

2 **ESHB 1746** - S COMM AMD  
3 By Committee on Commerce & Labor

4  
5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 70.155.020 and 1993 c 507 s 3 are each amended to  
8 read as follows:

9 A person who holds a license issued under RCW 82.24.520 or  
10 82.24.530 shall:

11 (1) Display the license or a copy in a prominent location at the  
12 outlet for which the license is issued; and

13 (2) Display a sign concerning the prohibition of tobacco sales to  
14 minors.

15 Such sign shall:

16 (a) Be posted so that it is clearly visible to anyone purchasing  
17 tobacco products from the licensee;

18 (b) Be designed and produced by the department of health to read:  
19 "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE 18 IS STRICTLY  
20 PROHIBITED BY STATE LAW. IF YOU ARE UNDER 18, YOU COULD BE  
21 (~~PENALIZED~~) FINED AND BE REQUIRED TO PARTICIPATE IN 4 HOURS OF  
22 COMMUNITY SERVICE FOR PURCHASING A TOBACCO PRODUCT; PHOTO ID REQUIRED";  
23 and

24 (c) Be provided free of charge by the liquor control board.

25 "**Sec. 2.** RCW 70.155.080 and 1993 c 507 s 9 are each amended to read  
26 as follows:

27 (1) A person under the age of eighteen who purchases or attempts to  
28 purchase, possesses or attempts to possess, or obtains or attempts to  
29 obtain cigarettes or tobacco products commits a class 3 civil  
30 infraction under chapter 7.80 RCW and is subject to a fine as set out  
31 in chapter 7.80 RCW (~~or~~) and participation in four hours of community  
32 service. The court may also require participation in a smoking  
33 cessation program(~~, or both~~)). This provision does not apply if a  
34 person under the age of eighteen, with parental authorization, is  
35 participating in a controlled purchase as part of a liquor control

1 board, law enforcement, or (~~local health department~~) licensee under  
2 RCW 82.24.530 activity.

3 (2) Municipal and district courts within the state have  
4 jurisdiction for enforcement of this section. All fines collected  
5 under this section shall be deposited in the youth tobacco prevention  
6 account created in RCW 70.155.120. The assessment, collection, and  
7 distribution of assessments under RCW 3.62.090 are not affected by this  
8 section.

9 NEW SECTION. Sec. 3. A new section is added to chapter 70.155 RCW  
10 to read as follows:

11 (1) The liquor control board may waive the suspension or revocation  
12 of a license and any monetary penalty if the licensee clearly  
13 establishes that he or she acted in good faith to prevent violations  
14 and a violation occurred despite the licensee's exercise of due  
15 diligence.

16 (2) It is a defense to a prosecution under RCW 26.28.080 that the  
17 licensee:

18 (a) Posted the required signs under RCW 70.155.020;

19 (b) Trained employees with the employee's signature on file that  
20 they were trained on how not to sell, give, or permit to be sold or  
21 given to any person under the age of eighteen years any cigar,  
22 cigarette, cigarette paper or wrapper, or tobacco in any form; and

23 (c) Did not authorize, permit, or participate in the selling or  
24 giving to any person under the age of eighteen any cigar, cigarette,  
25 cigarette paper or wrapper, or tobacco in any form.

26 **Sec. 4.** RCW 70.155.110 and 1993 c 507 s 12 are each amended to  
27 read as follows:

28 (1) The liquor control board shall, in addition to the board's  
29 other powers and authorities, have the authority to enforce the  
30 provisions of this chapter and RCW 26.28.080(~~(+4)~~) and 82.24.500. The  
31 liquor control board shall have full power to revoke or suspend the  
32 license of any retailer or wholesaler in accordance with the provisions  
33 of RCW 70.155.100.

34 (2) The liquor control board and the board's authorized agents or  
35 employees shall have full power and authority to enter any place of  
36 business where tobacco products are sold for the purpose of enforcing  
37 the provisions of this chapter.

