

FINAL BILL REPORT

ESSB 5365

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Synopsis as Enacted

Brief Description: Preventing use of vapor and tobacco products by minors.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Saldaña, Lias, Billig, Dhingra, Hunt, Lovelett, Nguyen, Pedersen, Randall, Robinson, Stanford, Valdez, Wellman and Wilson, C.).

Senate Committee on Labor & Commerce
House Committee on Regulated Substances & Gaming

Background: Penalties and Sanctions Against Cigarette and Tobacco and Vapor Product Licensees. The Liquor and Cannabis Board (LCB) may suspend or revoke cigarette and tobacco products retailer licenses or may impose a monetary penalty, if it finds a violation of certain laws related to selling or giving cigarette, tobacco, or vapor products to minors. This law makes it a gross misdemeanor to sell, give or permit to be sold or given certain products to any person under 21 years of age. The products include any cigar, cigarette, cigarette paper or wrapper, tobacco in any form, or a vapor product.

The monetary penalties the LCB may impose against cigarette and tobacco products retailer licensees and vapor products retailer licensees may not exceed the following:

- \$200 for the first violation within any three-year period;
- \$600 for the second violation within any three-year period;
- \$2,000 and suspension of the license for six months for the third violation within any three-year period; and
- \$3,000 and suspension of the license for 12 months for the fourth violation within any three-year period.

LCB may revoke the license with no possibility of reinstatement for five years for the fifth or more violation within any three-year period.

Each subsequent violation of either of the person's license counts as an additional violation within that three-year period.

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

LCB may take other actions for violating these provisions, including monetary penalties against non-licensees, issuing a cease and desist order, seeking injunctive relief, and initiating legal action. The LCB may waive or reduce penalties or licensing actions under certain circumstances.

A peace officer or LCB officer may detain persons under 21 to determine their identity and date of birth, and seize the products.

Sanctions and Fines for Purchasing, Possessing Cigarette, Tobacco or Vapor Products by Persons Under Eighteen. A person under the age of 18 who purchases or attempts to purchase, possesses, or obtains or attempts to obtain cigarette, tobacco, or vapor products commits a class 3 civil infraction, and is subject to a fine up to \$50 or participation in up to four hours of community restitution, or both. A court may also require participation in a smoking cessation program. This provision does not apply if a person under the age of 18, with parental authorization, is participating in a controlled purchase as part of an LCB, law enforcement, or local health department activity.

Summary: Increases Penalties. The maximum monetary penalties the LCB may impose against cigarette and tobacco products retailer licensees and vapor products retailer licensees for violations of provisions related to selling or giving cigarette, tobacco, or vapor products to persons under 21 are increased to the following:

- \$1,000 for the first violation within any three-year period;
- \$2,500 for the second violation within any three-year period;
- \$5,000 and suspension of the license for six months for the third violation within any three-year period; and
- \$10,000 and suspension of the license for 12 months for the fourth violation within any three-year period.

For the fifth or more violation within a three-year period, license revocation without the possibility of reinstatement for a period of five years is retained. Ninety percent of these penalties will be deposited into the Youth Tobacco and Vapor Products Prevention Account. The remaining 10 percent will be deposited into the state general fund.

Modifying Provisions Related to Persons Under Age 18. The sanctions and fines for purchasing, possessing cigarette, tobacco, or vapor products by persons under 18 are modified to participation in up to four hours of community service and referral to a smoking cessation program at no cost. Only LCB enforcement officers may detain persons under 18 to determine their identity and date of birth, and seize the products if the actions are in proximity to a retailer licensee, which is within 100 feet or less.

Reporting and Other Provisions Regarding Detaining Persons. Any LCB enforcement officer who detains certain persons under 21 must collect the following information for each fiscal year since 2018:

- the total number of interactions where an enforcement officer detained a person;
- information on the nature of each interaction, including the duration of the interaction, the justification for the interaction, the number of such persons who were under 18 years of age, the number of such persons who were over 18 but under 21 years of age, and whether any citation or warning was issued;
- how many interactions converted to administrative violation notices; and
- how many of the interactions and administrative violation notices converted to retailer education and violations.

LCB must compile the collected information along with any associated demographic data in its possession, and conduct a comparative analysis of all interactions of enforcement officers with persons detained while enforcing liquor and cannabis laws and provide the appropriate legislative committees with an annual report beginning on December 1, 2023.

All enforcement officers of LCB who enforce these provisions and will have interactions with persons under the age of 18 years old must begin receiving training from the United States Department of Justice Office of Juvenile Justice and Delinquency Prevention before July 1, 2024.

Other Provisions. LCB, law enforcement, or a local health department may, with parental authorization, include persons under the age of 18 in compliance activities. Legislative findings are made related to vapor and tobacco usage by persons under the age of 21.

The act is not to be interpreted to limit a peace officer or an LCB enforcement officer enforcement authority for laws related to giving and selling cigarette and vapor products to persons under age 21 and prohibiting sales or cigarettes without a license.

Votes on Final Passage:

Senate	29	19	
House	57	39	(House amended)
Senate	26	22	(Senate concurred)

Effective: July 23, 2023