
HOUSE BILL 1534

State of Washington

69th Legislature

2025 Regular Session

By Representatives Santos, Wylie, Parshley, Scott, Leavitt, Reeves, Doglio, Tharinger, Nance, Corry, Ybarra, Couture, McClintock, Hackney, Berry, Davis, Dufault, Ramel, Reed, Mendoza, Obras, Gregerson, Kloba, Callan, Shavers, Peterson, Zahn, Ormsby, Pollet, and Hill

Read first time 01/23/25. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to protecting public health and safety by
2 enhancing the regulation of tobacco products, alternative nicotine
3 products, and vapor products; amending RCW 26.28.080, 70.155.010,
4 70.155.090, 70.155.100, 70.345.010, 70.345.030, 82.25.030, 82.25.095,
5 82.26.010, 82.26.020, 82.26.060, 82.26.190, 82.26.200, 82.26.240, and
6 42.56.270; adding new sections to chapter 70.345 RCW; and prescribing
7 penalties.

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

9 **Sec. 1.** RCW 26.28.080 and 2019 c 15 s 1 are each amended to read
10 as follows:

11 (1) A person who sells or gives, or permits to be sold or given,
12 to any person under the age of twenty-one years any cigar, cigarette,
13 cigarette paper or wrapper, tobacco in any form, alternative nicotine
14 product, or a vapor product is guilty of a gross misdemeanor and is
15 additionally liable for a fine of up to \$500.

16 (2) It is not a defense to a prosecution for a violation of this
17 section that the person acted, or was believed by the defendant to
18 act, as agent or representative of another.

19 (3) For the purposes of this section(~~(, "vapor")~~):

20 (a) "Alternative nicotine product" has the same meaning as
21 provided in RCW 82.26.010; and

1 (b) "Vapor product" has the same meaning as provided in RCW
2 70.345.010.

3 **Sec. 2.** RCW 70.155.010 and 2019 c 15 s 3 are each amended to
4 read as follows:

5 The definitions set forth in RCW 82.24.010 apply to this chapter.
6 In addition, for the purposes of this chapter, unless otherwise
7 required by the context:

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

9 (2) "Internet" means any computer network, telephonic network, or
10 other electronic network.

11 (3) "Sample" means a tobacco product distributed to members of
12 the general public at no cost or at nominal cost for product
13 promotion purposes.

14 (4) "Sampling" means the distribution of samples to members of
15 the public.

16 (5) "Tobacco product" means an alternative nicotine product as
17 defined in RCW 82.26.010 or a product that contains tobacco and is
18 intended for human use, including any product defined in RCW
19 82.24.010(2) or 82.26.010(~~((21))~~) (22), except that for the purposes
20 of RCW 70.155.140 only, "tobacco product" does not include cigars
21 defined in RCW 82.26.010 as to which one thousand units weigh more
22 than three pounds.

23 (6) "Vapor product" has the same meaning as defined in RCW
24 70.345.010.

25 **Sec. 3.** RCW 70.155.090 and 2006 c 14 s 4 are each amended to
26 read as follows:

27 (1) (~~Where there may be a question of a person's right to~~
28 ~~purchase or obtain tobacco products by reason of age, the)) A
29 retailer or agent ((thereof,)) shall require the purchaser of a
30 tobacco product or vapor product to present any one of the following
31 officially issued identification that shows the purchaser's age and
32 bears his or her signature and photograph: (a) Liquor control
33 authority card of identification of a state or province of Canada;
34 (b) driver's license, instruction permit, or identification card of a
35 state or province of Canada; (c) "identocard" issued by the
36 Washington state department of licensing under chapter 46.20 RCW; (d)
37 United States military identification; (e) passport; (f) enrollment
38 card, issued by the governing authority of a federally recognized~~

1 Indian tribe located in Washington, that incorporates security
2 features comparable to those implemented by the department of
3 licensing for Washington drivers' licenses. At least ninety days
4 prior to implementation of an enrollment card under this subsection,
5 the appropriate tribal authority shall give notice to the board. The
6 board shall publish and communicate to licensees regarding the
7 implementation of each new enrollment card; or (g) merchant marine
8 identification card issued by the United States coast guard.

9 (2) It is a defense to a prosecution under RCW 26.28.080 that the
10 person making a sale reasonably relied on any of the officially
11 issued identification as defined in subsection (1) of this section.
12 The liquor (~~control~~) and cannabis board shall waive the suspension
13 or revocation of a license if the licensee clearly establishes that
14 he or she acted in good faith to prevent violations and a violation
15 occurred despite the licensee's exercise of due diligence.

16 **Sec. 4.** RCW 70.155.100 and 2023 c 398 s 4 are each amended to
17 read as follows:

18 (1) The liquor and cannabis board may suspend or revoke a
19 retailer's license issued under RCW 82.24.510(1)(b) or
20 82.26.150(1)(b) held by a business at any location, or may impose a
21 monetary penalty as set forth in subsection (3) of this section, if
22 the liquor and cannabis board finds that the licensee has violated
23 RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040, 70.155.050,
24 70.155.070, or 70.155.090.

25 (2) Any retailer's licenses issued under RCW 70.345.020 to a
26 person whose license or licenses under chapter 82.24 or 82.26 RCW
27 have been suspended or revoked for violating RCW 26.28.080 must also
28 be suspended or revoked during the period of suspension or revocation
29 under this section.

30 (3) The sanctions that the liquor and cannabis board may impose
31 against a person licensed under RCW 82.24.530 or 82.26.170 based upon
32 one or more findings under subsection (1) of this section may not
33 exceed the following:

34 (a) For violations of RCW 70.155.020 or 21 C.F.R. Sec. 1140.14,
35 and for violations of RCW 70.155.040 occurring on the licensed
36 premises:

37 (i) A monetary penalty of \$200 for the first violation within any
38 (~~three-year~~) two-year period;

1 (ii) A monetary penalty of \$600 for the second violation within
2 any (~~(three-year)~~) two-year period;

3 (iii) A monetary penalty of \$2,000 and suspension of the license
4 for a period of six months for the third violation within any
5 (~~(three-year)~~) two-year period;

6 (iv) A monetary penalty of \$3,000 and suspension of the license
7 for a period of 12 months for the fourth violation within any
8 (~~(three-year)~~) two-year period;

9 (v) (~~(Revocation)~~) A monetary penalty of \$5,000 and revocation of
10 the license with no possibility of reinstatement for a period of five
11 years for the fifth or more violation within any (~~(three-year)~~) two-
12 year period;

13 (b) For violations of RCW 26.28.080:

14 (i) A monetary penalty of (~~(\$1,000)~~) \$1,500 for the first
15 violation within any (~~(three-year)~~) two-year period;

16 (ii) A monetary penalty of (~~(\$2,500)~~) \$3,000 for the second
17 violation within any (~~(three-year)~~) two-year period;

18 (iii) A monetary penalty of (~~(\$5,000)~~) \$6,000 and suspension of
19 the license for a period of six months for the third violation within
20 any (~~(three-year)~~) two-year period;

21 (iv) A monetary penalty of (~~(\$10,000)~~) \$12,000 and suspension of
22 the license for a period of 12 months for the fourth violation within
23 any (~~(three-year)~~) two-year period;

24 (v) (~~(Revocation)~~) A monetary penalty of \$15,000 and revocation
25 of the license with no possibility of reinstatement for a period of
26 five years for the fifth or more violation within any (~~(three-year)~~)
27 two-year period;

28 (c) If the board finds that a person licensed under chapter 82.24
29 or 82.26 RCW and RCW 70.345.020 has violated RCW 26.28.080, each
30 subsequent violation of either of the person's licenses counts as an
31 additional violation within that (~~(three-year)~~) two-year period;

32 (d) For violations of RCW 70.155.030, a monetary penalty in the
33 amount of \$100 for each day upon which such violation occurred;

34 (e) For violations of RCW 70.155.050, a monetary penalty in the
35 amount of \$600 for each violation;

36 (f) For violations of RCW 70.155.070, a monetary penalty in the
37 amount of \$2,000 for each violation.

