the
34 distributor's or retailer's license of any distributor or retailer of
35 tobacco products in the state upon sufficient cause showing a
36 violation of this chapter or upon the failure of the licensee to
37 comply with any of the rules adopted under it.

38 (3) A license may not be suspended or revoked except upon notice
39 to the licensee and after a hearing as prescribed by the board. The

1 board, upon finding that the licensee has failed to comply with any
2 provision of this chapter or of any rule adopted under it, must, in
3 the case of the first offense, suspend the license or licenses of the
4 licensee for a period of not less than thirty consecutive business
5 days, and in the case of a second or further offense, suspend the
6 license or licenses for a period of not less than ninety consecutive
7 business days but not more than twelve months, and in the event the
8 board finds the licensee has been guilty of willful and persistent
9 violations, it may revoke the license or licenses.

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

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

20 (6) A person whose license has been suspended or revoked may not
21 sell tobacco products, vapor products, or cigarettes or permit
22 tobacco products, vapor products, or cigarettes to be sold during the
23 period of suspension or revocation on the premises occupied by the
24 person or upon other premises controlled by the person or others or
25 in any other manner or form.

26 (7) Any determination and order by the board, and any order of
27 suspension or revocation by the board of the license or licenses
28 issued under this chapter, or refusal to reinstate a license or
29 licenses after revocation is reviewable by an appeal to the superior
30 court of Thurston county. The superior court must review the order or
31 ruling of the board and may hear the matter de novo, having due
32 regard to the provisions of this chapter and the duties imposed upon
33 the board.

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

37 **Sec. 209.** RCW 82.32.300 and 1997 c 420 s 9 are each amended to
38 read as follows:

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

7 (2) The department (~~(of revenue shall)~~) must make and publish
8 rules and regulations, not inconsistent therewith, necessary to
9 enforce provisions of this chapter and chapters 82.02 through 82.23B
10 and 82.27 RCW, and the liquor (~~(control)~~) and cannabis board
11 (~~(shall)~~) must make and publish rules necessary to enforce chapters
12 82.24 (~~(and)~~), 82.26 (RCW), and 82.--- RCW (the new chapter created
13 in section 408 of this act), which (~~(shall have)~~) has the same force
14 and effect as if specifically included therein, unless declared
15 invalid by the judgment of a court of record not appealed from.

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

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

24 **Sec. 210.** RCW 70.345.010 and 2016 sp.s. c 38 s 4 are each
25 amended to read as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

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

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

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

34 (4) "Closed system nicotine container" means a sealed, prefilled,
35 and disposable container of nicotine in a solution or other form in
36 which such container is inserted directly into an electronic
37 cigarette, electronic nicotine delivery system, or other similar
38 product, if the nicotine in the container is inaccessible through

1 customary or reasonably foreseeable handling or use, including
2 reasonably foreseeable ingestion or other contact by children.

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

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

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

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

14 (7) "Distributor" (~~means any person who:~~

15 ~~(a) Sells vapor products to persons other than ultimate~~
16 ~~consumers; or~~

17 ~~(b) Is engaged in the business of selling vapor products in this~~
18 ~~state and who brings, or causes to be brought, into this state from~~
19 ~~outside of the state any vapor products for sale)) has the same~~

20 meaning as in section 101 of this act.
21 (8) "Liquid nicotine container" means a package from which
22 nicotine in a solution or other form is accessible through normal and
23 foreseeable use by a consumer and that is used to hold soluble
24 nicotine in any concentration. "Liquid nicotine container" does not
25 include closed system nicotine containers.

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

28 (10) "Minor" refers to an individual who is less than eighteen
29 years old.

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

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

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

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

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

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

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

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

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

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

29 (a) "Vapor product" includes any electronic cigarette, electronic
30 cigar, electronic cigarillo, electronic pipe, or similar product or
31 device and any vapor cartridge or other container that may contain
32 nicotine in a solution or other form that is intended to be used with
33 or in an electronic cigarette, electronic cigar, electronic
34 cigarillo, electronic pipe, or similar product or device.

