

HOUSE BILL ANALYSIS

SSB 5881

Brief Description: Regulating youth access to tobacco products.

Sponsors: Senators Thibaudeau and Oke; by request of Governor Locke and the Office of the Attorney General

Hearing: February 23, 2000

Brief Summary of Bill

- Modifies provisions of the minors' access to tobacco law relating to retail sales of tobacco products and penalty and enforcement provisions.
- Changes elements of the criminal violation for possessing or transporting unstamped cigarettes.

BACKGROUND:

In 1993 the federal government required, as a condition for receiving federal substance abuse funds, that states adopt a law making it illegal for a manufacturer or retailer of tobacco products to distribute these products to a person under the age of 18. In response, the state of Washington enacted the minors' access to tobacco law. The law provides for the following:

- (1) Posting of signs by licensees - It is a gross misdemeanor for anyone to sell tobacco to a minor. Cigarette wholesalers and retailers are required to post their license at the place of sale in addition to a sign that clearly communicates that tobacco may not be sold to minors and if a minor purchases tobacco, he or she could be penalized.
- (2) Cigarette vending machines - Cigarette vending machines may only be located in areas where access by minors is prohibited. The machine must be located at least 10 feet from an entrance or exit to the area.
- (3) Original packages - Cigarettes must be sold in their original packages.
- (4) Tobacco sampling - The Liquor Control Board licenses businesses to engage in tobacco sampling at certain locations. No sampling may occur in public places except

where minors are prohibited entry, within a retail licensee's establishment, or at a production, repair, or outdoor construction site. Distribution of samples may not occur within 500 feet of a playground or school frequented by minors.

(5) Distribution by coupons - Coupons may be used to distribute tobacco products only if the coupon is redeemable in person at a retail store.

(6) Penalties - Penalties for violations of the act's provisions include monetary fines and in some cases, after repeated offenses, the possibility of license suspension or revocation.

(7) Enforcement - The Liquor Control Board has authority to enforce the provisions of this act. The board may work with local county health departments and local law enforcement to conduct random inspections to assure compliance with the act.

Cigarette stamps and taxes

Under the state's cigarette tax laws, it is a gross misdemeanor for anyone to possess or transport cigarettes in this state in quantities less than 60,000 unless the cigarettes are properly stamped and the person transporting them has notified the Liquor Control Board and has all necessary documentation for transportation. For quantities greater than 60,000, a violation is a class C felony.

Cigarettes that are not properly stamped and the conveyances used to transport them are subject to seizure and forfeiture.

SUMMARY OF BILL:

Retail signs and the retail sale of cigarettes

Information regarding possession of tobacco products is added to the signs that must be posted at the point of sale warning individuals who are under the age of 18 that they may be subject to penalties if they purchase or possess tobacco products.

Beginning July 1, 2001, tobacco products must be sold from behind a counter or from locked displays except for retailers who exclusively sell tobacco products or who sell in locations where access by minors is prohibited.

Sales of cigarettes in packages fewer than twenty may only occur in locations where access by minors is prohibited.

Penalties and enforcement

The Liquor Control Board may impose sanctions against retail licensees who violate board rules for which there is no statutory penalty.

The board may adopt rules necessary to implement the minors' access to tobacco law and rules regarding the distribution of tobacco products especially as they relate to minors.

Anyone knowingly or willfully resisting a state, county, or municipal peace officer or liquor

enforcement officer discharging his or her duties under the act or who aids others in doing so may be guilty of a misdemeanor.

No manufacturer or wholesaler may pay the fine of a retailer nor may a retailer accept such payment. A violation of this provision is a gross misdemeanor which subjects the violator to a minimum fine of \$2,500 for the first offense and \$5,000 for each subsequent violation.

Cigarette stamps and taxes

Under the state's cigarette tax laws, it is a criminal violation for anyone to possess or transport cigarettes in this state unless the cigarettes are properly stamped and the person transporting them has notified the Liquor Control Board and has all necessary documentation for transportation. If the quantity of cigarettes is 30,000 or less, the violation is a gross misdemeanor. For quantities greater than 30,000, a violation is a class C felony under the state's criminal code.

Cigarettes that are not properly stamped and the conveyances used to transport them are subject to seizure and forfeiture. In addition, the driver of the conveyance may have his or her license suspended for a period of six months by the director of the Department of Licensing.

RULES AUTHORITY: The bill requires rule-making by the Liquor Control Board.

FISCAL NOTE: Available.

EFFECTIVE DATE: Ninety days after adjournment of a session in which bill is passed.