

FINAL BILL REPORT

SHB 2027

C 113 L 03

Synopsis as Enacted

Brief Description: Regulating the sale of cigarettes.

Sponsors: By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Kirby, Delvin, Morris, DeBolt and Sullivan).

House Committee on Technology, Telecommunications & Energy
Senate Committee on Technology & Communications

Background:

The federal Jenkens Act requires interstate shippers of cigarettes to notify a state each month of the company's intent to ship cigarettes into that state. The Department of Revenue (Department) is the agency designated to receive this notice for Washington.

The Liquor Control Board (Board) administers tobacco regulation and taxation. Washington law imposes excise (\$1.425/pack) and sales taxes (6.5 percent state tax, plus up to 2 percent local sales tax) on cigarettes, and requires sellers to place tax stamps on cigarettes to indicate that the excise tax has been paid.

The state Minors' Access to Tobacco Products Act (Act) limits youth access to tobacco products and is administered by the Board. The Act requires warnings that tobacco sales to anyone under age 18 are illegal, imposes restrictions on free samples of tobacco products, and restricts the placement of tobacco vending machines.

State law makes selling or giving cigarettes to anyone in Washington under the age of 18 a misdemeanor. There are also separate provisions for civil penalties for businesses who sell tobacco to minors.

Summary:

Delivery sales are orders for cigarettes taken by telephone, mail, or the Internet delivered by delivery service. Anyone making delivery sales of cigarettes must ensure that no sales are made to persons under the age of 18 and comply with notice, delivery, and tax requirements.

Anyone offering delivery sales of cigarettes must register with the Board. Sellers must provide the Board with their business name and address and must file a disclosure statement with the Board each month. This disclosure statement must list each person

who has received a delivery sale of cigarettes, along with the amount and product purchased.

When a purchaser places an order for a delivery sale of cigarettes, the seller must verify the age of the purchaser either by photocopy of the purchaser's identification or through a commercial database. The seller must then mail or e-mail the purchaser a disclosure that contains the federal tobacco warning, a warning that sales to minors are unlawful, and a statement that cigarettes are taxable.

Sellers must use a private delivery service which will ensure that cigarettes are not delivered to anyone under age 18.

Anyone violating these provisions is subject to criminal penalties. Shipping cigarettes without first obtaining proof of age is a class C felony. A second or subsequent offense is a class B felony. Any delivery service that delivers cigarettes without first verifying the age and identity of the recipient of a delivery sale is guilty of a gross misdemeanor. The unlawful delivery sales of cigarettes is included in the Criminal Profiteering Act.

Cigarettes seized under these provisions will be disposed of under existing state law.

Votes on Final Passage:

House 96 0

Senate 49 0 (Senate amended)

House 97 0 (House concurred)

Effective: July 27, 2003