

2 **SSSB 5347** - H COMM AMD
3 By Committee on Health Care

4

5 Strike everything after the enacting clause and insert the
6 following:

7 **"NEW SECTION.** **Sec. 1.** The legislature finds that the current
8 system of health care and public health has been successful in
9 identifying and reducing many communicable diseases that were major
10 public health threats in years past but has not made efforts to reduce
11 death and disability from preventable noncommunicable diseases. The
12 leading cause of preventable death in our state is tobacco use.
13 Washington business has provided leadership in the adult community by
14 implementing smoke-free environments and cessation programs and
15 Washington citizens eliminated tobacco use on public school property.
16 However, the legislature recognizes the remaining high rate of tobacco-
17 caused disease among ethnic minority populations, and smoking
18 prevalence by youth and young pregnant women in our state. It is
19 imperative that prevention efforts be developed and implemented.

20 The legislature acknowledges the United States surgeon general's
21 findings that nicotine is the active drug in tobacco rendering it as
22 addictive as heroin and cocaine. The vast majority of new smokers are
23 teenagers or younger children. The earlier a child starts using
24 tobacco the more likely that he or she will be unable to quit.
25 Washington state has no organized effort to discourage children from
26 using tobacco.

27 The legislature finds that access to tobacco by minors is a major
28 problem. Youth obtain tobacco products with ease. Tobacco products

1 that are provided free or at nominal charge are likely to fall into the
2 hands of youth and the sale of single cigarettes are more affordable to
3 youth. The present system of prohibiting sales of tobacco to minors
4 has proven significantly defective. It is imperative to enforce the
5 prohibition of sales to minors.

6 The legislature finds that scientific evidence demonstrates that
7 environmental tobacco smoke causes lung cancer and is a contributor to
8 indoor air pollution, increasing the risk of disease and disability
9 among nonsmoking adults and children.

10 The most effective state, regional, and local strategy for reducing
11 the impact of tobacco use is through the collaborative efforts of
12 educators, business, local, state, and tribal government officials,
13 local health and community agencies, ethnic minority groups, law
14 enforcement, health care providers, and concerned community and citizen
15 groups to promote healthy lifestyles and tobacco-free environments."

16 **"NEW SECTION. Sec. 2.** The purpose of this chapter is to
17 prevent tobacco-caused disease by reducing the use of and subsequent
18 addiction to tobacco by youth and to promote tobacco reduction
19 programs. The legislature intends to support the development of
20 community and state efforts to reduce the effects of tobacco use by:

21 (1) Regulating the sale, distribution, and sampling of tobacco
22 products to minors;

23 (2) Conducting a state-wide advertising and public awareness
24 campaign informing youth and their families about the negative health
25 effects of using tobacco; and

26 (3) Providing funding for prevention, education, cessation
27 programs, and activities identified by communities that have brought
28 together local leadership and interested citizens, to help reduce
29 tobacco use and addiction. The department shall provide assistance and

1 support to help communities develop and carry out effective
2 intervention strategies and implement tobacco control programs."

3 **"NEW SECTION.** **Sec. 3.** The definitions set forth in this
4 section apply throughout this chapter.

5 (1) "Department" means the state department of health.

6 (2) "Minor" means an individual who is less than eighteen years
7 old.

8 (3) "Package" means a pack, box, or container of any kind in which
9 a tobacco product is offered for sale, sold, or otherwise distributed.

10 (4) "Person" means an individual, partnership, corporation, or
11 other business or legal entity and includes the state or any political
12 subdivision of the state.

13 (5) "Regional program" means a program developed by two or more
14 mutually agreed counties approved by the department to address the
15 purposes of this chapter.

16 (6) "Retailer" means a person, firm, association, company,
17 partnership, or corporation who operates a store, stand, booth,
18 concession, or other place at which sales are made to purchasers for
19 consumption or use.

20 (7) "Vending machine" means a machine or device designated for or
21 used for the vending of cigarettes, cigars, tobacco, or tobacco
22 products upon the insertion of coins, trade checks, or slugs."