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

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

1 **Sec. 211.** RCW 70.345.030 and 2016 sp.s. c 38 s 6 are each
2 amended to read as follows:

3 (1) (a) No person may engage in or conduct business as a retailer,
4 distributor, or delivery seller in this state without a valid license
5 issued under this chapter, except as otherwise provided by law. Any
6 person who sells vapor products to ultimate consumers by a means
7 other than delivery sales must obtain a retailer's license under this
8 chapter. Any person who (~~sells vapor products to persons other than~~
9 ~~ultimate consumers or who~~) meets the definition of distributor under
10 this chapter must obtain a distributor's license under this chapter.
11 Any person who conducts delivery sales of vapor products must obtain
12 a delivery sale license.

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

15 (2) No person engaged in or conducting business as a retailer,
16 distributor, or delivery seller in this state may refuse to allow the
17 enforcement officers of the board, on demand, to make full inspection
18 of any place of business or vehicle where any of the vapor products
19 regulated under this chapter are sold, stored, transported, or
20 handled, or otherwise hinder or prevent such inspection. A person who
21 violates this subsection is guilty of a gross misdemeanor.

22 (3) Any person licensed under this chapter as a distributor, any
23 person licensed under this chapter as a retailer, and any person
24 licensed under this chapter as a delivery seller may not operate in
25 any other capacity unless the additional appropriate license is first
26 secured, except as otherwise provided by law. A violation of this
27 subsection is a misdemeanor.

28 (4) No person engaged in or conducting business as a retailer,
29 distributor, or delivery seller in this state may sell or give, or
30 permit to sell or give, a product that contains any amount of any
31 cannabinoid, synthetic cannabinoid, cathinone, or methcathinone,
32 unless otherwise provided by law. A violation of this subsection (4)
33 is punishable according to RCW 69.50.401.

34 (5) The penalties provided in this section are in addition to any
35 other penalties provided by law for violating the provisions of this
36 chapter or the rules adopted under this chapter.

37 **Sec. 212.** RCW 70.345.090 and 2016 sp.s. c 38 s 17 are each
38 amended to read as follows:

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

6 (2) No person may conduct a delivery sale or otherwise ship or
7 transport, or cause to be shipped or transported, any vapor product
8 ordered or purchased by mail or through the internet to any person
9 under the minimum age required for the legal sale of vapor products
10 as provided under RCW 70.345.140.

11 (3) A delivery sale licensee must provide notice on its mail
12 order or internet sales forms of the minimum age required for the
13 legal sale of vapor products in Washington state as provided by RCW
14 70.345.140.

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

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

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

1 (7) A delivery sale licensee must include on shipping documents a
2 clear and conspicuous statement which includes, at a minimum, that
3 the package contains vapor products, Washington law prohibits sales
4 to those under the minimum age established by this chapter, and
5 violations may result in sanctions to both the licensee and the
6 purchaser.

7 (8) For purposes of this subsection (8), "vapor products" has the
8 same meaning as provided in section 101 of this act.

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

12 (~~(9)~~) (10) In addition to or in lieu of any other civil or
13 criminal remedy provided by law, a person who has violated this
14 section is subject to a civil penalty of up to five thousand dollars
15 for each violation. The attorney general, acting in the name of the
16 state, may seek recovery of the penalty in a civil action in superior
17 court.

18 (~~(10)~~) (11) The attorney general may seek an injunction in
19 superior court to restrain a threatened or actual violation of this
20 section and to compel compliance with this section.

21 (~~(11)~~) (12) Any violation of this section is not reasonable in
22 relation to the development and preservation of business and is an
23 unfair and deceptive act or practice and an unfair method of
24 competition in the conduct of trade or commerce in violation of RCW
25 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for
26 violation of this section lies solely with the attorney general.
27 Remedies provided by chapter 19.86 RCW are cumulative and not
28 exclusive.