1 (3) For the purpose of enforcing the provisions of this chapter and  
2 RCW 26.28.080(~~(+4)~~) and 82.24.500, a peace officer or enforcement  
3 officer of the liquor control board who has reasonable grounds to  
4 believe a person observed by the officer purchasing, attempting to  
5 purchase, or in possession of tobacco products is under the age of  
6 eighteen years of age, may detain such person for a reasonable period  
7 of time and in such a reasonable manner as is necessary to determine  
8 the person's true identity and date of birth. Further, tobacco  
9 products possessed by persons under the age of eighteen years of age  
10 are considered contraband and may be seized by a peace officer or  
11 enforcement officer of the liquor control board.

12 (4) The liquor control board may work with (~~local county health~~  
13 ~~departments or districts and~~) local law enforcement agencies to  
14 conduct random, unannounced(~~(7)~~) inspections in accordance with  
15 guidelines adopted by the board to assure compliance.

16 NEW SECTION. Sec. 5. A new section is added to chapter 70.155 RCW  
17 to read as follows:

18 A person who holds a license issued under RCW 82.24.530 may employ  
19 a person under the age of eighteen to conduct random, unannounced  
20 inspections to assure compliance without penalties.

21 Sec. 6. RCW 70.155.120 and 1993 c 507 s 13 are each amended to  
22 read as follows:

23 (1) The youth tobacco prevention account is created in the state  
24 treasury. All fees collected pursuant to RCW 82.24.520 and 82.24.530  
25 and funds collected by the liquor control board from the imposition of  
26 monetary penalties and samplers' fees shall be deposited into this  
27 account, except that ten percent of all such fees and penalties shall  
28 be deposited in the state general fund.

29 (2) Moneys appropriated from the youth tobacco prevention account  
30 to the department of health shall be used by the department of health  
31 for implementation of this chapter, including collection and reporting  
32 of data regarding enforcement and the extent to which access to tobacco  
33 products by youth has been reduced.

34 (3) The department of health shall enter into interagency  
35 agreements with the liquor control board to pay the costs incurred, up  
36 to (~~(thirty)~~) fifty percent of available funds, in carrying out its  
37 enforcement responsibilities under this chapter. Such agreements shall

1 set forth standards of enforcement, consistent with the funding  
2 available, so as to reduce the extent to which tobacco products are  
3 available to individuals under the age of eighteen. The agreements  
4 shall also set forth requirements for data reporting by the liquor  
5 control board regarding its enforcement activities. All funds  
6 distributed under this subsection shall be used for enforcement  
7 purposes only.

8 (4) The department of health and the department of revenue shall  
9 enter into an interagency agreement for payment of the cost of  
10 administering the tobacco retailer licensing system and for the  
11 provision of quarterly documentation of tobacco wholesaler, retailer,  
12 and vending machine names and locations.

13 (5) The department of health shall, within up to (~~seventy~~) fifty  
14 percent of available funds, provide grants to local health departments  
15 (~~or other local community agencies~~) to develop and implement  
16 coordinated tobacco intervention strategies to prevent and reduce  
17 tobacco use by youth. Local health departments shall not contract with  
18 local community agencies to develop and implement coordinated tobacco  
19 intervention strategies to prevent and reduce tobacco use by youth.

20 (6) No moneys deposited in or appropriated from the youth tobacco  
21 prevention account may be used to fund private groups or individuals by  
22 means of grants, contracts, payments, or other transfers of funds for  
23 lobbying or public relations services.

24 **Sec. 7.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are  
25 each reenacted and amended to read as follows:

26 (1) Except as provided in subsection (2) of this section, the  
27 juvenile courts in the several counties of this state, shall have  
28 exclusive original jurisdiction over all proceedings:

29 (a) Under the interstate compact on placement of children as  
30 provided in chapter 26.34 RCW;

31 (b) Relating to children alleged or found to be dependent as  
32 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

33 (c) Relating to the termination of a parent and child relationship  
34 as provided in RCW 13.34.180 through 13.34.210;

35 (d) To approve or disapprove out-of-home placement as provided in  
36 RCW 13.32A.170;

