
SENATE BILL 5477

State of Washington 64th Legislature 2015 Regular Session

By Senators Dammeier, Becker, Warnick, Kohl-Welles, and Darneille

Read first time 01/22/15. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to requiring substances intended for use in a
2 vapor product to satisfy child-resistant effectiveness standards, and
3 adopting labeling and advertisement standards; amending RCW
4 70.155.010; adding new sections to chapter 70.155 RCW; creating a new
5 section; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** The legislature finds it necessary to
8 protect public health, safety, and welfare by requiring vapor
9 products sold in Washington to employ child-resistant technologies
10 and clear labeling in the packaging of their products for the purpose
11 of preventing nicotine poisonings. Children are particularly
12 vulnerable. When ingested or absorbed through the skin, even small
13 amounts of liquid nicotine may be toxic or even fatal to children. In
14 Washington, poison center calls related to e-cigarettes have
15 increased precipitously over the last several years. Of the calls
16 involving children, the vast majority were one to three years old.

17 **Sec. 2.** RCW 70.155.010 and 2009 c 278 s 1 are each amended to
18 read as follows:

1 The definitions set forth in RCW 82.24.010 shall apply to this
2 chapter. In addition, for the purposes of this chapter, unless
3 otherwise required by the context:

4 (1) "At retail" means any engagement in the business of selling
5 tobacco products or vapor products to ultimate consumers.

6 (2) "Board" means the Washington state liquor control board.

7 ~~((+2))~~ (3) "Internet" means any computer network, telephonic
8 network, or other electronic network.

9 ~~((+3))~~ (4) "Manufacturer" means any person, including, but not
10 limited to, a repacker or relabeler, who manufactures, fabricates,
11 assembles, processes, or labels a vapor product or who imports a
12 finished vapor product for sale or distribution into the United
13 States. "Manufacturer" includes any retail establishment that mixes,
14 or permits customers to mix, flavors or solutions.

15 (5) "Minor" refers to an individual who is less than eighteen
16 years old.

17 ~~((+4))~~ (6) "Sale" means any transfer, exchange, or barter, in
18 any manner or by any means, for consideration, and includes all sales
19 made by any person. "Sale" includes a gift by a person engaged in the
20 business of selling tobacco products or vapor products for
21 advertising, promoting, or as a means of evading the provisions of
22 this chapter.

23 (7) "Sample" means a tobacco product distributed to members of
24 the general public at no cost or at nominal cost for product
25 promotion purposes.

26 ~~((+5))~~ (8) "Sampling" means the distribution of samples to
27 members of the public.

28 ~~((+6))~~ (9) "Tobacco product" means a product that contains
29 tobacco and is intended for human use, including any product defined
30 in RCW 82.24.010(2) or 82.26.010(~~((+1))~~) (21), except that for the
31 purposes of RCW 70.155.140 only, "tobacco product" does not include
32 cigars defined in RCW 82.26.010 as to which one thousand units weigh
33 more than three pounds.

34 (10) "Vapor product" means any: (a) Device that employs a battery
35 or other mechanism to heat a solution or substance to produce a vapor
36 or aerosol intended for inhalation; (b) cartridge or container of a
37 solution or substance intended to be used with or in such a device or
38 to refill such a device; or (c) solution or substance intended for
39 use in such a device, including concentrated nicotine. "Vapor
40 product" includes any electronic cigarettes, electronic nicotine

1 delivery systems, electronic cigars, electronic cigarillos,
2 electronic pipes, vape pens, or similar products or devices. "Vapor
3 product" does not include any substance, device, or combination
4 product approved for sale by the United States food and drug
5 administration that is marketed and sold for such approved purpose.

6 NEW SECTION. Sec. 3. A new section is added to chapter 70.155
7 RCW to read as follows:

8 (1) Unless preempted by federal law, any substance intended for
9 use in a vapor product that is sold at retail in this state must be
10 packaged in child resistant packaging in accordance with 16 C.F.R.
11 Part 1700, the poison prevention packaging act, as it existed on the
12 effective date of this section, or such subsequent date as may be
13 provided by the board by rule, consistent with the purposes of this
14 section.

15 (2) A substance contained in a cartridge sold, marketed, or
16 intended for use in a vapor product that is prefilled and sealed by
17 the manufacturer, and not intended to be opened by the consumer, is
18 exempt from subsection (1) of this section.

19 (3) A manufacturer that knowingly sells or distributes a
20 substance intended for use in a vapor product that does not satisfy
21 the requirements of this section is guilty of a gross misdemeanor.

22 (4) The provisions of this section are null and void and of no
23 force and effect, upon the effective date of the final regulations
24 issued by the United States food and drug administration or from any
25 other federal agency, where such regulations mandate child-resistant
26 effectiveness standards for liquid nicotine containers.

27 NEW SECTION. Sec. 4. A new section is added to chapter 70.155
28 RCW to read as follows:

29 The board shall adopt a rule regulating the labeling and
30 advertisement of vapor products.

31 (1) The rule must require a manufacturer that sells, offers for
32 sale, or distributes a vapor product to label the vapor product with
33 a: (a) Warning regarding the harmful effects of nicotine; and (b)
34 warning to keep away from children.

35 (2) In addition, the rule must require a manufacturer that
36 advertises a vapor product to include in any advertisement a: (a)

- 1 Warning regarding the harmful effects of nicotine; and (b) warning to
- 2 keep away from children.

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