

# SENATE BILL REPORT

## SB 5687

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As Reported By Senate Committee On:  
Commerce & Labor, March 4, 1997

**Title:** An act relating to making minor possession of tobacco a class 3 civil infraction and clarifying penalties for violation of current laws regarding youth access to tobacco.

**Brief Description:** Making minor possession of tobacco a class 3 civil infraction and clarifying penalties for violation of current laws regarding youth access to tobacco.

**Sponsors:** Senators Schow, Heavey, Newhouse, Prentice and Horn.

**Brief History:**

**Committee Activity:** Commerce & Labor: 2/17/97, 3/4/97 [DP, DNP].

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass.

Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Heavey and Newhouse.

**Minority Report:** Do not pass.

Signed by Senators Franklin and Fraser.

**Staff:** Aurora Almeda (786-7488)

**Background:** Under current law, a minor who purchases or attempts to purchase cigarettes or tobacco products commits a class 3 civil infraction and is subject to a fine of up to \$50 or participation in a smoking cessation program, or both. The penalty does not apply to a minor who, with parental authorization, is participating in a controlled purchase as part of a Liquor Control Board (LCB), law enforcement, or local health department activity.

Selling, giving, or permitting the sale or giving of tobacco products to a minor constitutes a gross misdemeanor and may result in suspension or revocation of a license to sell cigarettes, unless the licensee clearly establishes he or she acted in good faith and due diligence.

LCB is responsible for enforcement and works with the Department of Health (DOH) and local law enforcement agencies to implement strategies to control tobacco use by youth. LCB may work with local health departments or districts and local law enforcement agencies to conduct random, unannounced inspections to assure compliance by licensees.

DOH must enter into interagency agreements, of up to 30 percent of available funds appropriated from the youth tobacco prevention account, with LCB to carry out enforcement. DOH must, within up to 70 percent of available funds, provide grants to local health departments or other local other local community agencies to develop and implement strategies to control tobacco use by youth.

Some retailers have expressed concern about the efficacy of current regulations regarding youth access to cigarettes and tobacco products.

**Summary of Bill:** A minor who possesses or attempts to possess cigarettes or tobacco products commits a class 3 civil infraction, and is subject to fine of up to \$50 and must participate in four hours of community service. A court may also require a minor to participate in a smoking cessation program. Municipal and district courts within the state have jurisdiction to enforce this penalty. All fines collected under this section are retained by the court of jurisdiction.

It is a defense to a prosecution of selling tobacco products to a minor that the licensee posted the required signs and trained employees how not to sell, give, or permit to be sold any tobacco product to a person under the age of 18. The employer must keep on file a document with the employee's signature indicating that the employee(s) were trained accordingly.

Local health departments or districts cannot conduct random, unannounced inspections assure licensee-compliance. A retailer may conduct internal random, unannounced inspections to assure compliance among its own employees. A retailer may employ a person under the age of 18 to assure compliance without penalties.

DOH must enter into interagency agreements with LCB to pay, up to 80 percent of available funds from the youth tobacco prevention account, for enforcement. DOH must, up to 20 percent of available funds, provide grants to only local health departments to develop and implement strategies to control tobacco use by youth.

No moneys deposited in or appropriated from the youth tobacco prevention account may be used to fund private groups or individuals for lobbying or public relations services.

**Appropriation:** None.

**Fiscal Note:** Requested February 14, 1997.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Kids need to know that it is against the law to smoke. Retailers do all they can to comply with existing laws which ban selling of cigarettes to minors. Retailers already have to pay the costs of licensing and take careful steps not to sell cigarettes to minors.

**Testimony Against:** Shifting the funding allocation from the Department of Health to the Liquor Control Board would render the tobacco youth prevention program ineffective. Local health departments would have little funding to continue their prevention education programs, and the partnership between the two agencies would be so weakened as to create administrative hardship for the Liquor Control Board. This is because the Liquor Control Board is given added responsibility to conduct the compliance checks without the Department of Health's assistance. Enforcement has been working effectively with tobacco prevention programs in school. Retailers should be held responsible for their actions. This bill shifts all the responsibility on kids.

**Testified:** PRO: Rocky Kim, WA State Korean American Convenience Stores; Joe Daniels, United Food Workers District Council; Amy Brackenberry, WA State Association of Neighborhood Stores; CON: Bill Van Horn, Fresh Air for Non-smokers; Alice Codey, American Cancer Society; David Allen, American Cancer Society; Carl Nelson, WSMA; Greg Hewett, Seattle-King County Dept. of Public Health; Colin Jones; Jeannette Stehr-Green, M.D., WA State Dept. of Health.