
HOUSE BILL 2098

State of Washington

66th Legislature

2019 Regular Session

By Representatives Shea, Goodman, McCaslin, and Irwin

Read first time 02/19/19. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to clarifying the crime of engaging in the
2 business of purchasing or selling cigarettes or providing consumers
3 with access to commercial cigarette-making machines without a
4 license; and amending RCW 82.24.500 and 82.24.110.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 82.24.500 and 2012 2nd sp.s. c 4 s 11 are each
7 amended to read as follows:

8 (1) No person may engage in or conduct the business of
9 purchasing, selling, consigning, or distributing cigarettes in this
10 state without a license under this chapter, or providing consumers
11 with access to a commercial cigarette-making machine without a
12 license under this chapter. A violation of this section is a class C
13 felony.

14 (2) A person who violates this section may be prosecuted under
15 this section or under RCW 82.24.110, in the discretion of the
16 prosecutor in whose jurisdiction the crime occurred.

17 **Sec. 2.** RCW 82.24.110 and 2012 2nd sp.s. c 4 s 6 are each
18 amended to read as follows:

19 (1) Each of the following acts is a gross misdemeanor and
20 punishable as such:

- 1 (a) To sell, except as a licensed wholesaler engaged in
2 interstate commerce as to the article being taxed herein, without the
3 stamp first being affixed;
- 4 (b) To sell in Washington as a wholesaler to a retailer who does
5 not possess and is required to possess a current cigarette retailer's
6 license;
- 7 (c) To use or have in possession knowingly or intentionally any
8 forged or counterfeit stamps;
- 9 (d) For any person other than the department of revenue or its
10 duly authorized agent to sell any stamps not affixed to any of the
11 articles taxed herein whether such stamps are genuine or counterfeit;
- 12 (e) For any person other than the department of revenue, its duly
13 authorized agent, or a licensed wholesaler who has lawfully purchased
14 or obtained them to possess any stamps not affixed to any of the
15 articles taxed herein whether such stamps are genuine or counterfeit;
- 16 (f) To violate any of the provisions of this chapter;
- 17 (g) To violate any lawful rule made and published by the
18 department of revenue or the board;
- 19 (h) To use any stamps more than once or any individual stamped
20 box or similar container used to transport roll-your-own cigarettes
21 more than once;
- 22 (i) To refuse to allow the department of revenue or its duly
23 authorized agent, on demand, to make full inspection of any place of
24 business where any of the articles herein taxed are sold or otherwise
25 hinder or prevent such inspection;
- 26 (j) Except as otherwise provided in this chapter, for any
27 retailer to have in possession in any place of business any of the
28 articles herein taxed, unless the same have the proper stamps
29 attached;
- 30 (k) For any person to make, use, or present or exhibit to the
31 department of revenue or its duly authorized agent, any invoice for
32 any of the articles herein taxed which bears an untrue date or
33 falsely states the nature or quantity of the goods therein invoiced;
- 34 (l) For any wholesaler or retailer or his or her agents or
35 employees to fail to produce on demand of the department of revenue
36 all invoices of all the articles herein taxed or stamps bought by him
37 or her or received in his or her place of business within five years
38 prior to such demand unless he or she can show by satisfactory proof
39 that the nonproduction of the invoices was due to causes beyond his
40 or her control;

1 (m) For any person to receive in this state any shipment of any
2 of the articles taxed herein, when the same are not stamped, for the
3 purpose of avoiding payment of tax. It is presumed that persons other
4 than dealers who purchase or receive shipments of unstamped
5 cigarettes do so to avoid payment of the tax imposed herein;

6 (n) For any person to possess or transport in this state a
7 quantity of ten thousand cigarettes or less unless the proper stamps
8 required by this chapter have been affixed or unless: (i) Notice of
9 the possession or transportation has been given as required by RCW
10 82.24.250; (ii) the person transporting the cigarettes has in actual
11 possession invoices or delivery tickets which show the true name and
12 address of the consignor or seller, the true name and address of the
13 consignee or purchaser, and the quantity and brands of the cigarettes
14 so transported; and (iii) the cigarettes are consigned to or
15 purchased by any person in this state who is authorized by this
16 chapter to possess unstamped cigarettes in this state;

17 (o) For any person to possess or receive in this state a quantity
18 of ten thousand cigarettes or less unless the proper stamps required
19 by this chapter have been affixed or unless the person is authorized
20 by this chapter to possess unstamped cigarettes in this state and is
21 in compliance with the requirements of this chapter;

22 (p) To possess, sell, distribute, purchase, receive, ship, or
23 transport within this state any container or package of cigarettes
24 that does not comply with this chapter; and

25 (q) For a retailer to provide consumers with access to a
26 commercial cigarette-making machine without providing a box or
27 similar container that has a properly affixed stamp or stamps.

28 (2) It is unlawful for any person knowingly or intentionally to
29 possess or to:

30 (a) Transport in this state a quantity in excess of ten thousand
31 cigarettes unless the proper stamps required by this chapter are
32 affixed thereto or unless: (i) Proper notice as required by RCW
33 82.24.250 has been given; (ii) the person transporting the cigarettes
34 actually possesses invoices or delivery tickets showing the true name
35 and address of the consignor or seller, the true name and address of
36 the consignee or purchaser, and the quantity and brands of the
37 cigarettes so transported; and (iii) the cigarettes are consigned to
38 or purchased by a person in this state who is authorized by this
39 chapter to possess unstamped cigarettes in this state; or

1 (b) Receive in this state a quantity in excess of ten thousand
2 cigarettes unless the proper stamps required by this chapter are
3 affixed thereto or unless the person is authorized by this chapter to
4 possess unstamped cigarettes in this state and is in compliance with
5 this chapter.

6 (3) Violation of subsection (2) of this section is punished as a
7 class C felony under Title 9A RCW.

8 (4) All agents, employees, and others who aid, abet, or otherwise
9 participate in any way in the violation of the provisions of this
10 chapter or in any of the offenses described in this chapter are
11 guilty and punishable as principals, to the same extent as any
12 wholesaler or retailer or any other person violating this chapter.

13 (5) A person who violates RCW 82.24.500 may be prosecuted under
14 RCW 82.24.500 or under this section, in the discretion of the
15 prosecutor in whose jurisdiction the crime occurred.

16 (6) For purposes of this section, "person authorized by this
17 chapter to possess unstamped cigarettes in this state" has the same
18 meaning as in RCW 82.24.250.

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