
SENATE BILL 5526

State of Washington

69th Legislature

2025 Regular Session

By Senators Lias, Braun, Saldaña, Chapman, King, C. Wilson, Gildon, Stanford, Schoesler, Boehnke, Conway, Cortes, Harris, Krishnadasan, Nobles, Pedersen, and Valdez

Read first time 01/27/25. Referred to Committee on Labor & Commerce.

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, and 82.26.240;
6 adding new sections to chapter 70.345 RCW; and prescribing penalties.

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

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

10 (1) A person who sells or gives, or permits to be sold or given,
11 to any person under the age of (~~twenty-one~~) 21 years any cigar,
12 cigarette, cigarette paper or wrapper, tobacco in any form,
13 alternative nicotine product, or a vapor product is guilty of a gross
14 misdemeanor and is liable for a fine of up to \$5,000.

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

18 (3) For the purposes of this section, "vapor product" has the
19 same meaning as provided in RCW 70.345.010.

20 (4) For the purposes of this section, "alternative nicotine
21 product" has the same meaning as provided in RCW 82.26.010.

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

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

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

7 (2) "Internet" means any computer network, telephonic network, or
8 other electronic network.

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

12 (4) "Sampling" means the distribution of samples to members of
13 the public.

14 (5) "Tobacco product" means an alternative nicotine product as
15 defined in RCW 82.26.010(3) or a product that contains tobacco and is
16 intended for human use, including any product defined in RCW
17 82.24.010(2) or 82.26.010(~~((21))~~) (22), except that for the purposes
18 of RCW 70.155.140 only, "tobacco product" does not include cigars
19 defined in RCW 82.26.010 as to which (~~one thousand~~) 1,000 units
20 weigh more than three pounds.

21 (6) "Vapor product" has the same meaning as defined in RCW
22 70.345.010.

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

25 (~~((1) Where there may be a question of a person's right to~~
26 ~~purchase or obtain tobacco products by reason of age, the)) A
27 retailer or agent (~~thereof,~~) shall require the purchaser of a
28 tobacco product or vapor product to present any one of the following
29 officially issued identification that shows the purchaser's age and
30 bears his or her signature and photograph: (a) Liquor control
31 authority card of identification of a state or province of Canada;
32 (b) driver's license, instruction permit, or identification card of a
33 state or province of Canada; (c) "identocard" issued by the
34 Washington state department of licensing under chapter 46.20 RCW; (d)
35 United States military identification; (e) passport; (f) enrollment
36 card, issued by the governing authority of a federally recognized
37 Indian tribe located in Washington, that incorporates security
38 features comparable to those implemented by the department of
39 licensing for Washington drivers' licenses. At least (~~ninety~~) 90~~

1 days prior to implementation of an enrollment card under this
2 subsection, the appropriate tribal authority shall give notice to the
3 board. The board shall publish and communicate to licensees regarding
4 the implementation of each new enrollment card; or (g) merchant
5 marine identification card issued by the United States coast guard.

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

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

15 (1) The liquor and cannabis board may suspend or revoke a
16 retailer's license issued under RCW 82.24.510(1)(b) or
17 82.26.150(1)(b) held by a business at any location, or may impose a
18 monetary penalty as set forth in subsection (3) of this section, if
19 the liquor and cannabis board finds that the licensee has violated
20 RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040, 70.155.050,
21 70.155.070, or 70.155.090.

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

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

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

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

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

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

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

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

11 (b) For violations of RCW 26.28.080:

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

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

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

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

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

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

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

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

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

36 (4) The liquor and cannabis board may impose a monetary penalty
37 upon any person other than a licensed cigarette or tobacco product
38 retailer if the liquor and cannabis board finds that the person has
39 violated RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040,
40 70.155.050, 70.155.070, or 70.155.090.

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

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

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

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

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

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

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

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

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

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

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

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

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

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

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

7 (3) "Child care facility" has the same meaning as provided in RCW
8 70A.320.020.

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

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

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

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

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

27 (7) "Distributor" has the same meaning as in RCW 82.25.005.

28 (8) "Liquid nicotine container" means a package from which
29 nicotine in a solution or other form is accessible through normal and
30 foreseeable use by a consumer and that is used to hold soluble
31 nicotine in any concentration. "Liquid nicotine container" does not
32 include closed system nicotine containers.

33 (9) "Manufacturer" means a person who manufactures and sells
34 vapor products.

