

CERTIFICATION OF ENROLLMENT

**SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1746**

Chapter 133, Laws of 1998

55th Legislature  
1998 Regular Session

POSSESSION OF TOBACCO BY MINORS--PENALTIES

EFFECTIVE DATE: 6/11/98

Passed by the House March 9, 1998  
Yeas 93 Nays 3

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Passed by the Senate March 5, 1998  
Yeas 34 Nays 13

BRAD OWEN  
**President of the Senate**

Approved March 25, 1998

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1746** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

March 25, 1998 - 4:19 p.m.

**Secretary of State  
State of Washington**

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SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1746

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AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Commerce & Labor (originally sponsored 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 03/05/97.

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 70.155.080 and  
4 70.155.100; creating a new section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the protection of  
7 adolescents' health requires a strong set of comprehensive health and  
8 law enforcement interventions. We know that youth are deterred from  
9 using alcohol in public because of existing laws making possession  
10 illegal. However, while the purchase of tobacco by youth is clearly  
11 prohibited, the possession of tobacco is not. It is the legislature's  
12 intent that youth hear consistent messages from public entities,  
13 including law enforcement, about public opposition to their illegal use  
14 of tobacco products.

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

17 (1) A person under the age of eighteen who purchases or attempts to  
18 purchase, possesses, or obtains or attempts to obtain cigarettes or

1 tobacco products commits a class 3 civil infraction under chapter 7.80  
2 RCW and is subject to a fine as set out in chapter 7.80 RCW or  
3 participation in up to four hours of community service, or both. The  
4 court may also require participation in a smoking cessation program(~~(7~~  
5 ~~or both)~~). This provision does not apply if a person under the age of  
6 eighteen, with parental authorization, is participating in a controlled  
7 purchase as part of a liquor control board, law enforcement, or local  
8 health department activity.

9 (2) Municipal and district courts within the state have  
10 jurisdiction for enforcement of this section.

11 **Sec. 3.** RCW 70.155.100 and 1993 c 507 s 11 are each amended to  
12 read as follows:

13 (1) The liquor control board may suspend or revoke a retailer's  
14 license held by a business at any location, or may impose a monetary  
15 penalty as set forth in subsection (2) of this section, if the liquor  
16 control board finds that the licensee has violated RCW  
17 26.28.080(~~((+4))~~), (~~(or)~~) 70.155.020, 70.155.030, 70.155.040,  
18 70.155.050, 70.155.060, 70.155.070, or 70.155.090.

19 (2) The sanctions that the liquor control board may impose against  
20 a person licensed under RCW 82.24.530 and 70.155.050 and 70.155.060  
21 based upon one or more findings under subsection (1) of this section  
22 may not exceed the following:

23 (a) For violation of RCW 26.28.080(~~((+4))~~) or 70.155.020:

24 (i) A monetary penalty of one hundred dollars for the first  
25 violation within any two-year period;

26 (ii) A monetary penalty of three hundred dollars for the second  
27 violation within any two-year period;

28 (iii) A monetary penalty of one thousand dollars and suspension of  
29 the license for a period of six months for the third violation within  
30 any two-year period;

31 (iv) A monetary penalty of one thousand five hundred dollars and  
32 suspension of the license for a period of twelve months for the fourth  
33 violation within any two-year period;

34 (v) Revocation of the license with no possibility of reinstatement  
35 for a period of five years for the fifth or more violation within any  
36 two-year period;

1 (b) For violations of RCW 70.155.030, a monetary penalty in the  
2 amount of one hundred dollars for each day upon which such violation  
3 occurred;

4 (c) For violations of RCW 70.155.040 occurring on the licensed  
5 premises:

6 (i) A monetary penalty of one hundred dollars for the first  
7 violation within any two-year period;

8 (ii) A monetary penalty of three hundred dollars for the second  
9 violation within any two-year period;

10 (iii) A monetary penalty of one thousand dollars and suspension of  
11 the license for a period of six months for the third violation within  
12 any two-year period;

13 (iv) A monetary penalty of one thousand five hundred dollars and  
14 suspension of the license for a period of twelve months for the fourth  
15 violation within any two-year period;

16 (v) Revocation of the license with no possibility of reinstatement  
17 for a period of five years for the fifth or more violation within any  
18 two-year period;

19 (d) For violations of RCW 70.155.050 and 70.155.060, a monetary  
20 penalty in the amount of three hundred dollars for each violation;

21 (e) For violations of RCW 70.155.070, a monetary penalty in the  
22 amount of one thousand dollars for each violation.

23 (3) The liquor control board may impose a monetary penalty upon any  
24 person other than a licensed cigarette retailer or licensed sampler if  
25 the liquor control board finds that the person has violated RCW  
26 26.28.080(~~((+4))~~), (~~((e))~~) 70.155.020, 70.155.030, 70.155.040,  
27 70.155.050, 70.155.060, 70.155.070, or 70.155.090.

28 (4) The monetary penalty that the liquor control board may impose  
29 based upon one or more findings under subsection (3) of this section  
30 may not exceed the following:

31 (a) For violation of RCW 26.28.080(~~((+4))~~) or 70.155.020, fifty  
32 dollars for the first violation and one hundred dollars for each  
33 subsequent violation;

34 (b) For violations of RCW 70.155.030, one hundred dollars for each  
35 day upon which such violation occurred;

36 (c) For violations of RCW 70.155.040, one hundred dollars for each  
37 violation;

38 (d) For violations of RCW 70.155.050 and 70.155.060, three hundred  
39 dollars for each violation;

1 (e) For violations of RCW 70.155.070, one thousand dollars for each  
2 violation.

3 (5) The liquor control board may develop and offer a class for  
4 retail clerks and use this class in lieu of a monetary penalty for the  
5 clerk's first violation.

6 (6) The liquor control board may issue a cease and desist order to  
7 any person who is found by the liquor control board to have violated or  
8 intending to violate the provisions of this chapter, RCW  
9 26.28.080(~~(+4)~~) or 82.24.500, requiring such person to cease specified  
10 conduct that is in violation. The issuance of a cease and desist order  
11 shall not preclude the imposition of other sanctions authorized by this  
12 statute or any other provision of law.

13 (7) The liquor control board may seek injunctive relief to enforce  
14 the provisions of RCW 26.28.080(~~(+4)~~) or 82.24.500 or this chapter.  
15 The liquor control board may initiate legal action to collect civil  
16 penalties imposed under this chapter if the same have not been paid  
17 within thirty days after imposition of such penalties. In any action  
18 filed by the liquor control board under this chapter, the court may, in  
19 addition to any other relief, award the liquor control board reasonable  
20 attorneys' fees and costs.

21 (8) All proceedings under subsections (1) through (6) of this  
22 section shall be conducted in accordance with chapter 34.05 RCW.

23 (9) The liquor control board may reduce or waive either the  
24 penalties or the suspension or revocation of a license, or both, as set  
25 forth in this chapter where the elements of proof are inadequate or  
26 where there are mitigating circumstances. Mitigating circumstances may  
27 include, but are not limited to, an exercise of due diligence by a  
28 retailer. Further, the board may exceed penalties set forth in this  
29 chapter based on aggravating circumstances.

Passed the House March 9, 1998.

Passed the Senate March 5, 1998.

Approved by the Governor March 25, 1998.

Filed in Office of Secretary of State March 25, 1998.