

1 5881 AAS 3/11/99

2 SB 5881 - S AMD - 110  
3 By Senator Thibaudeau

4 ADOPTED 3/11/99

5 On page 3, line 1, after "(2)" strike "Beginning" and insert  
6 "Except as provided in subsection (1) of this section, beginning"

7 On page 3, line 5, after "exclusively." insert "Further, this  
8 section does not apply to sales from within premises where minors are  
9 prohibited by statute."

10 SB 5881 - S AMD - 111  
11 By Senators Johnson and Thibaudeau

12 ADOPTED 3/11/99

13 Beginning on page 7, line 19, strike all of section 8 and insert  
14 the following:

15 "Sec. 8. RCW 70.155.130 and 1993 c 507 s 14 are each amended to  
16 read as follows:

17 This chapter preempts political subdivisions from adopting or  
18 enforcing requirements for the licensure and regulation of tobacco  
19 product promotions and sales within retail stores, except that  
20 political subdivisions that have adopted ordinances (~~prohibiting~~  
21 ~~sampling~~) regulating tobacco by January 1, 1993, may continue to  
22 enforce these ordinances. No political subdivision may: (1) Impose  
23 fees or license requirements on retail businesses for possessing or  
24 selling cigarettes or tobacco products, other than general business  
25 taxes or license fees not primarily levied on tobacco products; or (2)  
26 regulate or prohibit activities covered by RCW 70.155.020 through  
27 70.155.080. (~~This chapter does not otherwise preempt political~~  
28 ~~subdivisions from adopting ordinances regulating the sale, purchase,~~  
29 ~~use, or promotion of tobacco products not inconsistent with chapter~~  
30 ~~507, Laws of 1993.)) Nothing in this chapter limits the powers of a  
31 political subdivision from adopting ordinances regulating the sale,  
32 purchase, use, or promotion of tobacco products, not inconsistent with  
33 this chapter, occurring outside a retail store. Tobacco advertising~~

1 and promotions within a retail store that are conspicuous to the view  
2 of the public from outside the retail store are considered to be  
3 occurring outside the retail store."

4 **SB 5881** - S AMD - 112  
5 By Senator Deccio

6 ADOPTED 3/11/99

7 On page 8, after line 2, insert the following:

8 "Sec. 9. RCW 82.24.110 and 1997 c 420 s 4 are each amended to read  
9 as follows:

10 (1) Each of the following acts is a gross misdemeanor and  
11 punishable as such:

12 (a) To sell, except as a licensed wholesaler engaged in interstate  
13 commerce as to the article being taxed herein, without the stamp first  
14 being affixed;

15 (b) To sell in Washington as a wholesaler to a retailer who does  
16 not possess and is required to possess a current cigarette retailer's  
17 license;

18 (c) To use or have in possession knowingly or intentionally any  
19 forged or counterfeit stamps;

20 (d) For any person other than the department of revenue or its duly  
21 authorized agent to sell any stamps not affixed to any of the articles  
22 taxed herein whether such stamps are genuine or counterfeit;

23 (e) To violate any of the provisions of this chapter;

24 (f) To violate any lawful rule made and published by the department  
25 of revenue or the board;

26 (g) To use any stamps more than once;

27 (h) To refuse to allow the department of revenue or its duly  
28 authorized agent, on demand, to make full inspection of any place of  
29 business where any of the articles herein taxed are sold or otherwise  
30 hinder or prevent such inspection;

31 (i) Except as provided in this chapter, for any retailer to have in  
32 possession in any place of business any of the articles herein taxed,  
33 unless the same have the proper stamps attached;

34 (j) For any person to make, use, or present or exhibit to the  
35 department of revenue or its duly authorized agent, any invoice for any

1 of the articles herein taxed which bears an untrue date or falsely  
2 states the nature or quantity of the goods therein invoiced;

3 (k) For any wholesaler or retailer or his or her agents or  
4 employees to fail to produce on demand of the department of revenue all  
5 invoices of all the articles herein taxed or stamps bought by him or  
6 her or received in his or her place of business within five years prior  
7 to such demand unless he or she can show by satisfactory proof that the  
8 nonproduction of the invoices was due to causes beyond his or her  
9 control;

10 (l) For any person to receive in this state any shipment of any of  
11 the articles taxed herein, when the same are not stamped, for the  
12 purpose of avoiding payment of tax. It is presumed that persons other  
13 than dealers who purchase or receive shipments of unstamped cigarettes  
14 do so to avoid payment of the tax imposed herein;

15 (m) For any person to possess or transport in this state a quantity  
16 of (~~sixty~~) thirty thousand cigarettes or less unless the proper  
17 stamps required by this chapter have been affixed or unless: (i)  
18 Notice of the possession or transportation has been given as required  
19 by RCW 82.24.250; (ii) the person transporting the cigarettes has in  
20 actual possession invoices or delivery tickets which show the true name  
21 and address of the consignor or seller, the true name and address of  
22 the consignee or purchaser, and the quantity and brands of the  
23 cigarettes so transported; and (iii) the cigarettes are consigned to or  
24 purchased by any person in this state who is authorized by this chapter  
25 to possess unstamped cigarettes in this state.