29 (~~(12)~~) (13)(a) In any action brought under this section, the
30 state is entitled to recover, in addition to other relief, the costs
31 of investigation, expert witness fees, costs of the action, and
32 reasonable attorneys' fees.

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

37 (~~(13)~~) (14) Unless otherwise expressly provided, the penalties
38 or remedies, or both, under this section are in addition to any other
39 penalties and remedies available under any other law of this state.

1 retailers. In addition, contracts may address the legal age of sale
2 for vapor products pursuant to section 11, chapter 15, Laws of 2019.

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

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

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

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

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

21 (d) A tribal manufacturer.

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

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

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

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

32 (9) The governor may delegate the power to negotiate vapor
33 product tax contracts to the department of revenue. The department of
34 revenue must consult with the liquor and cannabis board during the
35 negotiations.

36 (10) Information received by the state or open to state review
37 under the terms of a contract is subject to the provisions of RCW
38 82.32.330.

39 (11) It is the intent of the legislature that the liquor and
40 cannabis board and the department of revenue continue the division of

1 duties and shared authority under chapter 82.--- RCW (the new chapter
2 created in section 408 of this act) and therefore the liquor and
3 cannabis board is responsible for enforcement activities that come
4 under the terms of chapter 82.--- RCW (the new chapter created in
5 section 408 of this act).

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

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

21 (a) "Essential government services" means services such as tribal
22 administration, public facilities, fire, police, public health,
23 education, job services, sewer, water, environmental and land use,
24 transportation, utility services, and economic development.

25 (b) "Indian country" has the same meaning as provided in RCW
26 82.24.010.

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

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

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

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

33 (d) "Indian tribe" or "tribe" means a federally recognized Indian
34 tribe located within the geographical boundaries of the state of
35 Washington.

36 (e) "Vapor products" has the same meaning as provided in section
37 101 of this act.

38 NEW SECTION. **Sec. 303.** A new section is added to chapter 43.06
39 RCW to read as follows:

1 (1) The governor is authorized to enter into vapor product tax
2 contracts with federally recognized Indian tribes located within the
3 geographical boundaries of the state of Washington. Each contract
4 adopted under this section must provide that the tribal vapor product
5 tax rate be one hundred percent of the state vapor product tax and
6 state and local sales and use taxes. The tribal vapor product tax is
7 in lieu of the state vapor product tax and state and local sales and
8 use taxes, as provided in section 302(3) of this act.

9 (2) A vapor product tax contract under this section is subject to
10 section 302 of this act and is separate from a cigarette tax contract
11 subject to RCW 43.06.455 or 43.06.466.

12 NEW SECTION. **Sec. 304.** A new section is added to chapter 43.06
13 RCW to read as follows:

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

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

35 (3) The agreement must include a provision requiring the tribe to
36 transmit thirty percent of the tribal tax revenue on all vapor
37 products sales to the state. The funds must be transmitted to the
38 state treasurer on a quarterly basis for deposit by the state
39 treasurer into the general fund. The remaining tribal tax revenue

1 must be used for essential government services, as that term is
2 defined in section 302 of this act.

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

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

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

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

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

18 (6) (a) The agreement must include provisions regarding
19 enforcement and compliance by the tribe in regard to enrolled tribal
20 members who sell vapor products and must describe the individual and
21 joint responsibilities of the tribe, the department of revenue, and
22 the liquor and cannabis board.

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

26 (c) The agreement must include provisions for sharing of
27 information among the tribe, the department of revenue, and the
28 liquor and cannabis board.

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

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

34 (9) The agreement must include provisions to resolve disputes
35 using a nonjudicial process, such as mediation, and must include a
36 dispute resolution protocol. The protocol must include a procedure
37 for notifying the other party that a violation has occurred, a
38 procedure for establishing whether a violation has in fact occurred,
39 an opportunity to correct such violation, and a provision providing
40 for termination of the agreement should the violation fail to be

1 resolved through this process, such termination subject to mediation
2 should the terms of the agreement so allow. An agreement must provide
3 for termination of the agreement if resolution of a dispute does not
4 occur within twenty-four months from the time notification of a
5 violation has occurred. Intervening violations do not extend this
6 time period.