38 (4) The liquor and cannabis board may impose a monetary penalty
39 upon any person other than a licensed cigarette or tobacco product
40 retailer if the liquor and cannabis board finds that the person has

1 violated RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040,
2 70.155.050, 70.155.070, or 70.155.090.

3 (5) The monetary penalty that the liquor and cannabis board may
4 impose based upon one or more findings under subsection (4) of this
5 section may not exceed the following:

6 (a) For violation of RCW 26.28.080 or 70.155.020, \$100 for the
7 first violation and \$200 for each subsequent violation;

8 (b) For violations of RCW 70.155.030, \$200 for each day upon
9 which such violation occurred;

10 (c) For violations of RCW 70.155.040, \$200 for each violation;

11 (d) For violations of RCW 70.155.050, \$600 for each violation;

12 (e) For violations of RCW 70.155.070, \$2,000 for each violation.

13 (6) The liquor and cannabis board may develop and offer a class
14 for retail clerks and use this class in lieu of a monetary penalty
15 for the clerk's first violation.

16 (7) The liquor and cannabis board may issue a cease and desist
17 order to any person who is found by the liquor and cannabis board to
18 have violated or intending to violate the provisions of this chapter,
19 RCW 26.28.080, 82.24.500, or 82.26.190 requiring such person to cease
20 specified conduct that is in violation. The issuance of a cease and
21 desist order does not preclude the imposition of other sanctions
22 authorized by this statute or any other provision of law.

23 (8) The liquor and cannabis board may seek injunctive relief to
24 enforce the provisions of RCW 26.28.080, 82.24.500, 82.26.190 or this
25 chapter. The liquor and cannabis board may initiate legal action to
26 collect civil penalties imposed under this chapter if the same have
27 not been paid within thirty days after imposition of such penalties.
28 In any action filed by the liquor and cannabis board under this
29 chapter, the court may, in addition to any other relief, award the
30 liquor and cannabis board reasonable attorneys' fees and costs.

31 (9) All proceedings under subsections (1) through (7) of this
32 section shall be conducted in accordance with chapter 34.05 RCW.

33 (10) The liquor and cannabis board may reduce or waive either the
34 penalties or the suspension or revocation of a license, or both, as
35 set forth in this chapter where the elements of proof are inadequate
36 or where there are mitigating circumstances. Mitigating circumstances
37 may include, but are not limited to, an exercise of due diligence by
38 a retailer. Further, the board may exceed penalties set forth in this
39 chapter based on aggravating circumstances.

1 **Sec. 5.** RCW 70.345.010 and 2022 c 16 s 135 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Alternative nicotine product" has the same meaning as
6 provided in RCW 82.26.010.

7 ~~(2)~~ (2) "Board" means the Washington state liquor and cannabis board.

8 ~~((+2))~~ (3) "Business" means any trade, occupation, activity, or
9 enterprise engaged in for the purpose of selling or distributing
10 vapor products in this state.

11 ~~((+3))~~ (4) "Child care facility" has the same meaning as
12 provided in RCW 70A.320.020.

13 ~~((+4))~~ (5) "Closed system nicotine container" means a sealed,
14 prefilled, and disposable container of nicotine in a solution or
15 other form in which such container is inserted directly into an
16 electronic cigarette, electronic nicotine delivery system, or other
17 similar product, if the nicotine in the container is inaccessible
18 through customary or reasonably foreseeable handling or use,
19 including reasonably foreseeable ingestion or other contact by
20 children.

21 ~~((+5))~~ (6) "Delivery sale" means any sale of a vapor product to
22 a purchaser in this state where either:

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

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

31 ~~((+6))~~ (7) "Delivery seller" means a person who makes delivery
32 sales.

33 ~~((+7))~~ (8) "Directory" means the directory established in
34 section 10 of this act.

35 (9) "Distributor" has the same meaning as in RCW 82.25.005.

36 ~~((+8))~~ (10) "Liquid nicotine container" means a package from
37 which nicotine in a solution or other form is accessible through
38 normal and foreseeable use by a consumer and that is used to hold
39 soluble nicotine in any concentration. "Liquid nicotine container"
40 does not include closed system nicotine containers.

1 ~~((9))~~ (11) "Manufacturer" means a person who manufactures and
2 sells vapor products.

3 ~~((10))~~ (12) "Person" means any individual, receiver,
4 administrator, executor, assignee, trustee in bankruptcy, trust,
5 estate, firm, copartnership, joint venture, club, company, joint
6 stock company, business trust, municipal corporation, the state and
7 its departments and institutions, political subdivision of the state
8 of Washington, corporation, limited liability company, association,
9 society, any group of individuals acting as a unit, whether mutual,
10 cooperative, fraternal, nonprofit, or otherwise.

11 ~~((11))~~ (13) "Place of business" means any place where vapor
12 products are sold or where vapor products are manufactured, stored,
13 or kept for the purpose of sale.

14 ~~((12))~~ (14) "Playground" means any public improved area
15 designed, equipped, and set aside for play of six or more children
16 which is not intended for use as an athletic playing field or
17 athletic court, including but not limited to any play equipment,
18 surfacing, fencing, signs, internal pathways, internal land forms,
19 vegetation, and related structures.

20 ~~((13))~~ (15) "Retail outlet" means each place of business from
21 which vapor products are sold to consumers.

22 ~~((14))~~ (16) "Retailer" means any person engaged in the business
23 of selling vapor products to ultimate consumers.

24 ~~((15))~~ (17) (a) "Sale" means any transfer, exchange, or barter,
25 in any manner or by any means whatsoever, for a consideration, and
26 includes and means all sales made by any person.

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

30 ~~((16))~~ (18) "School" has the same meaning as provided in RCW
31 70A.320.020.

32 ~~((17))~~ (19) "Self-service display" means a display that
33 contains vapor products and is located in an area that is openly
34 accessible to customers and from which customers can readily access
35 such products without the assistance of a salesperson. A display case
36 that holds vapor products behind locked doors does not constitute a
37 self-service display.

38 ~~((18))~~ (20) "Timely filed premarket tobacco product
39 application" means an application under 21 U.S.C. Sec. 387j for a
40 vapor product containing nicotine derived from tobacco marketed in

1 the United States as of August 8, 2016, that was submitted to the
2 food and drug administration on or before September 9, 2020, and
3 accepted for filing.

4 (21) "Vapor product" means any noncombustible product that may
5 contain nicotine and that employs a heating element, power source,
6 electronic circuit, or other electronic, chemical, or mechanical
7 means, regardless of shape or size, that can be used to produce vapor
8 or aerosol from a solution or other substance.

9 (a) "Vapor product" includes any electronic cigarette, electronic
10 cigar, electronic cigarillo, electronic pipe, or similar product or
11 device and any vapor cartridge or other container that may contain
12 nicotine in a solution or other form that is intended to be used with
13 or in an electronic cigarette, electronic cigar, electronic
14 cigarillo, electronic pipe, or similar product or device.

15 (b) "Vapor product" does not include any product that meets the
16 definition of cannabis, useable cannabis, cannabis concentrates,
17 cannabis-infused products, cigarette, alternative nicotine products,
18 or tobacco products.

