
HOUSE BILL 1719

State of Washington

57th Legislature

2001 Regular Session

By Representatives Edwards, Darneille, Dunshee, Fromhold, O'Brien, Romero and Schual-Berke

Read first time 02/01/2001. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to tobacco products; amending RCW 82.24.010,
2 82.24.500, 82.24.520, 82.24.530, 82.24.550, 26.28.080, and 19.91.300;
3 adding new sections to chapter 82.24 RCW; creating a new section;
4 recodifying RCW 82.26.020, 82.26.025, 82.26.050, 82.26.060, 82.26.070,
5 82.26.080, 82.26.090, 82.26.100, and 82.26.110; repealing RCW
6 82.26.010, 82.26.030, 82.26.040, 82.26.120, and 82.26.121; and
7 prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the use of
10 tobacco products by minors is a serious health concern. Currently,
11 state licensing of tobacco retailers fails to include all tobacco
12 products and all cigarettes. The legislature intends to require a
13 tobacco retailers license for all sales of cigarettes, tobacco
14 products, and herbal cigarettes. Further, the legislature wishes to
15 ensure that all cigarette, herbal cigarette, and tobacco wholesalers
16 and retailers are licensed under RCW 82.24.520 and 82.24.530,
17 respectively and that all cigarette and tobacco product taxes remain
18 unchanged by this act.

1 **Sec. 2.** RCW 82.24.010 and 1997 c 420 s 3 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter:

5 (1) "Board" means the liquor control board.

6 (2) "Cigarette" means any roll for smoking made wholly or in part
7 of tobacco, irrespective of size or shape and irrespective of the
8 tobacco being flavored, adulterated, or mixed with any other
9 ingredient, where such roll has a wrapper or cover made of paper or any
10 material, except where such wrapper is wholly (~~or in the greater~~
11 ~~part~~) made of natural leaf tobacco in its unadulterated natural state.

12 (3) "Tobacco products" means cigars, cheroots, stogies, periques,
13 granulated, plug cut, crimp cut, ready rubbed, and other smoking
14 tobacco, snuff, snuff flour, cavendish, plug and twist tobacco,
15 fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings,
16 cuttings and sweepings of tobacco, and other kinds and forms of
17 tobacco, prepared in a manner suitable for chewing or smoking in a pipe
18 or otherwise, or both for chewing and smoking, but does not include
19 cigarettes as defined in this chapter.

20 (4) "Herbal cigarette" means any roll for smoking made without use
21 of tobacco or controlled substances and with any other combination of
22 organic matter that reasonably mimics tobacco cigarettes in their use
23 or appearance.

24 (5) "Indian tribal organization" means a federally recognized
25 Indian tribe, or tribal entity, and includes an Indian wholesaler or
26 retailer that is owned by an Indian who is an enrolled tribal member
27 conducting business under tribal license or similar tribal approval
28 within Indian country. For purposes of this chapter "Indian country"
29 is defined in the manner set forth in 18 U.S.C. Sec. 1151.

30 (~~(4)~~) (6) "Precollection obligation" means the obligation of a
31 seller otherwise exempt from the tax imposed by this chapter to collect
32 the tax from that seller's buyer.

33 (~~(5)~~) (7) "Manufacturer" means a person who manufactures and
34 sells tobacco products.

35 (8) "Distributor" means: (a) Any person engaged in the business of
36 selling tobacco products in this state who brings, or causes to be
37 brought, into this state from outside the state, any tobacco products
38 for sale; (b) any person who makes, manufactures, or fabricates tobacco
39 products in this state for sale in this state; and (c) any person

1 engaged in the business of selling tobacco products outside this state
2 who ships or transports tobacco products to retailers in this state, to
3 be sold by those retailers.

4 (9) "Subjobber" means any person, other than a manufacturer or
5 distributor, who buys tobacco products from a distributor and sells
6 them to persons other than the ultimate consumers.

7 (10) "Retailer" means every person, other than a wholesaler, who
8 purchases, sells, offers for sale or distributes any one or more of the
9 articles taxed herein, irrespective of quantity or amount, or the
10 number of sales, and all persons operating under a retailer's
11 registration certificate.