26 (2) It is unlawful for any person knowingly or intentionally to  
27 possess or to transport in this state a quantity in excess of (~~sixty~~)  
28 thirty thousand cigarettes unless the proper stamps required by this  
29 chapter are affixed thereto or unless: (a) Proper notice as required  
30 by RCW 82.24.250 has been given; (b) the person transporting the  
31 cigarettes actually possesses invoices or delivery tickets showing the  
32 true name and address of the consignor or seller, the true name and  
33 address of the consignee or purchaser, and the quantity and brands of  
34 the cigarettes so transported; and (c) the cigarettes are consigned to  
35 or purchased by a person in this state who is authorized by this  
36 chapter to possess unstamped cigarettes in this state. Violation of  
37 this section shall be punished as a class C felony under Title 9A RCW.

38 (3) All agents, employees, and others who aid, abet, or otherwise  
39 participate in any way in the violation of the provisions of this

1 chapter or in any of the offenses described in this chapter shall be  
2 guilty and punishable as principals, to the same extent as any  
3 wholesaler or retailer or any other person violating this chapter.

4 **Sec. 10.** RCW 82.24.130 and 1997 c 420 s 5 are each amended to read  
5 as follows:

6 (1) The following are subject to seizure and forfeiture:

7 (a) Subject to RCW 82.24.250, any articles taxed in this chapter  
8 that are found at any point within this state, which articles are held,  
9 owned, or possessed by any person, and that do not have the stamps  
10 affixed to the packages or containers.

11 (b) All conveyances, including aircraft, vehicles, or vessels,  
12 which are used, or intended for use, to transport, or in any manner to  
13 facilitate the transportation, for the purpose of sale or receipt of  
14 property described in (a) of this subsection, except:

15 (i) A conveyance used by any person as a common or contract carrier  
16 having in actual possession invoices or delivery tickets showing the  
17 true name and address of the consignor or seller, the true name of the  
18 consignee or purchaser, and the quantity and brands of the cigarettes  
19 transported, unless it appears that the owner or other person in charge  
20 of the conveyance is a consenting party or privy to a violation of this  
21 chapter;

22 (ii) A conveyance subject to forfeiture under this section by  
23 reason of any act or omission of which the owner thereof establishes to  
24 have been committed or omitted without his or her knowledge or consent;

25 (iii) A conveyance encumbered by a bona fide security interest if  
26 the secured party neither had knowledge of nor consented to the act or  
27 omission.

28 (c) Any vending machine used for the purpose of violating the  
29 provisions of this chapter.

30 (2) Property subject to forfeiture under this chapter may be seized  
31 by any agent of the department authorized to collect taxes, any  
32 enforcement officer of the board, or law enforcement officer of this  
33 state upon process issued by any superior court or district court  
34 having jurisdiction over the property. Seizure without process may be  
35 made if:

36 (a) The seizure is incident to an arrest or a search under a search  
37 warrant or an inspection under an administrative inspection warrant; or

1 (b) The department, the board, or the law enforcement officer has  
2 probable cause to believe that the property was used or is intended to  
3 be used in violation of this chapter and exigent circumstances exist  
4 making procurement of a search warrant impracticable.

5 (3) Notwithstanding the foregoing provisions of this section,  
6 articles taxed in this chapter which are in the possession of a  
7 wholesaler or retailer, licensed under Washington state law, for a  
8 period of time necessary to affix the stamps after receipt of the  
9 articles, shall not be considered contraband.

10 (4) The director of the department of licensing may suspend for six  
11 months the driver's license of a person found to be operating a  
12 conveyance transporting property subject to forfeiture under this  
13 chapter."

14 Renumber the remaining sections consecutively and correct any  
15 internal references accordingly.

16 **SB 5881** - S AMD - 112  
17 By Senator Deccio

18 ADOPTED 3/11/99

19 On page 1, line 3 of the title, after "70.155.110," strike "and  
20 70.155.130" and insert "70.155.130, 82.24.110, and 82.24.130"

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