19 (c) For purposes of this subsection (~~((18))~~) (21), "cannabis,"
20 "useable cannabis," "cannabis concentrates," and "cannabis-infused
21 products" have the same meaning as provided in RCW 69.50.101.

22 **Sec. 6.** RCW 70.345.030 and 2019 c 445 s 211 are each amended to
23 read as follows:

24 (1)(a) No person may engage in or conduct business as a retailer,
25 distributor, or delivery seller in this state without a valid license
26 issued under this chapter, except as otherwise provided by law. Any
27 person who sells vapor products to ultimate consumers by a means
28 other than delivery sales must obtain a retailer's license under this
29 chapter. Any person who meets the definition of distributor under
30 this chapter must obtain a distributor's license under this chapter.
31 Any person who conducts delivery sales of vapor products must obtain
32 a delivery sale license.

33 (b) A retailer may obtain vapor products only from a licensed
34 distributor. A retailer that obtains vapor products from any person
35 that is not licensed under this chapter, including directly from a
36 manufacturer, must be licensed both as a retailer and a distributor
37 under this chapter and is liable for the tax imposed under RCW
38 82.25.010 with respect to the vapor products acquired from the

1 unlicensed person that are held for sale, handling, or distribution
2 in this state.

3 (c) A violation of this subsection is punishable as a class C
4 felony according to chapter 9A.20 RCW. Products offered for sale in
5 violation of this subsection are contraband and subject to seizure in
6 accordance with RCW 82.25.095.

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

14 (3) Any person licensed under this chapter as a distributor, any
15 person licensed under this chapter as a retailer, and any person
16 licensed under this chapter as a delivery seller may not operate in
17 any other capacity unless the additional appropriate license is first
18 secured, except as otherwise provided by law. A violation of this
19 subsection is a misdemeanor.

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

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

29 NEW SECTION. Sec. 7. A new section is added to chapter 70.345
30 RCW to read as follows:

31 (1) By October 1, 2025, and annually thereafter, every
32 manufacturer of a vapor product that contains nicotine that is sold
33 for retail sale in this state or to a consumer in this state, whether
34 directly or through a distributor, wholesaler, retailer, delivery
35 seller, or similar intermediary or intermediaries, shall execute and
36 deliver to the board a certification, under penalty of perjury on a
37 form and in a manner prescribed by the board, that the manufacturer
38 is compliant with this chapter and that, for each vapor product sold
39 for retail sale in this state or to a consumer in this state:

1 (a) The manufacturer has received a marketing granted order for
2 the vapor product from the food and drug administration under 21
3 U.S.C. Sec. 387j;

4 (b) The manufacturer submitted a timely filed premarket tobacco
5 product application for the vapor product to the food and drug
6 administration under 21 U.S.C. Sec. 387j, and the application either
7 remains under review by the food and drug administration or has
8 received a denial order that has been and remains stayed by the food
9 and drug administration or court order, rescinded by the food and
10 drug administration, or vacated by a court; or

11 (c) The manufacturer is not required to submit an additional
12 marketing granted order or premarket tobacco product application for
13 the vapor product because the vapor product merely reflects changes
14 to the name, brand style, or packaging of a vapor product that is
15 covered under (a) or (b) of this subsection.

16 (2) The certification form must list for each vapor product
17 containing nicotine that is sold in this state: Brand name; product
18 name; category including but not limited to disposable vapor product,
19 power unit, device, e-liquid cartridge, or e-liquid pod; and flavor.

20 (3) Each certification form must be accompanied by:

21 (a) A copy of: (i) The marketing granted order issued by the food
22 and drug administration under 21 U.S.C. Sec. 387j; (ii) a copy of the
23 acceptance letter issued by the food and drug administration under 21
24 U.S.C. Sec. 387j for a timely filed premarket tobacco product
25 application; or (iii) a document issued by the food and drug
26 administration or by a court confirming that the premarket tobacco
27 product application has received a denial order that has been and
28 remains stayed by the food and drug administration or court order,
29 rescinded by the food and drug administration or vacated by a court;
30 and

31 (b) A payment of a \$1,000 fee for each vapor product containing
32 nicotine the first time an annual certification form is delivered to
33 the board and a payment of a \$500 fee for each vapor product
34 containing nicotine the second and each subsequent time an annual
35 certification form is delivered to the board.

36 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.345
37 RCW to read as follows:

1 Information submitted by a manufacturer under section 7(3)(a) of
2 this act is confidential and exempt from public disclosure under RCW
3 42.56.270.

4 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.345
5 RCW to read as follows:

6 A manufacturer required to submit a certification form under
7 section 7 of this act must notify the attorney general within 30 days
8 of any material change to the certification form, including the
9 issuance or denial of a marketing authorization or other order by the
10 food and drug administration under 21 U.S.C. Sec. 387j, or any other
11 order or action by the food and drug administration or any court that
12 affects the ability of the vapor product containing nicotine to be
13 introduced or delivered into interstate commerce for commercial
14 distribution in the United States.

15 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.345
16 RCW to read as follows:

17 (1) Starting January 1, 2026, the board shall maintain and make
18 publicly available on its website a directory that lists all
19 manufacturers and vapor products containing nicotine including brand
20 names, product names, categories including disposable vapor product,
21 e-liquid, e-liquid cartridge, e-liquid pod, and power unit, and
22 flavors, for which certification forms have been submitted and
23 approved by the board.

24 (2) The board must update the directory at least monthly to
25 ensure accuracy, and establish a process to provide licensed
26 retailers, distributors, and other relevant parties notice of the
27 initial publication of the directory and changes made to the
28 directory in the previous month.

29 (3) No manufacturer or the manufacturer's vapor products
30 containing nicotine may be included or retained in the directory if
31 the board determines that any of the following apply:

32 (a) The manufacturer failed to provide a complete and accurate
33 certification as required by section 7(1) of this act;

34 (b) The manufacturer submitted a certification that does not
35 comply with the requirements of section 7 (2) or (3) of this act;

36 (c) The manufacturer failed to include with its certification the
37 payment required by section 7(3)(b) of this act;

1 (d) The manufacturer sold vapor products containing nicotine in
2 this state required to be certified under this chapter during a
3 period when either the manufacturer or the vapor product had not been
4 certified and listed on the directory; or

5 (e) The information provided by the manufacturer in its
6 certification is determined by the attorney general to contain false
7 information or contains material misrepresentations or omissions.

8 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.345
9 RCW to read as follows:

10 (1) The board must provide manufacturers notice and an
11 opportunity to cure deficiencies before removing manufacturers or
12 vapor products containing nicotine from the directory.

13 (2) The board may not remove the manufacturer or its vapor
14 products containing nicotine from the directory until at least 30
15 days after the manufacturer has been given notice of an intended
16 action setting forth the reasons for removal. Notice is sufficient
17 and deemed to be immediately received by a manufacturer if the notice
18 is sent either electronically or by facsimile to an email address or
19 facsimile number, as the case may be, provided by the manufacturer in
20 its most recent certification filed under section 7 (2) and (3) of
21 this act.

22 (3) The manufacturer has 15 days from the date of service of the
23 notice of the board's intended action to cure the deficiencies or
24 otherwise establish that the manufacturer or its vapor products
25 containing nicotine should be included in the directory.

26 (4) Retailers have 30 days following the removal of a
27 manufacturer or its vapor products containing nicotine from the
28 directory to sell such vapor products that were in the retailer's
29 inventory as of the date of removal.

