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**SUBSTITUTE HOUSE BILL 1919**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** House Business & Financial Services (originally sponsored by Representatives Vick, Blake, Kirby, Jenkin, J. Walsh, Hayes, Pettigrew, Condotta, Buys, Young, Barkis, Harmsworth, Rodne, MacEwen, and Goodman)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to establishing special license endorsements for  
2 cigar lounges and retail tobacconist shops; amending RCW 70.160.060;  
3 and adding a new section to chapter 82.26 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.26  
6 RCW to read as follows:

7 (1)(a) A person holding a tobacco products retailer's license  
8 issued under this chapter may apply through the business licensing  
9 system under chapter 19.02 RCW for a special endorsement as a cigar  
10 lounge or retail tobacconist shop subject to the requirements of this  
11 section.

12 (b) The board may charge a reasonable fee per special endorsement  
13 application under this section, as deemed necessary by the board, for  
14 the purpose of reimbursing the board for costs directly related to  
15 the board's administration of special endorsements issued under this  
16 section.

17 (2) The board must issue an endorsement as a cigar lounge to a  
18 business that has submitted an affidavit to the board certifying that  
19 it:

20 (a) Is an establishment or part of an establishment specifically  
21 designated for the smoking of tobacco products, purchased on the

1 premises or elsewhere, which is physically separated from any areas  
2 of the same or adjacent location where smoking is prohibited under  
3 state law. For the purposes of this subsection, "physically  
4 separated" means an area that is enclosed on all sides by solid,  
5 impermeable walls or windows extending from the floor to ceiling with  
6 self-closing doors;

7 (b) Holds a valid spirits, beer, and wine license in good  
8 standing from the board;

9 (c) Has a valid uniform business identifier number and, if it is  
10 an established business with reportable gross receipts, has paid all  
11 applicable state business and occupation taxes in the year prior to  
12 application for endorsement;

13 (d) In the year immediately preceding initial application or  
14 renewal, derived at least twenty-five thousand dollars of the  
15 business' annual gross income from the combination of the sale of  
16 tobacco products, tobacco products related paraphernalia, and the  
17 rental of on-site humidor space. In the case where this is the first  
18 endorsement application, the applicant may use any year prior to the  
19 initial application to meet the requirements of this subsection or  
20 must show proof that it has purchased, at wholesale, at least twelve  
21 thousand five hundred dollars in tobacco products and tobacco  
22 products related paraphernalia;

23 (e) Has obtained a signed letter, on appropriate letterhead, from  
24 a heating, ventilation, and air-conditioning, and refrigeration  
25 contractor holding a valid registration with the department of labor  
26 and industries pursuant to chapter 18.27 RCW, which certifies that  
27 the ventilation and exhaust system for the area designated in (a) of  
28 this subsection:

29 (i) Is separate and distinct from the location's general heating,  
30 ventilation, and air-conditioning system;

31 (ii) Has an air flow, as calculated in cubic feet per minute,  
32 that will provide for at least thirteen or more air changes within  
33 the space served by the ventilation and exhaust system;

34 (iii) Uses the correct quantity of filters recommended by the  
35 manufacturer of the ventilation and exhaust system and that those  
36 filters have a minimum efficiency rating value of 14 or higher. For  
37 the purposes of this subsection, "minimum efficiency rating value"  
38 means the air-cleaning performance rating value as expressed in  
39 American society of heating, refrigerating, and air-conditioning  
40 engineers standard 52.2-2007; and

1 (iv) Uses a loose-fill, rechargeable-type sorbent material  
2 positioned across the airflow in such a configuration that gaseous  
3 contaminants will have a residence time of one-tenth of one second or  
4 more within the sorbent material. For the purposes of this section,  
5 "residence time" must be calculated consistent with the  
6 recommendations outlined in Chapter 46 of the 2011 American society  
7 of heating, refrigerating, and air-conditioning engineers handbook -  
8 HVAC applications entitled "Control of Gaseous Indoor Air  
9 Contaminants";

10 (f) Has on file, from each employee that may work in the area  
11 designated in (a) of this subsection, a signed declaration that  
12 includes the signature of the employee, the employer, and a  
13 disinterested third-party witness. The employee declaration must  
14 include an acknowledgment that the employee has been advised of and  
15 accepts that environmental tobacco smoke may be present in their  
16 potential work area;

17 (g) Will post signage indicating that environmental tobacco smoke  
18 may be present in the establishment or part of the establishment.  
19 This signage must be in the form and manner provided by the board and  
20 must be placed in a conspicuous location at each entry to the area  
21 designated in (a) of this subsection.

