

---

SENATE BILL 6534

---

State of Washington

53rd Legislature

1994 Regular Session

By Senators Oke, West, L. Smith, Moyer, Hochstatter, Morton, Bluechel, Winsley, Pelz and Franklin

Read first time 01/26/94. Referred to Committee on Health & Human Services.

1 AN ACT Relating to cigarettes and tobacco products; amending RCW  
2 70.155.010 and 70.155.100; adding a new chapter to Title 70 RCW;  
3 creating a new section; repealing RCW 70.155.050, 70.155.060, and  
4 70.155.070; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds:

7 (1) The leading cause of preventable death is tobacco use.  
8 Further, the legislature recognizes the high rate of tobacco use by  
9 youth in our state.

10 (2) The giving of free samples and the use of coupons for the  
11 provision of cigarettes and tobacco products at no cost constitute  
12 methods of distribution of such products, rather than advertisement or  
13 promotion of such products, and are the proper subject of prohibition  
14 or regulation.

15 (3) Cigarettes and other tobacco products are being distributed to  
16 minors by means of free samples and no-cost coupons, and prohibition of  
17 such means of distribution is required in the interest of public  
18 health.

1 (4) Enforcement of an age-related restriction on the distribution  
2 of cigarettes and tobacco product samples and redemption of no-cost  
3 coupons is impractical and ineffective.

4 NEW SECTION. **Sec. 2.** (1) The following acts are prohibited:

5 (a) Giving away cigarettes or tobacco products to any person  
6 whether in person or through the mail; and

7 (b) Providing cigarettes or tobacco products to any person by a  
8 coupon at no cost.

9 (2) For the purposes of this chapter, "cigarettes" has the meaning  
10 given in RCW 82.24.010 and "tobacco products" has the meaning given in  
11 RCW 82.26.010.

12 NEW SECTION. **Sec. 3.** (1) The local health officer may take any or  
13 all of the following actions to enforce section 2 of this act if the  
14 health officer finds that there has been a violation of section 2 of  
15 this act:

16 (a) Suspend or revoke a retailer's license held by a business at a  
17 location within the health officer's geographical jurisdiction.

18 (b) Impose a civil penalty of three hundred dollars for each  
19 violation upon any person other than a licensed cigarette retailer.

20 (c) Issue a cease and desist order to any person who is found by  
21 the local health officer to have violated or intended to violate  
22 section 2 of this act which requires such person to cease specified  
23 conduct that is in violation. The issuance of a cease and desist order  
24 shall not preclude the imposition of other sanctions authorized by this  
25 chapter or any other provision of law.

26 (d) Seek injunctive relief to enforce section 2 of this act. The  
27 health officer may initiate legal action to collect civil penalties  
28 imposed under this chapter if the penalties have not been paid within  
29 thirty days after they are imposed. In any action filed by the local  
30 health officer under the provisions of this chapter, the court may, in  
31 addition to any other relief, award the health officer reasonable  
32 attorneys' fees and costs.

33 (2) Any order issued by the local health officer under this section  
34 may be appealed to the local board of health. The appeal shall be  
35 conducted de novo, and the health officer shall have the burden of  
36 proving the violation or violations set forth in the order by a  
37 preponderance of the evidence.

1 (3) Funds collected by local health departments or districts from  
2 imposition of civil penalties shall be retained by them and used for  
3 implementing programs intended to prevent the use of cigarettes and  
4 tobacco products or promote the cessation of their use.

5 NEW SECTION. **Sec. 4.** The provisions of this chapter are not  
6 exclusive, and any political subdivision of the state of Washington may  
7 adopt additional provisions which are not less restrictive than the  
8 provisions of this chapter.

9 **Sec. 5.** RCW 70.155.010 and 1993 c 507 s 2 are each amended to read  
10 as follows:

11 The definitions set forth in RCW 82.24.010 shall apply to RCW  
12 70.155.020 through 70.155.130. In addition, for the purposes of this  
13 chapter, unless otherwise required by the context:

14 (1) "Board" means the Washington state liquor control board.

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

17 (3) "Public place" means a public street, sidewalk, or park, or any  
18 area open to the public in a publicly owned and operated building.

19 ~~(4) ("Sample" means a tobacco product distributed to members of~~  
20 ~~the general public at no cost or at nominal cost for product promotion~~  
21 ~~purposes.~~

22 ~~(5) "Sampler" means a person engaged in the business of sampling~~  
23 ~~other than a retailer.~~

24 ~~(6) "Sampling" means the distribution of samples to members of the~~  
25 ~~general public in a public place.~~

26 ~~(7))~~ "Tobacco product" means a product that contains tobacco and  
27 is intended for human consumption.

28 **Sec. 6.** RCW 70.155.100 and 1993 c 507 s 11 are each amended to  
29 read as follows:

30 (1) The liquor control board may suspend or revoke a retailer's  
31 license held by a business at any location, or may impose a monetary  
32 penalty as set forth in subsection (2) of this section, if the liquor  
33 control board finds that the licensee has violated RCW 26.28.080(4), or  
34 70.155.020, 70.155.030, 70.155.040, ~~((70.155.050, 70.155.060,~~  
35 ~~70.155.070, or))~~ 70.155.090, or section 2 of this act.