35 (10) "Person" means any individual, receiver, administrator,
36 executor, assignee, trustee in bankruptcy, trust, estate, firm,
37 copartnership, joint venture, club, company, joint stock company,
38 business trust, municipal corporation, the state and its departments
39 and institutions, political subdivision of the state of Washington,
40 corporation, limited liability company, association, society, any

1 group of individuals acting as a unit, whether mutual, cooperative,
2 fraternal, nonprofit, or otherwise.

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

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

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

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

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

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

22 (16) "School" has the same meaning as provided in RCW
23 70A.320.020.

24 (17) "Self-service display" means a display that contains vapor
25 products and is located in an area that is openly accessible to
26 customers and from which customers can readily access such products
27 without the assistance of a salesperson. A display case that holds
28 vapor products behind locked doors does not constitute a self-service
29 display.

30 (18) "Vapor product" means any noncombustible product that may
31 contain nicotine and that employs a heating element, power source,
32 electronic circuit, or other electronic, chemical, or mechanical
33 means, regardless of shape or size, that can be used to produce vapor
34 or aerosol from a solution or other substance.

35 (a) "Vapor product" includes any electronic cigarette, electronic
36 cigar, electronic cigarillo, electronic pipe, or similar product or
37 device and any vapor cartridge or other container that may contain
38 nicotine in a solution or other form that is intended to be used with
39 or in an electronic cigarette, electronic cigar, electronic
40 cigarillo, electronic pipe, or similar product or device.

1 (b) "Vapor product" does not include any product that meets the
2 definition of cannabis, useable cannabis, cannabis concentrates,
3 cannabis-infused products, cigarette, alternative nicotine products,
4 or tobacco products.

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

8 (22) "Alternative nicotine product" has the same meaning as
9 provided in RCW 82.26.010.

10 (23) "FDA" means the United States food and drug administration.

11 (24) "Timely filed premarket tobacco product application" means
12 an application pursuant to 21 U.S.C. Sec. 387j for a vapor product
13 containing nicotine derived from tobacco marketed in the United
14 States as of August 8, 2016, that was submitted to the United States
15 food and drug administration on or before September 9, 2020, and
16 accepted for filing.

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

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

28 (b) A retailer may obtain vapor products only from a licensed
29 distributor. A retailer that obtains vapor products from any person
30 that is not licensed under this chapter, including directly from a
31 manufacturer, must be licensed both as a retailer and a distributor
32 under this chapter and is liable for the tax imposed under RCW
33 82.25.010 with respect to the vapor products acquired from the
34 unlicensed person that are held for sale, handling, or distribution
35 in this state.

36 (c) A violation of this subsection is punishable as a class C
37 felony according to chapter 9A.20 RCW.

1 (d) Products offered for sale in violation of this subsection are
2 contraband and subject to seizure. The provisions of RCW 82.25.095
3 apply to seized products.

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

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

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

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

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

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

37 (a) The manufacturer has received a marketing granted order for
38 the vapor product from the FDA pursuant to 21 U.S.C. Sec. 387j;

1 (b) The manufacturer submitted a timely filed premarket tobacco
2 product application for the vapor product to the FDA pursuant to 21
3 U.S.C. Sec. 387j, and the application either remains under review by
4 the FDA or has received a denial order that has been and remains
5 stayed by the FDA or court order, rescinded by the FDA, or vacated by
6 a court; or

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

12 (2) The certification form must separately list each brand name,
13 product name, category (e.g., disposable vapor product, power unit,
14 device, e-liquid cartridge, e-liquid pod), and flavor for each vapor
15 product containing nicotine that is sold in this state.

16 (3) Each annual certification form must be accompanied by:

17 (a) A copy of (i) the marketing granted order issued by the FDA
18 pursuant to 21 U.S.C. Sec. 387j, (ii) a copy of the acceptance letter
19 issued by the FDA pursuant to 21 U.S.C. Sec. 387j for a timely filed
20 premarket tobacco product application, or (iii) a document issued by
21 the FDA or by a court confirming that the premarket tobacco product
22 application has received a denial order that has been and remains
23 stayed by the FDA or court order, rescinded by the FDA, or vacated by
24 a court; and

25 (b) A payment of \$1,000 for each vapor product containing
26 nicotine the first time a manufacturer submits an annual
27 certification form for that vapor product. A payment of \$500 for each
28 vapor product containing nicotine each subsequent time a manufacturer
29 submits an annual certification form for that vapor product.

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

32 The information submitted by the manufacturer pursuant to section
33 7(3)(a) of this act is confidential and exempt from disclosure under
34 the public records act, chapter 42.56 RCW. The manufacturer may
35 redact certain confidential commercial or financial information
36 provided under such section.