22 (3) The board must issue an endorsement as a retail tobacconist  
23 shop to a business that has submitted an affidavit to the board  
24 certifying that it:

25 (a) Is an establishment whose primary purpose is the sale of  
26 tobacco products and tobacco product related paraphernalia and that  
27 is physically separated from any adjacent location where smoking is  
28 prohibited under state law. For the purposes of this subsection,  
29 "physically separated" means an area that is enclosed on all sides by  
30 solid, impermeable walls or windows extending from the floor to  
31 ceiling with self-closing doors;

32 (b) Will prohibit entry into the area designated in (a) of this  
33 subsection to any person under the age of eighteen;

34 (c) Has a valid uniform business identifier number and, if an  
35 established business with reportable gross receipts, has paid all  
36 applicable state business and occupation taxes in the year prior to  
37 application for endorsement;

38 (d) In the year immediately preceding initial application or  
39 renewal, derived at least seventy-five percent of the business'  
40 annual gross income from the combination of the sale of tobacco

1 products and tobacco product related paraphernalia. In the case where  
2 this is the first endorsement application, the applicant may use any  
3 year prior to the initial application to meet the requirements of  
4 this subsection or must show proof that it has purchased, at  
5 wholesale, at least twenty-five thousand dollars in tobacco products  
6 and tobacco products related paraphernalia;

7 (e) Has obtained a signed letter, on appropriate letterhead, from  
8 a heating, ventilation, and air-conditioning, and refrigeration  
9 contractor holding a valid registration with the department of labor  
10 and industries pursuant to chapter 18.27 RCW, which certifies that  
11 the ventilation and exhaust system for the area designated in (a) of  
12 this subsection:

13 (i) Is separate and distinct from the location's general heating,  
14 ventilation, and air-conditioning system;

15 (ii) Has an airflow, as calculated in cubic feet per minute, that  
16 provides for at least thirteen or more air changes within the space  
17 served by the ventilation and exhaust system;

18 (iii) Uses the correct quantity of filters recommended by the  
19 manufacturer of the ventilation and exhaust system and that those  
20 filters have a minimum efficiency rating value of 14 or higher. For  
21 the purposes of this subsection, "minimum efficiency rating value"  
22 means the air-cleaning performance rating value as expressed in  
23 American society of heating, refrigerating, and air-conditioning  
24 engineers standard 52.2-2007; and

25 (iv) Uses a loose-fill, rechargeable-type sorbent material  
26 positioned across the airflow in such a configuration that gaseous  
27 contaminants will have a residence time of one-tenth of one second or  
28 more within the sorbent material. For the purposes of this section,  
29 "residence time" must be calculated consistent with the  
30 recommendations outlined in Chapter 46 of the 2011 American society  
31 of heating, refrigerating, and air-conditioning engineers handbook -  
32 HVAC applications entitled "Control of Gaseous Indoor Air  
33 Contaminants";

34 (f) Has on file, from each employee that may work in the area  
35 designated in (a) of this subsection, a signed declaration that  
36 includes the signature of the employee, the employer, and a  
37 disinterested third-party witness. The employee declaration must  
38 include an acknowledgment that the employee has been advised of and  
39 accepts that environmental tobacco smoke may be present in their  
40 potential work area;

1 (g) Will post signage indicating that environmental tobacco smoke  
2 may be present in the establishment or part of the establishment.  
3 This signage must be in the form and manner provided by the board and  
4 must be placed in a conspicuous location at each entry to the area  
5 designated in (a) of this subsection.

6 (4) No employer may discharge, threaten to discharge, demote,  
7 deny a promotion to, sanction, discipline, retaliate against, harass,  
8 or otherwise discriminate against an employee, employed by the  
9 employer on or before the effective date of this section, solely for  
10 refusing to consent to or sign the declaration required in subsection  
11 (2)(f) or (3)(f) of this section.

12 (5) The affidavits required under this section must be submitted  
13 in a form and manner as prescribed by the board to effectively  
14 administer the provisions of this chapter.

15 (6) The board may request additional documentation or information  
16 from an applicant in order to verify that the business meets the  
17 requirements of this section.

18 (7) The affidavit required under this section must be completed  
19 and verified each year by the board.

20 (8) An endorsement issued under this section is transferable.

21 (9) Endorsement decisions by the board must be made no later than  
22 twenty-one business days following the submittal of a completed  
23 affidavit. Rejections of an application for an endorsement under this  
24 section may be appealed under the same process provided for other  
25 licenses issued by the board.

26 (10) At no point during any calendar year may the board allow the  
27 total number of cigar lounge endorsements in the state to exceed  
28 forty or the total number of retail tobacco shop endorsements in the  
29 state to exceed seventy-five. The board must administer the  
30 distribution of cigar lounge or retail tobacco shop endorsements and  
31 must ensure that the collective number of cigar lounge or retail  
32 tobacco shop endorsements located within all counties with a  
33 population of over five hundred thousand never exceed one-half of the  
34 endorsements allowed under this subsection for each endorsement  
35 respectively. Renewing applicants must be given priority over new  
36 applicants for endorsements under these limitations.

37 (11) Licensees receiving an endorsement under this section must  
38 not permit the smoking of cigarettes, the use of any hookah,  
39 narghile, water pipe, or similar device, nor the smoking of marijuana  
40 as that term is defined in chapter 69.50 RCW.

1       **Sec. 2.** RCW 70.160.060 and 1995 c 369 s 60 are each amended to  
2 read as follows:

3       This chapter is not intended to:

4       (1) Regulate smoking in a private enclosed workplace, within a  
5 public place, even though such workplace may be visited by  
6 nonsmokers, excepting places in which smoking is prohibited by the  
7 chief of the Washington state patrol, through the director of fire  
8 protection, or by other law, ordinance, or regulation;

9       (2) Regulate use or smoking of tobacco products, as that term is  
10 defined under chapter 82.26 RCW, in a public place or place of  
11 employment that holds a valid endorsement to its tobacco products  
12 retailer's license under section 1 of this act. The liquor and  
13 cannabis board has sole enforcement authority under this chapter  
14 regarding the designated areas which receive an endorsement under  
15 section 1 of this act.

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