

SENATE BILL REPORT

SB 6489

As Reported by Senate Committee On:
Human Services, Reentry & Rehabilitation, February 6, 2020

Title: An act relating to possession of vapor, vapor products, tobacco, and tobacco products by persons under the age of twenty-one.

Brief Description: Concerning possession of vapor, vapor products, tobacco, and tobacco products by persons under the age of twenty-one.

Sponsors: Senators Saldaña, Keiser, Nguyen and Wilson, C.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 2/05/20, 2/06/20 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Repeals civil infractions prohibiting the purchase or possession of tobacco or vapor products by a person under 18 years of age.
- Removes authority of a peace officer or Liquor and Cannabis Board (LCB) enforcement officer to detain a person purchasing or possessing tobacco products or vapor products to determine if they are under 18 years of age.
- Removes authority of a peace officer or LCB enforcement officer to seize tobacco products or vapor products from a person under 18 years of age.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 6489 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Cleveland, Wilson, C. and Zeiger.

Minority Report: Do not pass.

Signed by Senator O'Ban.

Minority Report: That it be referred without recommendation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senator Walsh, Ranking Member.

Staff: Kevin Black (786-7747)

Background: Purchasing, attempting to purchase, possession, obtaining, or attempting to obtain a tobacco product or vapor product by a person under 18 years of age is a class 3 civil infraction punishable by up to \$50, up to four hours of community restitution, or both. The court may require participation in a smoking cessation program. Municipal and district courts have jurisdiction to enforce these infractions.

A peace officer or LCB enforcement officer may detain a person purchasing, attempting to purchase, or possessing tobacco products or vapor products for a reasonable period of time to determine if the person is under 18 years of age. Such an officer may also seize tobacco products or vapor products possessed by a person under 18 years of age.

Retailers are prohibited from selling tobacco products and vapor products to persons under the age of 21. A licensed retailer must prominently display a sign displaying this prohibition. In 2019, the Legislature enacted EHB 1074 which raised the age of prohibition for selling tobacco products and vapor products by a licensed retailer or wholesaler of tobacco or vapor products from 18 to 21 years of age.

Tobacco product means a product that contains tobacco that is intended for human use. Vapor product means any noncombustible product that may contain nicotine and that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from a solution or other substance. It includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): The authority of a peace officer or an enforcement officer of the LCB is removed to:

- detain a person purchasing, attempting to purchase, or possessing tobacco products or vapor products for a reasonable period of time to determine if the person is under 18 years of age; or
- seize tobacco products or vapor products possessed by a person under 18 years of age.

The LCB, local enforcement agencies, or local health departments may coordinate controlled purchases of tobacco products or vapor products involving persons under the age of 21, and under the age of 18 with parental authorization, to enforce the ban against selling tobacco products or vapor products to persons who are underage.

The class 3 infractions prohibiting purchasing, attempting to purchase, possession, obtaining, or attempting to obtain tobacco products or vapor products are repealed.

This act must not be interpreted to limit the ability of a peace officer or an enforcement officer of the LCB to enforce legal prohibitions against selling tobacco and vapor products to persons under 21 years of age.

Appropriation: None.

Fiscal Note: Requested on January 22, 2020.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on First Substitute: PRO: This bill was brought to me by my substance prevention community. We are concerned about deterring the use of products that harm their brains. We should align under 18 with 18 to 21. We should treat young people as if they have a condition that needs to be addressed, and avoid confrontations with the LCB or police. We should hold the adults in this situation fully accountable. This bill responds to community concerns with the tobacco to 21 law. Not providing cessation services disproportionately affects youth of color. It is not fair to allow these industries to hook youth on their dangerous products, raise the age, and then punish youth for being addicted. We do not need police to detain and ID young people. These laws are ineffective and inequitably enforced against youth of color and LGBT youth. My friends start vaping because of peer pressure and advertisements. Youth should not be punished for addiction to products that were marketed to them. Invest in age-appropriate smoking cessation programs. No proven data shows that penalties are successful at helping youth quit. It is uncommon for young people to have a state-issued ID. It is scary to think my classmates could be detained and questioned by law enforcement officers. Retailer compliance checks is a proven way to reduce underage youth smoking. Our staff educate retailers and forward enforcement information to the LCB. I am alarmed by the vaping epidemic. Stop and frisk law enforcement strategies can result in significant harm, especially for minority and LGBT youth. Compliance checks with retailers are a better tool. The African American community has a complicated history with tobacco. Police stops can cause PTSD in youth of color. This is a step in the right direction.

OTHER: We agree that children and youth should not be using these dangerous substances. The number of enforcement actions initiated by law enforcement are low. Our officers encounter youth in parks, take their cigarettes, and that is the extent of it. I do not know how you can stop kids from using cigarettes if you pass this bill.

Persons Testifying: PRO: Senator Rebecca Saldaña, Prime Sponsor; Matt Helder, American Cancer Society Cancer Action Network; Mike Graham-Squire, Neighborhood House; Tuyet-Nhi Vo, Asian Pacific Islander Coalition Advocating Together For Health; Fel Pajimula, Public Health Seattle and King County; Fred Swanson, Gay City; Samantha Solis, El Centro De La Raza; Ben Yisrael, Healthy King County Coalition.

OTHER: James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.