30 (5) After 30 days following removal from the directory, the vapor
31 products containing nicotine of a manufacturer identified in the
32 notice of removal and intended for retail sale in this state or to a
33 consumer in this state are subject to seizure, in accordance with RCW
34 82.25.095, from distributors and retailers, forfeiture from
35 distributors and retailers, and destruction or disposal, and may not
36 be purchased or sold for retail sale in this state or to a consumer
37 in this state. The cost of the seizure, forfeiture, and destruction
38 or disposal must be borne by the person from whom the vapor products
39 are confiscated.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.345
2 RCW to read as follows:

3 (1) Except as provided in subsections (2) and (3) of this
4 section, beginning January 1, 2026, or on the date that the board
5 first makes the directory available for public inspection on its
6 official website, whichever is later, vapor products containing
7 nicotine not included in the directory may not be sold for retail
8 sale in this state, either directly or through an importer,
9 distributor, wholesaler, retailer, or similar intermediary or
10 intermediaries.

11 (2) Each retailer has 60 days from the date that the board first
12 makes the directory available for inspection on its public website to
13 sell vapor products containing nicotine that were in its inventory
14 and not included in the directory or remove those vapor products from
15 inventory.

16 (3) Each distributor or wholesaler has 60 days from the date that
17 the board first makes the directory available for inspection on its
18 public website to remove vapor products containing nicotine intended
19 for retail sale in the state that are not included in the directory
20 from its inventory.

21 (4) After 60 days following publication of the directory, vapor
22 products containing nicotine not listed in the directory and intended
23 for retail sale in this state or to a consumer in this state are
24 subject to seizure, forfeiture, and destruction or disposal, and may
25 not be purchased or sold for retail sale in this state or to a
26 consumer in this state except as provided in subsections (2) and (3)
27 of this section. The cost of such seizure, forfeiture, and
28 destruction or disposal must be borne by the person from whom the
29 vapor products are confiscated.

30 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.345
31 RCW to read as follows:

32 The following penalties apply to violations of sections 7 through
33 17 of this act:

34 (1)(a) In addition to, or in lieu of, any other civil or criminal
35 remedy provided by law, a retailer, distributor, wholesaler, or
36 importer, who sells or offers for sale a vapor product containing
37 nicotine for retail sale in this state or to a consumer in this state
38 that is not included in the directory is subject to a civil penalty

1 of \$500 for each individual vapor product containing nicotine offered
2 for sale in violation of sections 7 through 17 of this act.

3 (b) For a second violation of (a) of this subsection within a 12-
4 month period, the civil penalty must be at least \$750 but not more
5 than \$1,000 per vapor product containing nicotine and the licensee's
6 license must be suspended for 30 days.

7 (c) For a third violation of (a) of this subsection within a 12-
8 month period, the civil penalty must be at least \$1,000 but not more
9 than \$1,500 per vapor product containing nicotine and the licensee's
10 license must be revoked;

11 (2) A manufacturer whose vapor products containing nicotine are
12 not listed in the directory and who causes the vapor products
13 containing nicotine that are not listed to be sold for retail sale in
14 this state, whether directly or through an importer, distributor,
15 wholesaler, retailer, or similar intermediary or intermediaries, is
16 subject to a civil penalty of \$10,000 for each individual vapor
17 product offered for sale in violation of this section. In addition,
18 any manufacturer that falsely represents any information required by
19 a certification form is guilty of a class C misdemeanor for each
20 false representation;

21 (3) In an action under this section, the state is entitled to
22 recover costs, including the costs of investigation, expert witness
23 fees, and reasonable attorneys' fees;

24 (4) Vapor products containing nicotine offered for sale in
25 violation of sections 7 through 17 of this act are considered
26 contraband and may be seized and disposed of or destroyed by an
27 enforcement officer of the board. The cost of seizure and disposal or
28 destruction must be borne by the person from whom the vapor products
29 are confiscated, and not by the board;

30 (5) The board may seek recovery of the penalty in a civil action
31 in superior court;

32 (6) The board may seek an injunction in superior court to
33 restrain a threatened or actual violation of this section and to
34 compel compliance with this section; and

35 (7) A second or subsequent violation of sections 7 through 17 of
36 this act is not reasonable in relation to the development and
37 preservation of business and is an unfair and deceptive act or
38 practice and an unfair method of competition in the conduct of trade
39 or commerce in violation of RCW 19.86.020. Standing to bring an
40 action to enforce RCW 19.86.020 for violation of this section lies

1 solely with the attorney general. Remedies provided by chapter 19.86
2 RCW are cumulative and not exclusive.

3 NEW SECTION. **Sec. 14.** A new section is added to chapter 70.345
4 RCW to read as follows:

5 Each retailer, distributor, and wholesaler that sells or
6 distributes vapor products containing nicotine in this state are
7 subject to at least two unannounced compliance checks annually for
8 purposes of enforcing this section. Unannounced follow-up compliance
9 checks of all noncompliant retailers, distributors, and wholesalers
10 must be conducted within 30 days after any violation of sections 7
11 through 17 of this act. The board must publish the results of all
12 compliance checks at least annually and make the results available to
13 the public on request. The requirements of this section do not apply
14 to an Indian tribal organization, Indian retailer, or Indian
15 distributor, as those terms are defined in RCW 82.25.105.

16 NEW SECTION. **Sec. 15.** A new section is added to chapter 70.345
17 RCW to read as follows:

18 (1) Any nonresident or foreign manufacturer that has not
19 registered to do business in the state as a foreign corporation or
20 business entity must, as a condition precedent to having its vapor
21 products containing nicotine included or retained in the directory,
22 appoint and continually engage without interruption the services of
23 an agent in this state to act as agent for the service of process on
24 whom all process, and any action or proceeding against it concerning
25 or arising out of the enforcement of sections 7 through 17 of this
26 act, may be served in any manner authorized by law. The service must
27 constitute legal and valid service of process on the manufacturer.
28 The manufacturer must provide the name, address, phone number, and
29 proof of the appointment and availability of the agent to the
30 satisfaction of the board.

31 (2) The manufacturer must provide notice to the board 30 days
32 before termination of the authority of an agent and must further
33 provide proof to the satisfaction of the board of the appointment of
34 a new agent no fewer than five days before the termination of an
35 existing agent appointment. If an agent terminates an agency
36 appointment, the manufacturer must notify the board of the
37 termination within five days and include proof to the satisfaction of
38 the board of the appointment of a new agent.

1 (3) Any manufacturer whose vapor products containing nicotine are
2 sold in this state, who has not appointed and engaged an agent as
3 required in this section, must be deemed to have appointed the
4 secretary of state as the agent and may be proceeded against in
5 courts of this state by service of process upon the secretary of
6 state. However, the appointment of the secretary of state as agent
7 does not satisfy the condition precedent for having the vapor
8 products containing nicotine of the manufacturer included or retained
9 in the directory.

10 NEW SECTION. **Sec. 16.** A new section is added to chapter 70.345
11 RCW to read as follows:

12 (1) Any nonresident or foreign manufacturer that has not
13 registered to do business in the state as a foreign corporation or
14 business entity must, as a condition precedent to having its name or
15 its vapor products containing nicotine listed and retained in the
16 directory, submit to the board a surety bond or other cash security
17 payable to the state of Washington in the amount of \$25,000. The bond
18 must be posted by a corporate surety located within the United
19 States.

20 (2) The bond under subsection (1) of this section must be
21 conditioned on the performance by the manufacturer of all
22 requirements and obligations imposed by this section. A surety on a
23 manufacturer's bond is liable up to the amount of the bond and the
24 state may execute on the surety bond for the payment of fines and
25 penalties imposed on the manufacturer under section 13 of this act
26 and for the costs of seizure and destruction of products sold in
27 violation of sections 7 through 17 of this act. If the state executes
28 on the surety bond, it may require the manufacturer to provide an
29 additional bond as a condition precedent for retaining the
30 manufacturer or its vapor products containing nicotine in the
31 directory.