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

9 (11) It is the intent of the legislature that the liquor and
10 cannabis board and the department of revenue continue the division of
11 duties and shared authority under chapter 82.--- RCW (the new chapter
12 created in section 408 of this act).

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

15 (a) "Indian country" has the same meaning as provided in RCW
16 82.24.010.

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

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

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

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

24 (d) "Vapor products" has the same meaning as provided in section
25 101 of this act.

26 NEW SECTION. **Sec. 305.** A new section is added to chapter 82.08
27 RCW to read as follows:

28 (1) The tax levied by RCW 82.08.020 does not apply to sales of
29 vapor products by an Indian retailer during the effective period of a
30 vapor product tax contract subject to section 303 of this act or a
31 vapor product tax agreement under section 304 of this act.

32 (2) The definitions in section 302 of this act apply to this
33 section.

34 NEW SECTION. **Sec. 306.** A new section is added to chapter 82.12
35 RCW to read as follows:

36 (1) The provisions of this chapter do not apply in respect to the
37 use of vapor products sold by an Indian retailer during the effective

1 period of a vapor product tax contract subject to section 303 of this
2 act or a vapor product tax agreement under section 304 of this act.

3 (2) The definitions in section 302 of this act apply to this
4 section.

5 **Sec. 307.** 2019 c 15 s 11 (uncodified) is amended to read as
6 follows:

7 In recognition of the sovereign authority of tribal governments,
8 the governor may seek government-to-government consultations with
9 federally recognized Indian tribes regarding raising the minimum
10 legal age of sale in compacts entered into pursuant to RCW 43.06.455,
11 43.06.465, ~~((and)) 43.06.466,~~ and sections 302 through 304 of this
12 act. The office of the governor shall report to the appropriate
13 committees of the legislature regarding the status of such
14 consultations no later than December 1, 2020.

15 **Part IV**

16 **Miscellaneous Provisions**

17 NEW SECTION. **Sec. 401.** A new section is added to chapter 82.32
18 RCW to read as follows:

19 (1) By October 15, 2020, and by each October 15th thereafter, the
20 department must estimate any increase in state general fund revenue
21 collections for the immediately preceding fiscal year resulting from
22 the taxes imposed in chapter . . ., Laws of 2019 (this act). The
23 department must promptly notify the state treasurer of these
24 estimated amounts.

25 (2) Beginning November 1, 2020, and by each November 1st
26 thereafter, the state treasurer must transfer from the general fund
27 the estimated amount determined by the department under subsection
28 (1) of this section for the immediately preceding fiscal year as
29 follows:

30 (a) Fifty percent into the Andy Hill cancer research endowment
31 fund match transfer account created in RCW 43.348.080; and

32 (b) Fifty percent into the foundational public health services
33 account created in section 103 of this act.

34 (3) The department may not make any adjustments to an estimate
35 under subsection (1) of this section after the state treasurer makes
36 the corresponding distribution under subsection (2) of this section
37 based on the department's estimate.

1 NEW SECTION. **Sec. 402.** RCW 43.348.900 (Expiration of chapter)
2 and 2015 3rd sp.s. c 34 s 10 are each repealed.

3 **Sec. 403.** RCW 43.348.080 and 2018 c 4 s 8 are each amended to
4 read as follows:

5 (1) The Andy Hill cancer research endowment fund match transfer
6 account is created in the custody of the (~~state treasurer as a~~
7 ~~nonappropriated account to be used solely and exclusively for the~~
8 ~~program created in RCW 43.348.040. The purpose of the account is to~~
9 ~~provide matching funds for the fund and administrative costs.~~
10 ~~Expenditures to fund or reimburse the program administrator are not~~
11 ~~subject to the requirements of subsection (4) of this section.~~

12 ~~(2) Revenues to the account must consist of deposits into the~~
13 ~~account, legislative appropriations, and any gifts, grants, or~~
14 ~~donations received by the department for this purpose.)~~ state
15 treasury to be used solely and exclusively for the program created in
16 RCW 43.348.040. Moneys in the account may be spent only after
17 appropriation. The purpose of the account is to provide matching
18 funds for the fund and administrative costs. Expenditures to fund or
19 reimburse the program administrator are not subject to the
20 requirements of subsection (4) of this section.