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

1 A manufacturer required to submit a certification form pursuant
2 to section 7 of this act shall notify the board within 30 days of any
3 material change to the certification form, including the issuance or
4 denial of a marketing authorization or other order by the FDA
5 pursuant to 21 U.S.C. Sec. 387j, or any other order or action by the
6 FDA or any court that affects the ability of the vapor product
7 containing nicotine to be introduced or delivered into interstate
8 commerce for commercial distribution in the United States.

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

11 (1) Starting January 1, 2026, the board shall maintain and make
12 publicly available on its official website a directory that lists all
13 manufacturers and all vapor products containing nicotine, including
14 brand names, product names, categories (e.g., disposable vapor
15 product, e-liquid, e-liquid cartridge, e-liquid pod, power unit), and
16 flavors, for which certification forms have been submitted and as
17 approved by the board.

18 (2) The board shall update the directory at least monthly to
19 ensure accuracy, and shall establish a process to provide licensed
20 retailers, distributors, and other relevant parties notice of the
21 initial publication of the directory and changes made to the
22 directory in the prior month.

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

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

28 (b) The manufacturer submitted a certification that does not
29 comply with the requirements of section 7 (2) and (3) of this act;

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

32 (d) The manufacturer sold vapor products containing nicotine in
33 this state required to be certified under this act during a period
34 when either the manufacturer or the vapor product had not been
35 certified and listed on the directory; or

36 (e) The information provided by the manufacturer in its
37 certification is determined by the board to contain false information
38 or contain material misrepresentations or omissions.

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

3 (1) The board shall provide manufacturers notice and an
4 opportunity to cure deficiencies before removing manufacturers or
5 vapor products containing nicotine from the directory.

6 (2) The board may not remove the manufacturer or its vapor
7 products containing nicotine from the directory until at least 30
8 days after the manufacturer has been given notice of an intended
9 action setting forth the reasons therefor. Notice shall be sufficient
10 and be deemed immediately received by a manufacturer if the notice is
11 sent either electronically or by facsimile to an electronic mail
12 address or facsimile number, as the case may be, provided by the
13 manufacturer in its most recent certification filed under section 7
14 (2) and (3) of this act.

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

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

23 (5) After 30 days following removal from the directory, the vapor
24 product containing nicotine of a manufacturer identified in the
25 notice of removal and intended for retail sale in this state or to a
26 consumer in this state are subject to seizure from distributors and
27 retailers, forfeiture from distributors and retailers, and
28 destruction or disposal, and may not be purchased or sold for retail
29 sale in this state or to a consumer in this state. The person from
30 whom the vapor products are confiscated bears the cost of such
31 seizure, forfeiture, and destruction or disposal. The provisions of
32 RCW 82.25.095 shall apply to seized vapor products.

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

35 (1) Except as provided in subsections (2) and (3) of this
36 section, beginning January 1, 2026, or on the date that the board
37 first makes the directory available for public inspection on its
38 official website, whichever is later, vapor products containing
39 nicotine not included in the directory may not be sold for retail

1 sale in this state, either directly or through an importer,
2 distributor, wholesaler, retailer, or similar intermediary or
3 intermediaries.

4 (2) Each retailer has 60 days from the date that the board first
5 makes the directory available for inspection on its public website to
6 sell vapor products containing nicotine that were in its inventory
7 and not included in the directory or remove those vapor products from
8 inventory.

9 (3) Each distributor or wholesaler has 60 days from the date that
10 the board first makes the directory available for inspection on its
11 public website to remove those vapor products containing nicotine
12 intended for retail sale in the state and not included in the
13 directory from its inventory.

14 (4) After 60 days following publication of the directory, vapor
15 products containing nicotine not listed in the directory and intended
16 for retail sale in this state or to a consumer in this state are
17 subject to seizure, forfeiture, and destruction or disposal, and may
18 not be purchased or sold for retail sale in this state or to a
19 consumer in this state except as provided in subsections (2) and (3)
20 of this section. The person from whom the vapor products are
21 confiscated bears the cost of such seizure, forfeiture, and
22 destruction or disposal.

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

25 (1) The following penalties apply to violations of Sections 7
26 through 17 of this act:

27 (a) In addition to or in lieu of any other civil or criminal
28 remedy provided by law, a retailer, distributor, wholesaler, or
29 importer who sells or offers for sale a vapor product containing
30 nicotine for retail sale in this state or to a consumer in this state
31 that is not included in the directory is subject to a civil penalty
32 of \$500 for each individual vapor product containing nicotine offered
33 for sale in violation of sections 7 through 17 of this act.

34 (b) For a second violation of this type within a 12-month period,
35 the civil penalty must be at least \$750 but not more than \$1,000 for
36 each vapor product containing nicotine and the licensee's license
37 shall be suspended for 30 days.

