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SENATE BILL 5340

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State of Washington

61st Legislature

2009 Regular Session

By Senators Prentice, Regala, Pflug, Shin, and Parlette; by request of Attorney General

Read first time 01/20/09. Referred to Committee on Labor, Commerce & Consumer Protection.

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.

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