21 ~~((3))~~ (2) The legislature must appropriate a state match, up to
22 a maximum of ten million dollars (~~annually, beginning July 1, 2016,~~
23 ~~and each July 1st following the end of the fiscal year)~~ in the
24 fiscal year 2019-2021 biennium, twelve million dollars in the fiscal
25 year 2021-2023 biennium, and fourteen million dollars biennially
26 thereafter from tax collections and penalties generated from
27 enforcement of state taxes on cigarettes and other tobacco products
28 by the state liquor and cannabis board or other federal, state or
29 local law or tax enforcement agency, as determined by the department
30 of revenue. Tax collections include any cigarette tax, other tobacco
31 product tax, and retail sales and use tax. Any amounts deposited into
32 this account from the tax imposed under section 102 of this act in
33 excess of the cap provided in this subsection must be deposited into
34 the foundational public health services account created in section
35 103 of this act.

36 ~~((4) Expenditures, in the form of matching funds, from the~~
37 ~~account may be made only upon receipt of proof from the program~~
38 ~~administrator of nonstate or private contributions to the fund for~~

1 ~~the program. Expenditures, in the form of matching funds, may not~~
2 ~~exceed the total amount of nonstate or private contributions.~~

3 ~~(5) Only the director of the department or the director's~~
4 ~~designee may authorize expenditures from the Andy Hill cancer~~
5 ~~research endowment fund match transfer account. Such authorization~~
6 ~~must be made as soon as practicable following receipt of proof as~~
7 ~~required under subsection (4) of this section.~~

8 ~~(6) The department must enter into an appropriate agreement with~~
9 ~~the program administrator to demonstrate exchange of consideration~~
10 ~~for the matching funds.)~~

11 (3) Revenues to the account must consist of deposits into the
12 account, taxes imposed on vapor products under section 102 of this
13 act, legislative appropriations, and any gifts, grants, or donations
14 received by the department for this purpose.

15 (4) Each fiscal biennium, the legislature must appropriate to the
16 department of commerce such amounts as estimated to be the balance of
17 the account to provide state matching funds.

18 (5) Expenditures, in the form of matching funds, from the account
19 may be made only upon receipt of proof from the program administrator
20 of nonstate or private contributions to the fund for the program.
21 Expenditures, in the form of matching funds, may not exceed the total
22 amount of nonstate or private contributions.

23 (6) The department must enter into an appropriate agreement with
24 the program administrator to demonstrate exchange of consideration
25 for the matching funds.

26 **Sec. 404.** RCW 82.26.020 and 2010 1st sp.s. c 22 s 5 are each
27 amended to read as follows:

28 (1) There is levied and collected a tax upon the sale, handling,
29 or distribution of all tobacco products in this state at the
30 following rate:

31 (a) For cigars except little cigars, ninety-five percent of the
32 taxable sales price of cigars, not to exceed sixty-five cents per
33 cigar;

34 (b) For all tobacco products except those covered under separate
35 provisions of this subsection, ninety-five percent of the taxable
36 sales price. The tax imposed on a product under this subsection must
37 be reduced by fifty percent if that same product is issued a modified
38 risk tobacco product order by the secretary of the United States
39 department of health and human services pursuant to Title 21 U.S.C.