38 (c) For a third violation of this type within a 12-month period,
39 the civil penalty must be at least \$1,000 but not more than \$1,500

1 for each vapor product containing nicotine and the licensee's license
2 shall be revoked.

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

13 (3) In an action to enforce this act, the state is entitled to
14 recover costs, including the costs of investigation, expert witness
15 fees, and reasonable attorneys' fees and costs.

16 (4) Vapor products containing nicotine offered for sale in
17 violation of sections 7 through 17 of this act are considered
18 contraband and may be seized and disposed of or destroyed by an
19 enforcement officer of the board. The person from whom the vapor
20 products are confiscated bears the cost of such seizure and disposal
21 or destruction, not the board.

22 (5) The board, acting in the name of the state, may seek recovery
23 of the penalty in a civil action in superior court.

24 (6) The board may seek an injunction in superior court to
25 restrain a threatened or actual violation of this section and to
26 compel compliance with this section.

27 (7) A second or subsequent violation of sections 7 through 17 of
28 this act is not reasonable in relation to the development and
29 preservation of business and is an unfair and deceptive act or
30 practice and an unfair method of competition in the conduct of trade
31 or commerce in violation of RCW 19.86.020. Standing to bring an
32 action to enforce RCW 19.86.020 for violation of this section lies
33 solely with the attorney general. Remedies provided by chapter 19.86
34 RCW are cumulative and not exclusive.

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

37 (1) Each retailer, distributor, and wholesaler that sells or
38 distributes vapor products containing nicotine in this state must be
39 subject to at least two unannounced compliance checks annually for

1 purposes of enforcing this section. Unannounced follow-up compliance
2 checks of all noncompliant retailers, distributors, and wholesalers
3 must be conducted within 30 days after any violation of sections 7
4 through 17 of this act.

5 (2) The board must publish the results of all compliance checks
6 at least annually and must make the results available to the public
7 on request.

8 (3) The requirements of this section do not apply to an Indian
9 tribal organization, Indian retailer, or Indian distributor, as those
10 terms are defined in RCW 82.25.105.

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

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

26 (b) The manufacturer must provide notice to the board 30 days
27 prior to termination of the authority of an agent and must further
28 provide proof to the satisfaction of the board of the appointment of
29 a new agent no fewer than five days prior to the termination of an
30 existing agent appointment. In the event an agent terminates an
31 agency appointment, the manufacturer must notify the board of the
32 termination within five days and include proof to the satisfaction of
33 the board of the appointment of a new agent.

34 (c) Any manufacturer whose vapor products containing nicotine are
35 sold in this state, who has not appointed and engaged an agent as
36 required in this section, must be deemed to have appointed the
37 secretary of state as the agent and may be proceeded against in
38 courts of this state by service of process upon the secretary of
39 state. However, the appointment of the secretary of state as agent

1 must not satisfy the condition precedent for having the vapor
2 products containing nicotine of the manufacturer included or retained
3 in the directory.

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

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

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

25 (3) A surety on a bond furnished by a manufacturer as provided in
26 this section must be released and discharged from liability to the
27 state accruing on the bond after expiration of 60 days from the date
28 upon which such surety lodges with the board a written request to be
29 released and discharged. This provision does not relieve, release, or
30 discharge the surety from liability already accrued or which will
31 accrue before the expiration of the 60-day period. The board shall,
32 upon receiving any such request, notify the manufacturer who
33 furnished the bond. Unless the manufacturer, on or before the
34 expiration of the 60-day period, files with the board a new bond,
35 with the surety approved by and acceptable to the board, the board
36 shall remove the manufacturer and its vapor products containing
37 nicotine from the directory.

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

3 (1) The board may adopt by rule requirements necessary to
4 implement this chapter.

5 (2) By July 31, 2026, and annually thereafter, the board must
6 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 pursuant to this section.

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

13 The vapor product enforcement account is created in the custody
14 of the state treasurer. All receipts from fees and penalties
15 collected pursuant to sections 7 through 17 of this act must be
16 deposited into the account. Expenditures from the account may be used
17 only for administration and enforcement of this chapter. Only the
18 director of the liquor and cannabis board or the director's designee
19 may authorize expenditures from the account. The account is subject
20 to allotment procedures under chapter 43.88 RCW, but an appropriation
21 is not required for expenditures.

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

24 (1) It is unlawful for any person to sell, give, deliver, or
25 furnish to a person in this state a product that contains a nicotine
26 analogue.