23 **"NEW SECTION.** **Sec. 4.** The department of health shall
24 collaborate with entities within state, local, tribal, and federal
25 governments, and public and private agencies to use available
26 information and resources to carry out the following:

27 (1) Identify and monitor the leading causes of death and disease
28 caused by tobacco;

1 (2) Identify trends, geographic areas, and population groups at
2 risk for preventable tobacco-related disease;
3 (3) Establish a culturally relevant broad public media and
4 education campaign designed to prevent tobacco use among children,
5 teenagers, pregnant women, and other high-risk groups;
6 (4) Act as a clearinghouse for tobacco-related policy and
7 information including referral services to cessation programs and
8 information on effective prevention programs for health care providers,
9 business and industry, schools, and the general public;
10 (5) Evaluate, monitor, and report on the impact of tobacco use
11 intervention efforts state-wide;
12 (6) Request and receive funds, gifts, grants, or appropriations
13 from the legislature, the federal government, or private sources to
14 pursue the department's duties under this chapter; and
15 (7) Develop, if deemed appropriate, regional health promotion and
16 disease prevention programs that focus on minors who use tobacco."

17 "NEW SECTION. **Sec. 5.** The legislature finds that a practical
18 method of responding to health problems, including direct access to
19 target populations, is found at the community level.

20 (1) The department shall, within available funds, provide grants to
21 local communities to develop and implement coordinated tobacco
22 intervention strategies to reduce the incidence and impact of tobacco
23 use. Geographic boundaries for local communities shall be the same as
24 that of local public health departments. In order to receive local
25 community grants, communities must demonstrate a commitment to carrying
26 out a coordinated intervention strategy plan and meet local matching
27 requirements. Intervention strategy plans must involve the active
28 participation by leadership from local public health, education, health
29 care providers, tribal government, law enforcement, business and

1 industry, labor, and other concerned citizens and community groups. In
2 consultation with the state board of health, the department shall
3 develop criteria by which funding allocations are determined for this
4 section.

5 (2) Grant applications shall be submitted on behalf of the
6 community by the local health department. If the local health
7 department does not wish to participate in submission of a grant
8 application the application may be submitted by a local organization.
9 If a grant application is not received from a local community, the
10 department may work with the community to develop an intervention
11 strategy plan.

12 (3) Community intervention strategies shall be sensitive to
13 cultural and ethnic differences and shall focus on at least the
14 following:

15 (a) Education to school-aged children and teenagers;
16 (b) Strategies focused on high-risk populations;
17 (c) Increased local and, if deemed appropriate, regional
18 availability of smoking and tobacco use cessation classes and programs;
19 (d) Distribution of cessation messages and prevention materials to
20 high-risk groups, using local and, if deemed appropriate, regional
21 versions of the state-wide media and marketing campaign; and
22 (e) Creation of local and, if deemed appropriate, regional
23 coalitions to encourage changes in community attitudes about tobacco
24 use.

25 (4) The department shall develop criteria for local and, if deemed
26 appropriate, regional match requirements. It shall ensure that
27 contracts for local grants maximize expenditures on developing and
28 implementing tobacco intervention strategies. Grants shall not exceed
29 ninety-five percent of the local tobacco intervention budgets, and the
30 department shall make available to local intervention programs at least

1 twenty-five percent of the total revenues authorized under this
2 chapter. Funds designated for local intervention programs that remain
3 unexpended may be expended on other authorized tobacco intervention
4 strategies.

5 (5) Local communities and, if deemed appropriate, regions shall not
6 supplant existing financial resources with grants issued under this
7 chapter."

8 **"NEW SECTION. SEC. 6.** Effective July 1, 1991, no tobacco
9 product may be sold or offered for sale from a vending machine unless
10 the machine is located:

11 (1) In a portion of a commercial building or industrial plant where
12 the public is expressly prohibited and where no minor employees are
13 usually admitted; or

14 (2) On any premises or portion thereof to which access by minors is
15 expressly prohibited by law if, and only if, the tobacco vending
16 machine is located fully within such premises from which minors are
17 prohibited and not less than ten feet from all entrance or exit ways.

