
SENATE BILL 5729

State of Washington

55th Legislature

1997 Regular Session

By Senators Haugen, Oke, Prentice, Swecker, Rasmussen, Winsley and Kline

Read first time 02/10/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the access to and use of tobacco by minors;
2 amending RCW 70.155.080 and 70.155.130; reenacting and amending RCW
3 13.04.030; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the research data
6 continues to confirm the harm associated with the use of cigarettes and
7 tobacco products. The legislature finds that those most at risk of
8 beginning use and ultimately becoming addicted to such products are
9 juveniles and that the social immaturity of juveniles coupled with
10 intense media advertising by the tobacco industry and peer pressure
11 lead many juveniles to begin the use of cigarettes and tobacco
12 products. The legislature further finds that school officials and
13 other local governmental officials are frustrated by the growing number
14 of juveniles who use cigarettes and tobacco products, thus endangering
15 their own lives and negatively impacting the general well-being of
16 their communities. Therefore, it is the intent of the legislature to
17 further limit the access by minors to cigarettes and tobacco products
18 and to give local governments the authority to impose stricter
19 regulations in an effort to curb the use of such products by minors.

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

3 A person under the age of eighteen who purchases ~~((or))~~, attempts
4 to purchase ~~((or))~~, obtains ~~((or))~~, attempts to obtain, or possesses
5 cigarettes or tobacco products commits a class 3 civil infraction under
6 chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80
7 RCW or participation in a smoking cessation program, or both. This
8 provision does not apply if a person under the age of eighteen, with
9 parental authorization, is participating in a controlled purchase as
10 part of a liquor control board, law enforcement, or local health
11 department activity.

12 **Sec. 3.** RCW 70.155.130 and 1993 c 507 s 14 are each amended to
13 read as follows:

14 (1) This chapter preempts political subdivisions from adopting or
15 enforcing requirements for the licensure and regulation of tobacco
16 product promotions and sales within retail stores, except ~~((that))~~:

17 (a) Political subdivisions that have adopted ordinances prohibiting
18 sampling by January 1, 1993, may continue to enforce these ordinances;
19 and

20 (b) Political subdivisions may adopt ordinances that are stricter
21 than RCW 70.155.020 through 70.155.080 in an effort to limit the access
22 by minors to cigarettes or tobacco products.

23 (2) Except as provided under subsection (1) of this section, no
24 political subdivision may: ~~((1))~~ (a) Impose fees or license
25 requirements on retail businesses for possessing or selling cigarettes
26 or tobacco products, other than general business taxes or license fees
27 not primarily levied on tobacco products; or ~~((2))~~ (b) regulate or
28 prohibit activities covered by RCW 70.155.020 through 70.155.080. This
29 chapter does not otherwise preempt political subdivisions from adopting
30 ordinances regulating the sale, purchase, use, or promotion of tobacco
31 products not inconsistent with chapter 507, Laws of 1993.

32 **Sec. 4.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
33 each reenacted and amended to read as follows:

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

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

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

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

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

9 (e) Relating to juveniles alleged or found to have committed
10 offenses, traffic infractions, or violations as provided in RCW
11 13.40.020 through 13.40.230, unless:

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

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

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

33 (iv) The juvenile is sixteen or seventeen years old and the alleged
34 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
35 committed on or after June 13, 1994; or (B) a violent offense as
36 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
37 juvenile has a criminal history consisting of: (I) One or more prior
38 serious violent offenses; (II) two or more prior violent offenses; or
39 (III) three or more of any combination of the following offenses: Any

1 class A felony, any class B felony, vehicular assault, or manslaughter
2 in the second degree, all of which must have been committed after the
3 juvenile's thirteenth birthday and prosecuted separately. In such a
4 case the adult criminal court shall have exclusive original
5 jurisdiction.

6 If the juvenile challenges the state's determination of the
7 juvenile's criminal history, the state may establish the offender's
8 criminal history by a preponderance of the evidence. If the criminal
9 history consists of adjudications entered upon a plea of guilty, the
10 state shall not bear a burden of establishing the knowing and
11 voluntariness of the plea;

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

14 (g) Relating to termination of a diversion agreement under RCW
15 13.40.080, including a proceeding in which the divertee has attained
16 eighteen years of age;

17 (h) Relating to court validation of a voluntary consent to an out-
18 of-home placement under chapter 13.34 RCW, by the parent or Indian
19 custodian of an Indian child, except if the parent or Indian custodian
20 and child are residents of or domiciled within the boundaries of a
21 federally recognized Indian reservation over which the tribe exercises
22 exclusive jurisdiction; and

23 (i) Relating to petitions to compel disclosure of information filed
24 by the department of social and health services pursuant to RCW
25 74.13.042.

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

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

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