32 (3) A surety on a bond furnished by a manufacturer as provided in
33 this section must be released and discharged from liability to the
34 state accruing on the bond after 60 days from the date upon which the
35 surety has filed with the board a written request to be released and
36 discharged. This subsection does not operate to relieve, release, or
37 discharge the surety from liability already accrued or that accrues
38 before the expiration of the 60-day period. The board must, upon
39 receiving a request under this subsection, notify the manufacturer

1 who furnished the bond. The board must remove the manufacturer and
2 its vapor products containing nicotine from the directory unless the
3 manufacturer files a new bond with the board before the expiration of
4 the 60-day period, with the surety approved by and acceptable to the
5 board.

6 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.345
7 RCW to read as follows:

8 (1) Nicotine analogue means a substance:

9 (a) Chemical structure of which is substantially similar to the
10 chemical structure of nicotine; or

11 (b) That has, purports to have, or is represented to have, an
12 effect on the central nervous system that is similar to or greater
13 than the effect on the central nervous system of nicotine.

14 (2) Factors relevant to determining whether a substance is a
15 nicotine analogue include, but are not limited to, the marketing,
16 advertising, and labeling of the substance, and whether the substance
17 has been manufactured, formulated, sold, distributed, or marketed
18 with the intent to avoid sections 7 through 16 of this act or other
19 application provisions of law.

20 (3) It is unlawful for any person to sell, give, deliver, or
21 furnish to a person in this state a product that contains a nicotine
22 analogue.

23 (4) Violations of this section are subject to the following
24 penalties:

25 (a) A monetary penalty of \$1,500 for the first violation within
26 any 12-month period;

27 (b) A monetary penalty of \$3,000 for the second violation within
28 any 12-month period;

29 (c) A monetary penalty of \$6,000 and suspension of a license
30 issued under this chapter for a period of six months for the third
31 violation within any 12-month period;

32 (d) A monetary penalty of \$12,000 and suspension of a license
33 issued under this chapter for a period of 12 months for the fourth
34 violation within any 12-month period;

35 (e) A monetary penalty of \$15,000 and revocation of a license
36 issued under this chapter with no possibility of reinstatement for a
37 period of five years for the fifth or a subsequent violation within
38 any three-year period.

1 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.345
2 RCW to read as follows:

3 (1) The board may adopt rules necessary to implement sections 7
4 through 17 of this act.

5 (2) Starting July 1, 2026, and annually thereafter, the board
6 must provide a report to the legislature regarding: The status of the
7 directory, manufacturers, and vapor products containing nicotine
8 included in the directory; revenue and expenditures related to
9 administration of this section; and enforcement activities undertaken
10 under sections 7 through 17 of this act.

11 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.345
12 RCW to read as follows:

13 The vapor product nicotine directory account is created in the
14 state treasury. All receipts from monetary penalties under sections 7
15 through 18 of this act must be deposited into the account. Moneys in
16 the account may be spent only after appropriation. Expenditures from
17 the account may only be used by the board for implementation of
18 sections 7 through 17 of this act.

19 **Sec. 20.** RCW 82.25.030 and 2019 c 445 s 106 are each amended to
20 read as follows:

21 (1) Every distributor must keep at each place of business
22 complete and accurate records for that place of business, including
23 itemized invoices, of vapor products held, purchased, manufactured,
24 brought in or caused to be brought in from without the state, or
25 shipped or transported to retailers in this state, and of all sales
26 of vapor products made.

27 (2) These records must show the names and addresses of
28 purchasers, the inventory of all vapor products including quantity of
29 vapor products by brand, and other pertinent papers and documents
30 relating to the purchase, sale, or disposition of vapor products. All
31 invoices and other records required by this section to be kept must
32 be preserved for a period of five years from the date of the invoices
33 or other documents or the date of the entries appearing in the
34 records.

35 (3) At any time during usual business hours the department,
36 board, or its duly authorized agents or employees may enter any place
37 of business of a distributor, without a search warrant, and inspect
38 the premises, the records required to be kept under this chapter, and

1 the vapor products contained therein, to determine whether or not all
2 the provisions of this chapter are being fully complied with. If the
3 department, board, or any of its agents or employees are denied free
4 access or are hindered or interfered with in making such examination,
5 the registration certificate issued under RCW 82.32.030 of the
6 distributor at such premises are subject to revocation by the
7 department, and any licenses issued under chapter 70.345, 82.26, or
8 82.24 RCW are subject to suspension or revocation by the board.

9 (4) The department may share information obtained under this
10 section that is deemed relevant to the potential violation of the
11 laws of other jurisdictions with the duly appointed agents of those
12 jurisdictions.

13 **Sec. 21.** RCW 82.25.095 and 2019 c 445 s 119 are each amended to
14 read as follows:

15 (1) In all cases of seizure of any vapor products made subject to
16 forfeiture under this chapter, the department or board must proceed
17 as provided in RCW 82.24.135.

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

20 (a) Retain the property for official use or upon application by
21 any law enforcement agency of this state, another state, or the
22 District of Columbia, or of the United States for the exclusive use
23 of enforcing this chapter or the laws of any other state or the
24 District of Columbia or of the United States; ~~((or))~~

25 (b) Destroy the vapor products; or

26 (c) Sell the vapor products at public auction to the highest
27 bidder after due advertisement. Before delivering any of the goods to
28 the successful bidder, the department or board must require the
29 purchaser to pay the proper amount of any tax due. The proceeds of
30 the sale must be first applied to the payment of all proper expenses
31 of any investigation leading to the seizure and of the proceedings
32 for forfeiture and sale, including expenses of seizure, maintenance
33 of custody, advertising, and court costs. The balance of the proceeds
34 and all money must be deposited in the general fund of the state.
35 Proper expenses of investigation include costs incurred by any law
36 enforcement agency or any federal, state, or local agency.

37 (3) The department or the board may return any property seized
38 under the provisions of this chapter when it is shown that there was
39 no intention to violate the provisions of this chapter. When any

1 property is returned under this section, the department or the board
2 may return the property to the parties from whom they were seized if
3 and when such parties have paid the proper amount of tax due under
4 this chapter.

5 **Sec. 22.** RCW 82.26.010 and 2020 c 139 s 31 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Actual price" means the total amount of consideration for
10 which tobacco products are sold, valued in money, whether received in
11 money or otherwise, including any charges by the seller necessary to
12 complete the sale such as charges for delivery, freight,
13 transportation, or handling.

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

16 (3) (a) "Alternative nicotine product" means any noncombustible
17 product containing nicotine that is intended for human consumption,
18 whether chewed, absorbed, dissolved, or ingested by any other means.

19 (b) "Alternative nicotine product" does not include a vapor
20 product or a product regulated as a drug or device by the food and
21 drug administration.

22 (4) "Board" means the liquor and cannabis board.

23 ~~((4))~~ (5) "Business" means any trade, occupation, activity, or
24 enterprise engaged in for the purpose of selling or distributing
25 tobacco products in this state.

26 ~~((5))~~ (6) "Cigar" means a roll for smoking that is of any size
27 or shape and that is made wholly or in part of tobacco, irrespective
28 of whether the tobacco is pure or flavored, adulterated or mixed with
29 any other ingredient, if the roll has a wrapper made wholly or in
30 greater part of tobacco. "Cigar" does not include a cigarette.

