
HOUSE BILL 1746

State of Washington

55th Legislature

1997 Regular Session

By Representatives Sherstad, Morris, Radcliff, Hatfield, D. Schmidt, Grant, Pennington, Sullivan, Koster, Mulliken, Wood, L. Thomas, Scott, Carrell, Doumit, Sheahan, Huff, Kastama, Boldt, Hickel, McMorris, Thompson, Cooke and Dunshee

Read first time 02/06/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to making minor possession of tobacco a class 3
2 civil infraction and clarifying penalties for violation of current laws
3 regarding youth access to tobacco; amending RCW 70.155.020, 70.155.080,
4 70.155.090, 70.155.110, and 70.155.120; adding new sections to chapter
5 70.155 RCW; and prescribing penalties.

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

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

1 PROHIBITED BY STATE LAW. IF YOU ARE UNDER 18, YOU COULD BE
2 (~~PENALIZED~~) FINED AND BE REQUIRED TO PARTICIPATE IN 4 HOURS OF
3 COMMUNITY SERVICE FOR PURCHASING A TOBACCO PRODUCT; PHOTO ID REQUIRED ;
4 and

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

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

8 (1) A person under the age of eighteen who purchases or attempts to
9 purchase, possesses or attempts to possess, or obtains or attempts to
10 obtain cigarettes or tobacco products commits a class 3 civil
11 infraction under chapter 7.80 RCW and is subject to a fine as set out
12 in chapter 7.80 RCW (~~(or)~~) and participation in four hours of community
13 service. The court may also require participation in a smoking
14 cessation program(~~(, or both)~~). This provision does not apply if a
15 person under the age of eighteen, with parental authorization, is
16 participating in a controlled purchase as part of a liquor control
17 board, law enforcement, or (~~local health department~~) licensee under
18 RCW 82.24.530 activity.

19 (2) Municipal and district courts within the state have
20 jurisdiction for enforcement of this section. All fines collected
21 under this section shall be retained by the court of jurisdiction.

22 **Sec. 3.** RCW 70.155.090 and 1993 c 507 s 10 are each amended to
23 read as follows:

24 (1) Where there may be a question of a person's right to purchase
25 or obtain tobacco products by reason of age, the retailer, sampler, or
26 agent thereof, shall require the purchaser to present any one of the
27 following officially issued identification that shows the purchaser's
28 age and bears his or her signature and photograph: Liquor control
29 authority card of identification of a state or province of Canada;
30 driver's license, instruction permit, or identification card of a state
31 or province of Canada; "identocard" issued by the Washington state
32 department of licensing under chapter 46.20 RCW; United States military
33 identification; passport; or merchant marine identification card issued
34 by the United States coast guard.

35 (2) It is a defense to a prosecution under RCW 26.28.080(~~(+4)~~)
36 that the person making a sale reasonably relied on any of the
37 officially issued identification as defined in subsection (1) of this

1 section. ((The liquor control board shall waive the suspension or
2 revocation of a license if the licensee clearly establishes that he or
3 she acted in good faith to prevent violations and a violation occurred
4 despite the licensee's exercise of due diligence.))

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.155 RCW
6 to read as follows:

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

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

14 (a) Posted the required signs under RCW 70.155.020; and

15 (b) Trained employees with the employee's signature on file that
16 they were trained on how not to sell, give, or permit to be sold or
17 given to any person under the age of eighteen years any cigar,
18 cigarette, cigarette paper or wrapper, or tobacco in any form.

19 **Sec. 5.** RCW 70.155.110 and 1993 c 507 s 12 are each amended to
20 read as follows:

21 (1) The liquor control board shall, in addition to the board's
22 other powers and authorities, have the authority to enforce the
23 provisions of this chapter and RCW 26.28.080((+4)) and 82.24.500. The
24 liquor control board shall have full power to revoke or suspend the
25 license of any retailer or wholesaler in accordance with the provisions
26 of RCW 70.155.100.

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

31 (3) For the purpose of enforcing the provisions of this chapter and
32 RCW 26.28.080((+4)) and 82.24.500, a peace officer or enforcement
33 officer of the liquor control board who has reasonable grounds to
34 believe a person observed by the officer purchasing, attempting to
35 purchase, or in possession of tobacco products is under the age of
36 eighteen years of age, may detain such person for a reasonable period
37 of time and in such a reasonable manner as is necessary to determine

1 the person's true identity and date of birth. Further, tobacco
2 products possessed by persons under the age of eighteen years of age
3 are considered contraband and may be seized by a peace officer or
4 enforcement officer of the liquor control board.

5 (4) The liquor control board may work with (~~local county health~~
6 ~~departments or districts and~~) local law enforcement agencies to
7 conduct random, unannounced(~~(7)~~) inspections to assure compliance.

8 NEW SECTION. Sec. 6. A new section is added to chapter 70.155 RCW
9 to read as follows:

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

13 **Sec. 7.** RCW 70.155.120 and 1993 c 507 s 13 are each amended to
14 read as follows:

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

21 (2) Moneys appropriated from the youth tobacco prevention account
22 to the department of health shall be used by the department of health
23 for implementation of this chapter, including collection and reporting
24 of data regarding enforcement and the extent to which access to tobacco
25 products by youth has been reduced.

26 (3) The department of health shall enter into interagency
27 agreements with the liquor control board to pay the costs incurred, up
28 to (~~(thirty)~~) eighty percent of available funds, in carrying out its
29 enforcement responsibilities under this chapter. Such agreements shall
30 set forth standards of enforcement, consistent with the funding
31 available, so as to reduce the extent to which tobacco products are
32 available to individuals under the age of eighteen. The agreements
33 shall also set forth requirements for data reporting by the liquor
34 control board regarding its enforcement activities.

35 (4) The department of health and the department of revenue shall
36 enter into an interagency agreement for payment of the cost of
37 administering the tobacco retailer licensing system and for the

1 provision of quarterly documentation of tobacco wholesaler, retailer,
2 and vending machine names and locations.

3 (5) The department of health shall, within up to (~~seventy~~) twenty
4 percent of available funds, provide grants to local health departments
5 (~~or other local community agencies~~) to develop and implement
6 coordinated tobacco intervention strategies to prevent and reduce
7 tobacco use by youth.

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

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