
HOUSE BILL 1249

State of Washington

61st Legislature

2009 Regular Session

By Representatives Cody, Bailey, Dickerson, Roberts, Moeller, Kelley, Kenney, and Morrell; by request of Attorney General

Read first time 01/15/09. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to internet and mail order sales of certain tobacco
2 products; adding a new chapter to Title 70 RCW; repealing RCW
3 70.155.105; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Cigarette" has the same meaning as in RCW 82.24.010.

8 (2) "Wholesaler" has the same meaning as in RCW 82.24.010.

9 (3) "Retailer" has the same meaning as in RCW 82.24.010.

10 (4) "Roll-your-own tobacco" means any tobacco which, because of its
11 appearance, type, packaging, or labeling, is suitable for use and
12 likely to be offered to, or purchased by, consumers as tobacco for
13 making cigarettes.

14 (5) "Little cigars" means any rolls of tobacco wrapped in leaf
15 tobacco or any substance containing tobacco, other than any roll of
16 tobacco which is a cigarette within the meaning of subsection (1) of
17 this section, and as to which one thousand units weigh no more than
18 three pounds.

1 (6) "Snuff" means any finely cut, ground, or powdered tobacco that
2 is not intended to be smoked.

3 NEW SECTION. **Sec. 2.** (1) A person may not cause cigarettes, roll-
4 your-own tobacco, little cigars, or snuff, ordered or purchased by mail
5 or through a computer network, telephonic network, or other electronic
6 network, to be shipped to anyone other than a wholesaler or retailer in
7 this state.

8 (2) A person may not, with knowledge or reason to know of the
9 violation, provide substantial assistance to a person in violation of
10 this section.

11 NEW SECTION. **Sec. 3.** (1) A knowing violation of this chapter
12 shall be punishable by imprisonment for no more than five years, or a
13 fine of no more than five thousand dollars, or both.

14 (2) In addition to or in lieu of any other civil or criminal remedy
15 provided by law, upon a determination that a person has violated this
16 chapter, the attorney general may impose a civil penalty in an amount
17 not to exceed five thousand dollars for each violation. For purposes
18 of this subsection, each shipment or transport of cigarettes, roll-
19 your-own tobacco, little cigars, or snuff shall constitute a separate
20 violation.

21 (3) The attorney general may seek an injunction in superior court
22 to restrain a threatened or actual violation of this chapter and to
23 compel compliance with this chapter.

24 (4) In any action brought under this section, the state shall be
25 entitled to recover the costs of investigation, expert witness fees,
26 costs of the action, and reasonable attorneys' fees.

27 (5) Any violation of this chapter is not reasonable in relation to
28 the development and preservation of business and is an unfair and
29 deceptive act or practice and an unfair method of competition in the
30 conduct of a trade or commerce in violation of RCW 19.86.020. Standing
31 to bring an action to enforce RCW 19.86.020 for violation of this
32 chapter shall lie solely with the attorney general. Remedies provided
33 by chapter 19.86 RCW are cumulative and not exclusive.

34 (6) If a court determines that a person has violated the provisions
35 of this chapter, the court shall order any profits, gain, gross

1 receipts, or other benefit from the violation to be disgorged and paid
2 to the state treasurer for deposit in the general fund.

3 (7) Unless otherwise expressly provided, the penalties or remedies,
4 or both, under this section are in addition to any other penalties and
5 remedies available under any other law of this state.

6 NEW SECTION. **Sec. 4.** RCW 70.155.105 (Delivery sale of
7 cigarettes--Requirements, unlawful practices--Penalties--Enforcement)
8 and 2003 c 113 s 2 are each repealed.

9 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act constitute
10 a new chapter in Title 70 RCW.

--- END ---