31 ~~((6))~~ (7) "Cigarette" has the same meaning as in RCW 82.24.010.

32 ~~((7))~~ (8) "Department" means the department of revenue.

33 ~~((8))~~ (9) "Distributor" means (a) any person engaged in the
34 business of selling tobacco products in this state who brings, or
35 causes to be brought, into this state from without the state any
36 tobacco products for sale, (b) any person who makes, manufactures,
37 fabricates, or stores tobacco products in this state for sale in this
38 state, (c) any person engaged in the business of selling tobacco
39 products without this state who ships or transports tobacco products

1 to retailers in this state, to be sold by those retailers, (d) any
2 person engaged in the business of selling tobacco products in this
3 state who handles for sale any tobacco products that are within this
4 state but upon which tax has not been imposed.

5 ~~((9))~~ (10) "Indian country" means the same as defined in
6 chapter 82.24 RCW.

7 ~~((10))~~ (11) "Little cigar" means a cigar that has a cellulose
8 acetate integrated filter.

9 ~~((11))~~ (12) "Manufacturer" means a person who manufactures and
10 sells tobacco products.

11 ~~((12))~~ (13) "Manufacturer's representative" means a person
12 hired by a manufacturer to sell or distribute the manufacturer's
13 tobacco products, and includes employees and independent contractors.

14 ~~((13))~~ (14) "Moist snuff" means tobacco that is finely cut,
15 ground, or powdered; is not for smoking; and is intended to be placed
16 in the oral, but not the nasal, cavity.

17 ~~((14))~~ (15) "Person" means any individual, receiver,
18 administrator, executor, assignee, trustee in bankruptcy, trust,
19 estate, firm, copartnership, joint venture, club, company, joint
20 stock company, business trust, municipal corporation, the state and
21 its departments and institutions, political subdivision of the state
22 of Washington, corporation, limited liability company, association,
23 society, any group of individuals acting as a unit, whether mutual,
24 cooperative, fraternal, nonprofit, or otherwise. The term excludes
25 any person immune from state taxation, including the United States or
26 its instrumentalities, and federally recognized Indian tribes and
27 enrolled tribal members, conducting business within Indian country.

28 ~~((15))~~ (16) "Place of business" means any place where tobacco
29 products are sold or where tobacco products are manufactured, stored,
30 or kept for the purpose of sale, including any vessel, vehicle,
31 airplane, train, or vending machine.

32 ~~((16))~~ (17) "Retail outlet" means each place of business from
33 which tobacco products are sold to consumers.

34 ~~((17))~~ (18) "Retailer" means any person engaged in the business
35 of selling tobacco products to ultimate consumers.

36 ~~((18))~~ (19)(a) "Sale" means any transfer, exchange, or barter,
37 in any manner or by any means whatsoever, for a consideration, and
38 includes and means all sales made by any person.

1 (b) The term "sale" includes a gift by a person engaged in the
2 business of selling tobacco products, for advertising, promoting, or
3 as a means of evading the provisions of this chapter.

4 (~~(19)~~) (20) (a) "Taxable sales price" means:

5 (i) In the case of a taxpayer that is not affiliated with the
6 manufacturer, distributor, or other person from whom the taxpayer
7 purchased tobacco products, the actual price for which the taxpayer
8 purchased the tobacco products;

9 (ii) In the case of a taxpayer that purchases tobacco products
10 from an affiliated manufacturer, affiliated distributor, or other
11 affiliated person, and that sells those tobacco products to
12 unaffiliated distributors, unaffiliated retailers, or ultimate
13 consumers, the actual price for which that taxpayer sells those
14 tobacco products to unaffiliated distributors, unaffiliated
15 retailers, or ultimate consumers;

16 (iii) In the case of a taxpayer that sells tobacco products only
17 to affiliated distributors or affiliated retailers, the price,
18 determined as nearly as possible according to the actual price, that
19 other distributors sell similar tobacco products of like quality and
20 character to unaffiliated distributors, unaffiliated retailers, or
21 ultimate consumers;

22 (iv) In the case of a taxpayer that is a manufacturer selling
23 tobacco products directly to ultimate consumers, the actual price for
24 which the taxpayer sells those tobacco products to ultimate
25 consumers;

26 (v) In the case of a taxpayer that has acquired tobacco products
27 under a sale as defined in subsection (~~(18)~~) (19) (b) of this
28 section, the price, determined as nearly as possible according to the
29 actual price, that the taxpayer or other distributors sell the same
30 tobacco products or similar tobacco products of like quality and
31 character to unaffiliated distributors, unaffiliated retailers, or
32 ultimate consumers; or

33 (vi) In any case where (a)(i) through (v) of this subsection do
34 not apply, the price, determined as nearly as possible according to
35 the actual price, that the taxpayer or other distributors sell the
36 same tobacco products or similar tobacco products of like quality and
37 character to unaffiliated distributors, unaffiliated retailers, or
38 ultimate consumers.

39 (b) For purposes of (a)(i) and (ii) of this subsection only,
40 "person" includes both persons as defined in subsection (~~(14)~~) (15)

1 of this section and any person immune from state taxation, including
2 the United States or its instrumentalities, and federally recognized
3 Indian tribes and enrolled tribal members, conducting business within
4 Indian country.

5 (c) The department may adopt rules regarding the determination of
6 taxable sales price under this subsection.

7 ~~((20))~~ (21) "Taxpayer" means a person liable for the tax
8 imposed by this chapter.

9 ~~((21))~~ (22) "Tobacco products" means alternative nicotine
10 products, cigars, cheroots, stogies, periques, granulated, plug cut,
11 crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff
12 flour, cavendish, plug and twist tobacco, fine-cut and other chewing
13 tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of
14 tobacco, and other kinds and forms of tobacco, prepared in such
15 manner as to be suitable for chewing or smoking in a pipe or
16 otherwise, or both for chewing and smoking, and any other product,
17 regardless of form, that contains tobacco and is intended for human
18 consumption or placement in the oral or nasal cavity or absorption
19 into the human body by any other means, but does not include
20 cigarettes as defined in RCW 82.24.010.

21 ~~((22))~~ (23) "Unaffiliated distributor" means a distributor that
22 is not affiliated with the manufacturer, distributor, or other person
23 from whom the distributor has purchased tobacco products.

24 ~~((23))~~ (24) "Unaffiliated retailer" means a retailer that is
25 not affiliated with the manufacturer, distributor, or other person
26 from whom the retailer has purchased tobacco products.

27 **Sec. 23.** RCW 82.26.020 and 2019 c 445 s 404 are each amended to
28 read as follows:

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

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

35 (b) For all tobacco products except those covered under separate
36 provisions of this subsection and alternative nicotine products,
37 ninety-five percent of the taxable sales price. The tax imposed on a
38 product under this subsection must be reduced by fifty percent if
39 that same product is issued a modified risk tobacco product order by

1 the secretary of the United States department of health and human
2 services pursuant to Title 21 U.S.C. Sec. 387k(g)(1), or by twenty-
3 five percent if that same product is issued a modified risk tobacco
4 product order by the secretary of the United States department of
5 health and human services pursuant to Title 21 U.S.C. Sec.
6 387k(g)(2). The tax reduction applies during the period the modified
7 risk tobacco product order is in effect;

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

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

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

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

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

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

31 **Sec. 24.** RCW 82.26.060 and 2019 c 445 s 205 are each amended to
32 read as follows:

33 (1) Every distributor must keep at each place of business
34 complete and accurate records for that place of business, including
35 itemized invoices, of tobacco products held, purchased, manufactured,
36 brought in or caused to be brought in from without the state, or
37 shipped or transported to retailers in this state, and of all sales
38 of tobacco products made.