1 (2) The sanctions that the liquor control board may impose against  
2 a person licensed under RCW 82.24.530 (~~and 70.155.050 and 70.155.060~~)  
3 based upon one or more findings under subsection (1) of this section  
4 may not exceed the following:

5 (a) For violation of RCW 26.28.080(4) or 70.155.020:

6 (i) A monetary penalty of one hundred dollars for the first  
7 violation within any two-year period;

8 (ii) A monetary penalty of three hundred dollars for the second  
9 violation within any two-year period;

10 (iii) A monetary penalty of one thousand dollars and suspension of  
11 the license for a period of six months for the third violation within  
12 any two-year period;

13 (iv) A monetary penalty of one thousand five hundred dollars and  
14 suspension of the license for a period of twelve months for the fourth  
15 violation within any two-year period;

16 (v) Revocation of the license with no possibility of reinstatement  
17 for a period of five years for the fifth or more violation within any  
18 two-year period;

19 (b) For violations of RCW 70.155.030, a monetary penalty in the  
20 amount of one hundred dollars for each day upon which such violation  
21 occurred;

22 (c) For violations of RCW 70.155.040 occurring on the licensed  
23 premises:

24 (i) A monetary penalty of one hundred dollars for the first  
25 violation within any two-year period;

26 (ii) A monetary penalty of three hundred dollars for the second  
27 violation within any two-year period;

28 (iii) A monetary penalty of one thousand dollars and suspension of  
29 the license for a period of six months for the third violation within  
30 any two-year period;

31 (iv) A monetary penalty of one thousand five hundred dollars and  
32 suspension of the license for a period of twelve months for the fourth  
33 violation within any two-year period;

34 (v) Revocation of the license with no possibility of reinstatement  
35 for a period of five years for the fifth or more violation within any  
36 two-year period;

37 (d) For violations of (~~RCW 70.155.050 and 70.155.060~~) section 2  
38 of this act, a monetary penalty in the amount of three hundred dollars  
39 for each violation(†

1       ~~(e) For violations of RCW 70.155.070, a monetary penalty in the~~  
2 ~~amount of one thousand dollars for each violation))~~).

3       (3) The liquor control board may impose a monetary penalty upon any  
4 person other than a licensed cigarette retailer (~~or licensed sampler~~)  
5 if the liquor control board finds that the person has violated RCW  
6 26.28.080(4), or 70.155.020, 70.155.030, 70.155.040, (~~70.155.050,~~  
7 ~~70.155.060, 70.155.070, or~~) 70.155.090, or section 2 of this act.

8       (4) The monetary penalty that the liquor control board may impose  
9 based upon one or more findings under subsection (3) of this section  
10 may not exceed the following:

11       (a) For violation of RCW 26.28.080(4) or 70.155.020, fifty dollars  
12 for the first violation and one hundred dollars for each subsequent  
13 violation;

14       (b) For violations of RCW 70.155.030, one hundred dollars for each  
15 day upon which such violation occurred;

16       (c) For violations of RCW 70.155.040, one hundred dollars for each  
17 violation;

18       (d) For violations of (~~RCW 70.155.050 and 70.155.060~~) section 2  
19 of this act, three hundred dollars for each violation(~~(~~

20 ~~(e) For violations of RCW 70.155.070, one thousand dollars for each~~  
21 ~~violation))~~).

22       (5) The liquor control board may develop and offer a class for  
23 retail clerks and use this class in lieu of a monetary penalty for the  
24 clerk's first violation.

25       (6) The liquor control board may issue a cease and desist order to  
26 any person who is found by the liquor control board to have violated or  
27 intending to violate the provisions of this chapter, RCW 26.28.080(4)  
28 or 82.24.500, requiring such person to cease specified conduct that is  
29 in violation. The issuance of a cease and desist order shall not  
30 preclude the imposition of other sanctions authorized by this statute  
31 or any other provision of law.

32       (7) The liquor control board may seek injunctive relief to enforce  
33 the provisions of RCW 26.28.080(4) or 82.24.500 or this chapter. The  
34 liquor control board may initiate legal action to collect civil  
35 penalties imposed under this chapter if the same have not been paid  
36 within thirty days after imposition of such penalties. In any action  
37 filed by the liquor control board under this chapter, the court may, in  
38 addition to any other relief, award the liquor control board reasonable  
39 attorneys' fees and costs.

1 (8) All proceedings under subsections (1) through (6) of this  
2 section shall be conducted in accordance with chapter 34.05 RCW.

3 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each  
4 repealed:

5 (1) RCW 70.155.050 and 1993 c 507 s 6;

6 (2) RCW 70.155.060 and 1993 c 507 s 7; and

7 (3) RCW 70.155.070 and 1993 c 507 s 8.

8 NEW SECTION. **Sec. 8.** Sections 2 through 4 of this act shall  
9 constitute a new chapter in Title 70 RCW.

--- END ---