

HOUSE BILL REPORT

ESSB 6407

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to health and safety.

Brief Description: Changing provisions relating to smoking and tobacco products.

Sponsors: Senate Committee on Health & Human Services
(originally sponsored by Senators Talmadge, Oke and Pelz).

Brief History:

Reported by House Committee on:
Commerce & Labor, February 25, 1994, DP.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 5 members:
Representatives Heavey, Chair; G. Cole, Vice Chair; Conway;
King and Veloria.

Minority Report: Do not pass. Signed by 4 members:
Representatives Lisk, Ranking Minority Member; Chandler,
Assistant Ranking Minority Member; Horn and Springer.

Staff: Jim Kelley (786-7166).

Background: There are no restrictions against the sale of tobacco products in publicly owned or leased buildings.

In 1993, the Legislature enacted ESHB 2071 regulating access to tobacco. The Liquor Control Board was given the responsibility of enforcing this law, which included, among other provisions: (1) the requirement that signs be posted stating that it is illegal to sell tobacco products to a person under 18 years of age or for persons under 18 to purchase tobacco products; (2) a prohibition on the sale of tobacco products through vending machines, except in certain locations; (3) a prohibition on the sale of tobacco products not in the original unopened package; (4) a prohibition on the distribution of tobacco products at a discount by a coupon unless in a manner requiring a face-to-face transaction; and (5) a license requirement for those who wish to provide samples of tobacco products for free or at a nominal cost.

Summary of Bill: Tobacco products may not be sold or distributed in those portions of buildings or vessels that are publicly owned or leased. An exception is allowed for correctional institutions. A violation of the law is grounds for the termination or nonrenewal of a rental or lease agreement.

The licensing requirements for tobacco samplers are repealed. Instead, a new chapter is created prohibiting the giving away of cigarettes or tobacco products by any manufacturer, wholesaler, retailer, or its employees and prohibiting no-cost coupons for cigarettes or tobacco products. These provisions do not apply to any other gifts that are combined with a retail transaction for cigarette or tobacco products.

The local health officer may enforce the provisions of the new chapter prohibiting gifts of tobacco products by the following means: (1) suspending or revoking a retailer's license held by a business located within the health officer's jurisdiction; (2) imposing a civil penalty of \$300 per violation by any person other than a licensed retailer; (3) issuing a cease and desist order; and (4) seeking injunctive relief and initiating legal action to collect unpaid civil penalties. Civil penalties collected are to be retained by local health departments or districts for implementing programs intended to prevent the use of cigarettes and tobacco products.

The state laws regulating tobacco do not preempt more restrictive local regulations regarding indoor smoking or tobacco sampling.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed, except for section 1 of the bill, which takes effect July 1, 1995.

Testimony For: Tobacco is the number one public health problem in the United States today. Advertising that targets young smokers will ensure the continuance of this grave problem. Smoking is currently prohibited in public areas, and this legislation would create a consistent policy whereby the sale of tobacco products would be prohibited in public buildings. Local jurisdictions should have the opportunity to enact more stringent regulations than the state.

Testimony Against: The tobacco industry supports fundraising events through sponsorship. Such fundraising events would lose this revenue if this bill were passed. It

would restrict the rights of an adult to consume a legal product if samples of tobacco products were restricted. If local jurisdictions are given the option to ban tobacco products in their areas, consumers will be driven to Indian nations or other states, therefore denying Washington State needed tax revenues. The Liquor Control Board is doing an excellent job of regulating tobacco sampling.

Witnesses: (In favor) Senator Talmadge, prime sponsor; Senator Oke, sponsor; Dennis Biggs, Tobacco Free Washington Coalition; Linda Tanz, Washington Coalition on Smoking or Health; Kelly Shaw, Department of Health. (Opposed) Lowell David and Martin Berger, Pierce County Sheriff Posse; Stuart Cloud, small business owner; Jan Gee, Washington Retail Association; and Jim Boldt, Washington Food Dealers.