1 Sec. 387k(g)(1), or by twenty-five percent if that same product is
2 issued a modified risk tobacco product order by the secretary of the
3 United States department of health and human services pursuant to
4 Title 21 U.S.C. Sec. 387k(g)(2). The tax reduction applies during the
5 period the modified risk tobacco product order is in effect;

6 (c) For moist snuff, as established in this subsection (1)(c) and
7 computed on the net weight listed by the manufacturer:

8 (i) On each single unit consumer-sized can or package whose net
9 weight is one and two-tenths ounces or less, a rate per single unit
10 that is equal to the greater of 2.526 dollars or eighty-three and
11 one-half percent of the cigarette tax under chapter 82.24 RCW
12 multiplied by twenty; or

13 (ii) On each single unit consumer-sized can or package whose net
14 weight is more than one and two-tenths ounces, a proportionate tax at
15 the rate established in (c)(i) of this subsection (1) on each ounce
16 or fractional part of an ounce; and

17 (d) For little cigars, an amount per cigar equal to the cigarette
18 tax under chapter 82.24 RCW.

19 (2) Taxes under this section must be imposed at the time the
20 distributor (a) brings, or causes to be brought, into this state from
21 without the state tobacco products for sale, (b) makes, manufactures,
22 fabricates, or stores tobacco products in this state for sale in this
23 state, (c) ships or transports tobacco products to retailers in this
24 state, to be sold by those retailers, or (d) handles for sale any
25 tobacco products that are within this state but upon which tax has
26 not been imposed.

27 (3) The moneys collected under this section must be deposited
28 into the state general fund.

29 NEW SECTION. Sec. 405. The provisions of RCW 82.32.805 and
30 82.32.808 do not apply to this act.

31 NEW SECTION. Sec. 406. If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

35 NEW SECTION. Sec. 407. If any part of this act is found to be
36 in conflict with federal requirements that are a prescribed condition
37 to the allocation of federal funds to the state, the conflicting part

1 of this act is inoperative solely to the extent of the conflict and
2 with respect to the agencies directly affected, and this finding does
3 not affect the operation of the remainder of this act in its
4 application to the agencies concerned. Rules adopted under this act
5 must meet federal requirements that are a necessary condition to the
6 receipt of federal funds by the state.

7 NEW SECTION. **Sec. 408.** Part I of this act constitutes a new
8 chapter in Title 82 RCW.

9 NEW SECTION. **Sec. 409.** This act takes effect October 1, 2019."

E2SHB 1873 - S AMD
By Senator Braun

PULLED 04/28/2019

10 On page 44, beginning on line 2, strike all material through
11 "date." on line 11 and insert the following:

12 "On page 1, line 2 of the title, after "products;" strike the
13 remainder of the title and insert "amending RCW 66.08.145, 66.44.010,
14 82.24.510, 82.24.550, 82.26.060, 82.26.080, 82.26.150, 82.26.220,
15 82.32.300, 70.345.010, 70.345.030, 70.345.090, 43.06.450, 43.348.080,
16 and 82.26.020; adding new sections to chapter 43.06 RCW; adding a new
17 section to chapter 82.08 RCW; adding a new section to chapter 82.12
18 RCW; adding a new section to chapter 82.32 RCW; adding a new chapter
19 to Title 82 RCW; creating new sections; repealing RCW 43.348.900;
20 prescribing penalties; and providing an effective date."

EFFECT: Decreases the tax on products in an "accessible container" to 9 cents per milliliter of solution; decreases the tax on all other vapor products to 27 cents per milliliter of solution; removes appropriations from the Foundational Public Health Services Account to the Andy Hill Cancer Research Endowment Fund Match Transfer Account; provides that all revenues from the tax on vapor products must be divided evenly between the Foundational Public Health Services Account and the Andy Hill Cancer Research Endowment Fund Match Transfer Account; provides for a reduction in tax for certain products issued a modified risk tobacco order; repeals the expiration date on the Andy Hill Cancer Research Endowment Fund Match Transfer Account; removes the limit on the state contribution to the Andy Hill Cancer Research Endowment Fund Match Transfer Account; makes the Andy Hill Cancer Research Endowment Fund Match Transfer

Account an appropriated account, and restores certain definitions and regulatory provisions necessary to implement a tax at wholesale.

--- END ---