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

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

22 (4) The department may share information obtained under this
23 section that is deemed relevant to the potential violation of the
24 laws of other jurisdictions with the duly appointed agents of those
25 jurisdictions.

26 **Sec. 25.** RCW 82.26.190 and 2020 c 139 s 34 are each amended to
27 read as follows:

28 (1)(a) No person may engage in or conduct business as a
29 distributor or retailer in this state after September 30, 2005,
30 without a valid license issued under this chapter. Any person who
31 sells tobacco products to persons other than ultimate consumers or
32 who meets the definition of distributor under RCW 82.26.010(~~((8))~~)
33 (9)(d) must obtain a distributor's license under this chapter. Any
34 person who sells tobacco products to ultimate consumers must obtain a
35 retailer's license under this chapter. Products offered for sale in
36 violation of this subsection are contraband and subject to seizure in
37 accordance with RCW 82.25.095.

38 (b) A violation of this subsection (1) is punishable as a class C
39 felony according to chapter 9A.20 RCW.

1 (2) (a) No person engaged in or conducting business as a
2 distributor or retailer in this state may:

3 (i) Refuse to allow the department or the board, on demand, to
4 make a full inspection of any place of business where any of the
5 tobacco products taxed under this chapter are sold, stored, or
6 handled, or otherwise hinder or prevent such inspection;

7 (ii) Make, use, or present or exhibit to the department or the
8 board any invoice for any of the tobacco products taxed under this
9 chapter that bears an untrue date or falsely states the nature or
10 quantity of the goods invoiced; or

11 (iii) Fail to produce on demand of the department or the board
12 all invoices of all the tobacco products taxed under this chapter
13 within five years prior to such demand unless the person can show by
14 satisfactory proof that the nonproduction of the invoices was due to
15 causes beyond the person's control.

16 (b) No person, other than a licensed distributor or retailer, may
17 transport tobacco products for sale in this state for which the taxes
18 imposed under this chapter have not been paid unless:

19 (i) Notice of the transportation has been given as required under
20 RCW 82.26.140;

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

26 (iii) The tobacco products are consigned to or purchased by a
27 person in this state who is licensed under this chapter.

28 (c) A violation of this subsection (2) is a gross misdemeanor.

29 (3) Any person licensed under this chapter as a distributor, and
30 any person licensed under this chapter as a retailer, may not operate
31 in any other capacity unless the additional appropriate license is
32 first secured. A violation of this subsection (3) is a misdemeanor.

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

36 **Sec. 26.** RCW 82.26.200 and 2020 c 139 s 35 are each amended to
37 read as follows:

38 (1) A retailer may obtain tobacco products only from a licensed
39 distributor. A retailer that obtains tobacco products from (~~a~~

1 ~~unlicensed distributor or any other~~) a person that is not licensed
2 under this chapter, including directly from a manufacturer, must be
3 licensed both as a retailer and a distributor under this chapter and
4 is liable for the tax imposed under RCW 82.26.020 with respect to the
5 tobacco products acquired from the unlicensed person that are held
6 for sale, handling, or distribution in this state. For the purposes
7 of this subsection, "person" includes both persons defined in RCW
8 82.26.010(~~(14)~~) (15) and any person immune from state taxation,
9 such as the United States or its instrumentalities, and federally
10 recognized Indian tribes and enrolled tribal members, conducting
11 business within Indian country.

12 (2) Every distributor licensed under this chapter must sell
13 tobacco products to retailers located in Washington only if the
14 retailer has a current retailer's license under this chapter.

15 **Sec. 27.** RCW 82.26.240 and 2005 c 180 s 21 are each amended to
16 read as follows:

17 (1) In all cases of seizure of any tobacco products made subject
18 to forfeiture under this chapter, the department or board shall
19 proceed as provided in RCW 82.24.135.

20 (2) When tobacco products are forfeited under this chapter, the
21 department or board may:

22 (a) Retain the property for official use or upon application by
23 any law enforcement agency of this state, another state, or the
24 District of Columbia, or of the United States for the exclusive use
25 of enforcing this chapter or the laws of any other state or the
26 District of Columbia or of the United States; (~~(e)~~)

27 (b) Destroy the tobacco products; or

28 (c) Sell the tobacco products at public auction to the highest
29 bidder after due advertisement. Before delivering any of the goods to
30 the successful bidder, the department or board shall require the
31 purchaser to pay the proper amount of any tax due. The proceeds of
32 the sale shall be first applied to the payment of all proper expenses
33 of any investigation leading to the seizure and of the proceedings
34 for forfeiture and sale, including expenses of seizure, maintenance
35 of custody, advertising, and court costs. The balance of the proceeds
36 and all money shall be deposited in the general fund of the state.
37 Proper expenses of investigation include costs incurred by any law
38 enforcement agency or any federal, state, or local agency.

1 (3) The department or the board may return any property seized
2 under the provisions of this chapter when it is shown that there was
3 no intention to violate the provisions of this chapter. When any
4 property is returned under this section, the department or the board
5 may return the property to the parties from whom they were seized if
6 and when such parties have paid the proper amount of tax due under
7 this chapter.

8 **Sec. 28.** RCW 42.56.270 and 2023 c 340 s 11 are each amended to
9 read as follows:

10 The following financial, commercial, and proprietary information
11 is exempt from disclosure under this chapter:

12 (1) Valuable formulae, designs, drawings, computer source code or
13 object code, and research data obtained by any agency within five
14 years of the request for disclosure when disclosure would produce
15 private gain and public loss;

16 (2) Financial information supplied by or on behalf of a person,
17 firm, or corporation for the purpose of qualifying to submit a bid or
18 proposal for (a) a ferry system construction or repair contract as
19 required by RCW 47.60.680 through 47.60.750; (b) highway construction
20 or improvement as required by RCW 47.28.070; or (c) alternative
21 public works contracting procedures as required by RCW 39.10.200
22 through 39.10.905;

23 (3) Financial and commercial information and records supplied by
24 private persons pertaining to export services provided under chapters
25 43.163 and 53.31 RCW, and by persons pertaining to export projects
26 under RCW 43.23.035;

27 (4) Financial and commercial information and records supplied by
28 businesses or individuals during application for loans or program
29 services provided by chapters 43.325, 43.163, 43.160, 43.330, 43.168,
30 and 43.181 RCW and RCW 43.155.160, or during application for economic
31 development loans or program services provided by any local agency;

32 (5) Financial information, business plans, examination reports,
33 and any information produced or obtained in evaluating or examining a
34 business and industrial development corporation organized or seeking
35 certification under chapter 31.24 RCW;

36 (6) Financial and commercial information supplied to the state
37 investment board by any person when the information relates to the
38 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the
2 providers of this information;

3 (7) Financial and valuable trade information under RCW 51.36.120;

4 (8) Financial, commercial, operations, and technical and research
5 information and data submitted to or obtained by the clean Washington
6 center in applications for, or delivery of, program services under
7 chapter 70.95H RCW;

8 (9) Financial and commercial information requested by the public
9 stadium authority from any person or organization that leases or uses
10 the stadium and exhibition center as defined in RCW 36.102.010;

11 (10)(a) Financial information, including but not limited to
12 account numbers and values, and other identification numbers supplied
13 by or on behalf of a person, firm, corporation, limited liability
14 company, partnership, or other entity related to an application for a
15 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
16 cannabis producer, processor, or retailer license, liquor license,
17 gambling license, or lottery retail license;