1 (e) Relating to juveniles alleged or found to have committed  
2 offenses, traffic infractions, or violations as provided in RCW  
3 13.40.020 through 13.40.230, unless:

4 (i) The juvenile court transfers jurisdiction of a particular  
5 juvenile to adult criminal court pursuant to RCW 13.40.110; or

6 (ii) The statute of limitations applicable to adult prosecution for  
7 the offense, traffic infraction, or violation has expired; or

8 (iii) The alleged offense or infraction is a traffic, fish,  
9 boating, or game offense or traffic infraction committed by a juvenile  
10 sixteen years of age or older and would, if committed by an adult, be  
11 tried or heard in a court of limited jurisdiction, in which instance  
12 the appropriate court of limited jurisdiction shall have jurisdiction  
13 over the alleged offense or infraction: PROVIDED, That if such an  
14 alleged offense or infraction and an alleged offense or infraction  
15 subject to juvenile court jurisdiction arise out of the same event or  
16 incident, the juvenile court may have jurisdiction of both matters:  
17 PROVIDED FURTHER, That the jurisdiction under this subsection does not  
18 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)  
19 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited  
20 jurisdiction which confine juveniles for an alleged offense or  
21 infraction may place juveniles in juvenile detention facilities under  
22 an agreement with the officials responsible for the administration of  
23 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

24 (iv) The juvenile is sixteen or seventeen years old and the alleged  
25 offense is: (A) A serious violent offense as defined in RCW 9.94A.030  
26 committed on or after June 13, 1994; or (B) a violent offense as  
27 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the  
28 juvenile has a criminal history consisting of: (I) One or more prior  
29 serious violent offenses; (II) two or more prior violent offenses; or  
30 (III) three or more of any combination of the following offenses: Any  
31 class A felony, any class B felony, vehicular assault, or manslaughter  
32 in the second degree, all of which must have been committed after the  
33 juvenile's thirteenth birthday and prosecuted separately. In such a  
34 case the adult criminal court shall have exclusive original  
35 jurisdiction; or

36 (v) The alleged offense falls under RCW 70.155.080.

37 If the juvenile challenges the state's determination of the  
38 juvenile's criminal history, the state may establish the offender's  
39 criminal history by a preponderance of the evidence. If the criminal

1 history consists of adjudications entered upon a plea of guilty, the  
2 state shall not bear a burden of establishing the knowing and  
3 voluntariness of the plea;

4 (f) Under the interstate compact on juveniles as provided in  
5 chapter 13.24 RCW;

6 (g) Relating to termination of a diversion agreement under RCW  
7 13.40.080, including a proceeding in which the divertee has attained  
8 eighteen years of age;

9 (h) Relating to court validation of a voluntary consent to an out-  
10 of-home placement under chapter 13.34 RCW, by the parent or Indian  
11 custodian of an Indian child, except if the parent or Indian custodian  
12 and child are residents of or domiciled within the boundaries of a  
13 federally recognized Indian reservation over which the tribe exercises  
14 exclusive jurisdiction; and

15 (i) Relating to petitions to compel disclosure of information filed  
16 by the department of social and health services pursuant to RCW  
17 74.13.042.

18 (2) The family court shall have concurrent original jurisdiction  
19 with the juvenile court over all proceedings under this section if the  
20 superior court judges of a county authorize concurrent jurisdiction as  
21 provided in RCW 26.12.010.

22 (3) A juvenile subject to adult superior court jurisdiction under  
23 subsection (1)(e) (i) through (iv) of this section, who is detained  
24 pending trial, may be detained in a county detention facility as  
25 defined in RCW 13.40.020 pending sentencing or a dismissal."

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29 On page 1, line 3 of the title, after "tobacco;" strike the  
30 remainder of the title and insert "amending RCW 70.155.020, 70.155.080,  
31 70.155.110, and 70.155.120; reenacting and amending RCW 13.04.030;  
32 adding new sections to chapter 70.155 RCW; and prescribing penalties."

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