27 (2) Violations of this section are subject to the following
28 penalties:

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

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

33 (c) A monetary penalty of \$6,000 and suspension of the license
34 for a period of six months for the third violation within any 12-
35 month period;

36 (d) A monetary penalty of \$12,000 and suspension of the license
37 for a period of 12 months for the fourth violation within any 12-
38 month period;

1 (e) A monetary penalty of \$15,000 and revocation of the license
2 with no possibility of reinstatement for a period of five years for
3 the fifth or more violation within any three-year period.

4 (3) For the purposes of this section, "nicotine analogue" means a
5 substance:

6 (a) (i) The chemical structure of which is substantially similar
7 to the chemical structure of nicotine; or

8 (ii) Which has, purports to have, or is represented to have, an
9 effect on the central nervous system that is similar to or greater
10 than the effect on the central nervous system of nicotine.

11 (b) Factors relevant to determining whether a substance is a
12 nicotine analogue include, but are not limited to, the marketing,
13 advertising and labeling of the substance, and whether the substance
14 has been manufactured, formulated, sold, distributed, or marketed
15 with the intent to avoid the provisions of this act and other
16 applicable provisions of law.

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

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

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

33 (3) At any time during usual business hours the department,
34 board, or its duly authorized agents or employees may enter any place
35 of business of a distributor, without a search warrant, and inspect
36 the premises, the records required to be kept under this chapter, and
37 the vapor products contained therein, to determine whether or not all
38 the provisions of this chapter are being fully complied with. If the
39 department, board, or any of its agents or employees are denied free

1 access or are hindered or interfered with in making such examination,
2 the registration certificate issued under RCW 82.32.030 of the
3 distributor at such premises are subject to revocation by the
4 department, and any licenses issued under chapter 70.345, 82.26, or
5 82.24 RCW are subject to suspension or revocation by the board.

6 (4) The department may share information obtained pursuant to
7 this section that is deemed relevant to the potential violation of
8 the laws of other jurisdictions with the duly appointed agents of
9 those jurisdictions.

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

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

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

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

22 (b) Destroy the vapor products; or

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

34 (3) The department or the board may return any property seized
35 under the provisions of this chapter when it is shown that there was
36 no intention to violate the provisions of this chapter. When any
37 property is returned under this section, the department or the board
38 may return the property to the parties from whom they were seized if

1 and when such parties have paid the proper amount of tax due under
2 this chapter.

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

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

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

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

18 (b) The term does not include a tobacco product, a vapor product,
19 or a product regulated as a drug or device by the United States food
20 and drug administration under chapter V of the federal food, drug,
21 and cosmetic act.

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))~~ 95 percent
33 of the taxable sales price of cigars, not to exceed ~~((sixty-five))~~ 65
34 cents per cigar;

35 (b) For all tobacco products except those covered under separate
36 provisions of this subsection and alternative nicotine products,
37 ~~((ninety-five))~~ 95 percent of the taxable sales price. The tax
38 imposed on a product under this subsection must be reduced by
39 ~~((fifty))~~ 50 percent if that same product is issued a modified risk

1 tobacco product order by the secretary of the United States
2 department of health and human services pursuant to Title 21 U.S.C.
3 Sec. 387k(g)(1), or by (~~twenty-five~~) 25 percent if that same
4 product is issued a modified risk tobacco product order by the
5 secretary of the United States department of health and human
6 services pursuant to Title 21 U.S.C. Sec. 387k(g)(2). The tax
7 reduction applies during the period the modified risk tobacco product
8 order is in effect;

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

11 (i) On each single unit consumer-sized can or package whose net
12 weight is one and two-tenths ounces or less, a rate per single unit
13 that is equal to the greater of 2.526 dollars or (~~eighty-three and~~
14 ~~one-half~~) 83.5 percent of the cigarette tax under chapter 82.24 RCW
15 multiplied by (~~twenty~~) 20; or

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

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

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

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

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

34 (1) Every distributor must keep at each place of business
35 complete and accurate records for that place of business, including
36 itemized invoices, of tobacco products held, purchased, manufactured,
37 brought in or caused to be brought in from without the state, or
38 shipped or transported to retailers in this state, and of all sales
39 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 pursuant to
23 this section that is deemed relevant to the potential violation of
24 the laws of other jurisdictions with the duly appointed agents of
25 those 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.

36 (b) A violation of this subsection (1) is punishable as a class C
37 felony according to chapter 9A.20 RCW. Products offered for sale in
38 violation of this subsection are contraband and subject to seizure.
39 The provisions of RCW 82.26.240 shall apply to seized products.

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 (~~either~~) 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; (~~or~~)

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.

--- END ---