12 ((+6)) (11) "Sale" means any transfer, exchange, or barter, in any
13 manner or by any means whatsoever, for a consideration, and includes
14 all sales made by any person. It includes a gift by a person engaged
15 in the business of selling tobacco products.

16 (12) "Wholesale sales price" means the established price a
17 manufacturer sells a tobacco product to a distributor, exclusive of any
18 discount or other reduction.

19 (13) "Retail selling price" means the ordinary, customary or usual
20 price paid by the consumer for each package of cigarettes, less the tax
21 levied by this chapter and less any similar tax levied by this state.

22 ((+7)) (14) "Stamp" means the stamp or stamps by use of which the
23 tax levy under this chapter is paid or identification is made of those
24 cigarettes with respect to which no tax is imposed.

25 ((+8)) (15) "Business" means any trade, occupation, activity, or
26 enterprise engaged in for the purpose of selling or distributing
27 tobacco products in this state.

28 (16) "Place of business" means any place where tobacco products are
29 sold or where tobacco products are manufactured, stored, or kept for
30 the purpose of sale or consumption, including any vessel, vehicle,
31 airplane, train, or vending machine.

32 (17) "Wholesaler" means every person who purchases, sells, or
33 distributes any one or more of the articles taxed herein to retailers
34 for the purpose of resale only.

35 ((+9)) (18) "Retail outlet" means each place of business where
36 tobacco products are sold to consumers.

37 (19) "Department" means the state department of revenue.

1 (20) The meaning attributed, in chapter 82.04 RCW, to the words
2 "person," "sale," "business" and "successor" applies equally in this
3 chapter.

4 **Sec. 3.** RCW 82.24.500 and 1986 c 321 s 4 are each amended to read
5 as follows:

6 No person may engage in or conduct the business of purchasing,
7 selling, consigning, or distributing cigarettes, herbal cigarettes, or
8 tobacco products in this state without a license under this chapter.
9 A violation of this section is a misdemeanor.

10 **Sec. 4.** RCW 82.24.520 and 1986 c 321 s 6 are each amended to read
11 as follows:

12 A fee of six hundred fifty dollars shall accompany each
13 wholesaler's license application or license renewal application. If a
14 wholesaler sells or intends to sell cigarettes, herbal cigarettes, or
15 tobacco products at two or more places of business, whether established
16 or temporary, a separate license with a license fee of one hundred
17 fifteen dollars shall be required for each additional place of
18 business. Each license, or certificate thereof, and such other
19 evidence of license as the department of revenue requires, shall be
20 exhibited in the place of business for which it is issued and in such
21 manner as is prescribed for the display of a master license. The
22 department of revenue shall require each licensed wholesaler to file
23 with the department a bond in an amount not less than one thousand
24 dollars to guarantee the proper performance of the duties and the
25 discharge of the liabilities under this chapter. The bond shall be
26 executed by such licensed wholesaler as principal, and by a corporation
27 approved by the department of revenue and authorized to engage in
28 business as a surety company in this state, as surety. The bond shall
29 run concurrently with the wholesaler's license.

30 **Sec. 5.** RCW 82.24.530 and 1993 c 507 s 15 are each amended to read
31 as follows:

32 A fee of ninety-three dollars shall accompany each retailer's
33 license application or license renewal application. A separate license
34 is required for each separate location at which the retailer
35 (~~operates~~) sells cigarettes, herbal cigarettes, or tobacco products.
36 A fee of thirty additional dollars for each vending machine shall

1 accompany each application or renewal for a license issued to a retail
2 dealer operating a cigarette vending machine.

3 **Sec. 6.** RCW 82.24.550 and 1997 c 420 s 8 are each amended to read
4 as follows:

5 (1) The board shall enforce the provisions of this chapter. The
6 board may adopt, amend, and repeal rules necessary to enforce the
7 provisions of this chapter.