18 If an appropriate enforcing agency has reason to believe that a
19 violation of this chapter has occurred, the enforcing agency shall
20 issue an order of noncompliance to the alleged violator, informing the
21 alleged violator that a civil action shall begin in one week if the
22 tobacco vending machine is not removed. If after one week the tobacco
23 vending machine has not been removed, the enforcing agency shall
24 initiate a civil action in superior court to enforce the provisions of
25 this chapter. If the court finds that one or more violations have
26 occurred, the court shall award the prevailing party its costs,
27 including reasonable attorneys' fees. The court may also enjoin future
28 violations and impose a civil penalty of up to one thousand dollars per
29 violation. For purposes of this section enforcing agencies shall

1 include state and local health departments, local fire departments or
2 fire districts and local law enforcement."

3 **"NEW SECTION.** **Sec. 7.** A retailer who sells cigarettes not in
4 the original sealed unopened package upon which revenue stamps are
5 required to be placed under RCW 82.24.030 is guilty of a gross
6 misdemeanor."

7 **"NEW SECTION.** **Sec. 8.** A person who gives or provides by a
8 coupon, tobacco products to a person at no cost or at a nominal cost is
9 guilty of a gross misdemeanor, except that a retailer whose annual
10 gross sales from the sale of tobacco products exceeds sixty percent of
11 annual gross sales may distribute single serving samples of tobacco to
12 adults without violating this section."

13 **"NEW SECTION.** **Sec. 9.** A retailer or employee who sells or
14 permits to be sold cigarettes or other tobacco products to an
15 individual without requesting and examining identification from the
16 purchaser positively establishing the purchaser's age as eighteen years
17 or greater, unless the seller has some other conclusive basis for
18 determining the buyer is over the age of eighteen years, is guilty of
19 a gross misdemeanor.

20 For purposes of this section, the purchaser shall be required to
21 present one of the following officially issued cards of identification
22 which shows his or her correct age and bears his or her signature and
23 photograph:

24 (1) Liquor control authority card of identification of a state or
25 a province of Canada;

1 (2) Driver's license, instruction permit, or identification of a
2 state or a province of Canada, or "identicard" issued by the Washington
3 state department of licensing under chapter 46.20 RCW;
4 (3) United States active duty military identification;
5 (4) Passport; or
6 (5) Merchant marine identification card issued by the United States
7 coast guard."

8 "NEW SECTION. **Sec. 10.** No retailer may sell or permit to be
9 sold, cigarettes or other tobacco products, unless the vending machine
10 or other location at which the cigarettes or other tobacco products are
11 available for purchase is posted with a notice that is clearly visible
12 to anyone purchasing the products, and that states:

13 IT IS ILLEGAL TO SELL OR PERMIT TO BE SOLD A TOBACCO PRODUCT TO
14 A PERSON UNDER THE AGE OF EIGHTEEN

15 The notice must be black letters at least one inch in height on a white
16 background. The notice will be made available through the state
17 department of licensing at the time of issuing the state license. A
18 retailer failing to post the notice is guilty of a gross misdemeanor."

19 "NEW SECTION. **Sec. 11.** The provisions of this chapter shall not
20 preempt any ordinance or rule adopted by any political subdivisions of
21 the state to enact rules governing the retail sale or use of tobacco
22 products, provided that such ordinances or rules are at least as
23 restrictive as those of applicable state law."

24 "NEW SECTION. **Sec. 12.** A new section is added to chapter 43.20
25 RCW to read as follows:

26 The state board of health is authorized to adopt rules to control
27 the retail sale of tobacco products so as to limit the purchase and use

1 of tobacco products by minors. In doing so, prior to rule adoption the
2 board must solicit and consider comments of tobacco product retailers."

3 "NEW SECTION. **Sec. 13.** A new section is added to chapter 43.70
4 RCW to read as follows:

5 The provisions of this chapter may be funded by the following
6 sources: Appropriations from the general fund federal; appropriations
7 from general fund state; gifts; private or public grants; or other
8 appropriate sources."

9 "NEW SECTION. **Sec. 14.** Sections 1 through 11 of this act shall
10 constitute a new chapter in Title 70 RCW."

11 "NEW SECTION. **Sec. 15.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and shall take
14 effect July 1, 1991."

15 "NEW SECTION. **Sec. 16.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected."

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22 On page 1, line 2 of the title, after "programs;" strike the
23 remainder of the title and insert "adding a new chapter to Title 70
24 RCW; adding a new section to chapter 43.20 RCW; adding a new section to
25 chapter 43.70 RCW; prescribing penalties; providing an effective date;

1 and declaring an emergency."