18 (b) Internal control documents, independent auditors' reports and
19 financial statements, and supporting documents: (i) Of house-banked
20 social card game licensees required by the gambling commission
21 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
22 by tribes with an approved tribal/state compact for class III gaming;

23 (c) Valuable formulae or financial or proprietary commercial
24 information records received during a consultative visit or while
25 providing consultative services to a licensed cannabis business in
26 accordance with RCW 69.50.561;

27 (11) Proprietary data, trade secrets, or other information that
28 relates to: (a) A vendor's unique methods of conducting business; (b)
29 data unique to the product or services of the vendor; or (c)
30 determining prices or rates to be charged for services, submitted by
31 any vendor to the department of social and health services or the
32 health care authority for purposes of the development, acquisition,
33 or implementation of state purchased health care as defined in RCW
34 41.05.011;

35 (12)(a) When supplied to and in the records of the department of
36 commerce:

37 (i) Financial and proprietary information collected from any
38 person and provided to the department of commerce pursuant to RCW
39 43.330.050(8);

1 (ii) Financial or proprietary information collected from any
2 person and provided to the department of commerce or the office of
3 the governor in connection with the siting, recruitment, expansion,
4 retention, or relocation of that person's business and until a siting
5 decision is made, identifying information of any person supplying
6 information under this subsection and the locations being considered
7 for siting, relocation, or expansion of a business; and

8 (iii) Financial or proprietary information collected from any
9 person and provided to the department of commerce pursuant to RCW
10 43.31.625 (3) (b) and (4);

11 (b) When developed by the department of commerce based on
12 information as described in (a) (i) of this subsection, any work
13 product is not exempt from disclosure;

14 (c) For the purposes of this subsection, "siting decision" means
15 the decision to acquire or not to acquire a site;

16 (d) If there is no written contact for a period of 60 days to the
17 department of commerce from a person connected with siting,
18 recruitment, expansion, retention, or relocation of that person's
19 business, information described in (a) (ii) of this subsection will be
20 available to the public under this chapter;

21 (13) Financial and proprietary information submitted to or
22 obtained by the department of ecology or the authority created under
23 chapter 70A.500 RCW to implement chapter 70A.500 RCW;

24 (14) Financial, commercial, operations, and technical and
25 research information and data submitted to or obtained by the life
26 sciences discovery fund authority in applications for, or delivery
27 of, grants under RCW 43.330.502, to the extent that such information,
28 if revealed, would reasonably be expected to result in private loss
29 to the providers of this information;

30 (15) Financial and commercial information provided as evidence to
31 the department of licensing as required by RCW 19.112.110 or
32 19.112.120, except information disclosed in aggregate form that does
33 not permit the identification of information related to individual
34 fuel licensees;

35 (16) Any production records, mineral assessments, and trade
36 secrets submitted by a permit holder, mine operator, or landowner to
37 the department of natural resources under RCW 78.44.085;

38 (17) (a) Farm plans developed by conservation districts, unless
39 permission to release the farm plan is granted by the landowner or

1 operator who requested the plan, or the farm plan is used for the
2 application or issuance of a permit;

3 (b) Farm plans developed under chapter 90.48 RCW and not under
4 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
5 to RCW 42.56.610 and 90.64.190;

6 (18) Financial, commercial, operations, and technical and
7 research information and data submitted to or obtained by a health
8 sciences and services authority in applications for, or delivery of,
9 grants under RCW 35.104.010 through 35.104.060, to the extent that
10 such information, if revealed, would reasonably be expected to result
11 in private loss to providers of this information;

12 (19) Information gathered under chapter 19.85 RCW or RCW
13 34.05.328 that can be identified to a particular business;

14 (20) Financial and commercial information submitted to or
15 obtained by the University of Washington, other than information the
16 university is required to disclose under RCW 28B.20.150, when the
17 information relates to investments in private funds, to the extent
18 that such information, if revealed, would reasonably be expected to
19 result in loss to the University of Washington consolidated endowment
20 fund or to result in private loss to the providers of this
21 information;

22 (21) Market share data submitted by a manufacturer under RCW
23 70A.500.190(4);

24 (22) Financial information supplied to the department of
25 financial institutions, when filed by or on behalf of an issuer of
26 securities for the purpose of obtaining the exemption from state
27 securities registration for small securities offerings provided under
28 RCW 21.20.880 or when filed by or on behalf of an investor for the
29 purpose of purchasing such securities;

30 (23) Unaggregated or individual notices of a transfer of crude
31 oil that is financial, proprietary, or commercial information,
32 submitted to the department of ecology pursuant to RCW
33 90.56.565(1)(a), and that is in the possession of the department of
34 ecology or any entity with which the department of ecology has shared
35 the notice pursuant to RCW 90.56.565;

36 (24) Financial institution and retirement account information,
37 and building security plan information, supplied to the liquor and
38 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
39 69.50.345, when filed by or on behalf of a licensee or prospective
40 licensee for the purpose of obtaining, maintaining, or renewing a

1 license to produce, process, transport, or sell cannabis as allowed
2 under chapter 69.50 RCW;

3 (25) Cannabis transport information, vehicle and driver
4 identification data, and account numbers or unique access identifiers
5 issued to private entities for traceability system access, submitted
6 by an individual or business to the liquor and cannabis board under
7 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
8 69.50.345 for the purpose of cannabis product traceability.
9 Disclosure to local, state, and federal officials is not considered
10 public disclosure for purposes of this section;

11 (26) Financial and commercial information submitted to or
12 obtained by the retirement board of any city that is responsible for
13 the management of an employees' retirement system pursuant to the
14 authority of chapter 35.39 RCW, when the information relates to
15 investments in private funds, to the extent that such information, if
16 revealed, would reasonably be expected to result in loss to the
17 retirement fund or to result in private loss to the providers of this
18 information except that (a) the names and commitment amounts of the
19 private funds in which retirement funds are invested and (b) the
20 aggregate quarterly performance results for a retirement fund's
21 portfolio of investments in such funds are subject to disclosure;

22 (27) Proprietary financial, commercial, operations, and technical
23 and research information and data submitted to or obtained by the
24 liquor and cannabis board in applications for cannabis research
25 licenses under RCW 69.50.372, or in reports submitted by cannabis
26 research licensees in accordance with rules adopted by the liquor and
27 cannabis board under RCW 69.50.372;

28 (28) Trade secrets, technology, proprietary information, and
29 financial considerations contained in any agreements or contracts,
30 entered into by a licensed cannabis business under RCW 69.50.395,
31 which may be submitted to or obtained by the state liquor and
32 cannabis board;

33 (29) Financial, commercial, operations, and technical and
34 research information and data submitted to or obtained by the Andy
35 Hill cancer research endowment program in applications for, or
36 delivery of, grants under chapter 43.348 RCW, to the extent that such
37 information, if revealed, would reasonably be expected to result in
38 private loss to providers of this information;

39 (30) Proprietary information filed with the department of health
40 under chapter 69.48 RCW;

1 (31) Records filed with the department of ecology under chapter
2 70A.515 RCW that a court has determined are confidential valuable
3 commercial information under RCW 70A.515.130; (~~and~~)

4 (32) Unaggregated financial, proprietary, or commercial
5 information submitted to or obtained by the liquor and cannabis board
6 in applications for licenses under RCW 66.24.140 or 66.24.145, or in
7 any reports or remittances submitted by a person licensed under RCW
8 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis
9 board under chapter 66.08 RCW; and

10 (33) Confidential commercial or financial information submitted
11 by manufacturers of vapor products to the liquor and cannabis board
12 accompanying a certification delivered under section 7(3)(a) of this
13 act.

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