8 (2) The department of revenue may adopt, amend, and repeal rules
9 necessary to administer the provisions of this chapter. The department
10 of revenue has full power and authority to revoke or suspend the
11 license or permit of any wholesale or retail cigarette, herbal
12 cigarette, or tobacco product dealer in the state upon sufficient cause
13 appearing of the violation of this chapter or upon the failure of such
14 licensee to comply with any of the provisions of this chapter.

15 (3) A license shall not be suspended or revoked except upon notice
16 to the licensee and after a hearing as prescribed by the department of
17 revenue. The department of revenue, upon a finding by same, that the
18 licensee has failed to comply with any provision of this chapter or any
19 rule promulgated thereunder, shall, in the case of the first offender,
20 suspend the license or licenses of the licensee for a period of not
21 less than thirty consecutive business days, and, in the case of a
22 second or plural offender, shall suspend the license or licenses for a
23 period of not less than ninety consecutive business days nor more than
24 twelve months, and, in the event the department of revenue finds the
25 offender has been guilty of willful and persistent violations, it may
26 revoke the license or licenses.

27 (4) Any person whose license or licenses have been so revoked may
28 apply to the department of revenue at the expiration of one year for a
29 reinstatement of the license or licenses. The license or licenses may
30 be reinstated by the department of revenue if it appears to the
31 satisfaction of the department of revenue that the licensee will comply
32 with the provisions of this chapter and the rules promulgated
33 thereunder.

34 (5) A person whose license has been suspended or revoked shall not
35 sell cigarettes, herbal cigarettes, or tobacco products or permit
36 cigarettes, herbal cigarettes, or tobacco products to be sold during
37 the period of such suspension or revocation on the premises occupied by

1 the person or upon other premises controlled by the person or others or
2 in any other manner or form whatever.

3 (6) Any determination and order by the department of revenue, and
4 any order of suspension or revocation by the department of revenue of
5 the license or licenses, or refusal to reinstate a license or licenses
6 after revocation shall be reviewable by an appeal to the superior court
7 of Thurston county. The superior court shall review the order or
8 ruling of the department of revenue and may hear the matter de novo,
9 having due regard to the provisions of this chapter and the duties
10 imposed upon the department of revenue and the board.

11 **Sec. 7.** RCW 26.28.080 and 1994 sp.s. c 7 s 437 are each amended to
12 read as follows:

13 Every person who sells or gives, or permits to be sold or given to
14 any person under the age of eighteen years any cigar, cigarette,
15 cigarette paper or wrapper, herbal cigarette, or tobacco in any form is
16 guilty of a gross misdemeanor.

17 It shall be no defense to a prosecution for a violation of this
18 section that the person acted, or was believed by the defendant to act,
19 as agent or representative of another.

20 **Sec. 8.** RCW 19.91.300 and 1986 c 321 s 13 are each amended to read
21 as follows:

22 No person licensed to sell cigarettes, herbal cigarettes, or
23 tobacco products under chapter 82.24 RCW may sell cigarettes below the
24 actual price paid. Violations of this section constitute unfair or
25 deceptive acts or practices under the consumer protection act, chapter
26 19.86 RCW.

27 NEW SECTION. **Sec. 9.** RCW 82.26.020, 82.26.025, 82.26.050,
28 82.26.060, 82.26.070, 82.26.080, 82.26.090, 82.26.100, and 82.26.110
29 are each recodified as sections in chapter 82.24 RCW.

30 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
31 each repealed:

32 (1) RCW 82.26.010 (Definitions) and 1995 c 278 s 16, 1975 1st ex.s.
33 c 278 s 70, & 1961 c 15 s 82.26.010;

34 (2) RCW 82.26.030 (Legislative intent) and 1961 c 15 s 82.26.030;

1 (3) RCW 82.26.040 (When tax not applicable under laws of United
2 States) and 1961 c 15 s 82.26.040;
3 (4) RCW 82.26.120 (Administration) and 1963 ex.s. c 28 s 5; and
4 (5) RCW 82.26.121 (Enforcement--Appointment of officers of liquor
5 control board) and 1997 c 420 s 11.

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