
SUBSTITUTE SENATE BILL 5340

State of Washington

61st Legislature

2009 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Prentice, Regala, Pflug, Shin, and Parlette; by request of Attorney General)

READ FIRST TIME 02/10/09.

1 AN ACT Relating to internet and mail order sales of certain tobacco
2 products; adding a new chapter to Title 70 RCW; repealing RCW
3 70.155.105; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Cigarette" has the same meaning as in RCW 82.24.010.

8 (2) "Wholesaler" has the same meaning as in RCW 82.24.010.

9 (3) "Retailer" has the same meaning as in RCW 82.24.010.

10 (4) "Tobacco products" has the same meaning as in RCW 82.26.010,
11 except it does not include cigars.

12 (5) "Cigar" has the same meaning as in RCW 82.26.010.

13 NEW SECTION. **Sec. 2.** (1) A person may not cause cigarettes or
14 tobacco products ordered or purchased by mail or through a computer
15 network, telephonic network, or other electronic network, to be shipped
16 to anyone other than a wholesaler or retailer in this state.

17 (2) A person may not, with knowledge or reason to know of the

1 violation, provide substantial assistance to a person in violation of
2 this section.

3 NEW SECTION. **Sec. 3.** (1) A knowing violation of this chapter
4 shall be punishable by imprisonment for no more than five years, or a
5 fine of no more than five thousand dollars, or both.

6 (2) In addition to or in lieu of any other civil or criminal remedy
7 provided by law, upon a determination that a person has violated this
8 chapter, the attorney general may impose a civil penalty in an amount
9 not to exceed five thousand dollars for each violation. For purposes
10 of this subsection, each shipment or transport of cigarettes or tobacco
11 products shall constitute a separate violation.

12 (3) The attorney general may seek an injunction in superior court
13 to restrain a threatened or actual violation of this chapter and to
14 compel compliance with this chapter.

15 (4) In any action brought under this section, the state shall be
16 entitled to recover the costs of investigation, expert witness fees,
17 costs of the action, and reasonable attorneys' fees.

18 (5) Any violation of this chapter is not reasonable in relation to
19 the development and preservation of business and is an unfair and
20 deceptive act or practice and an unfair method of competition in the
21 conduct of a trade or commerce in violation of RCW 19.86.020. Standing
22 to bring an action to enforce RCW 19.86.020 for violation of this
23 chapter shall lie solely with the attorney general. Remedies provided
24 by chapter 19.86 RCW are cumulative and not exclusive.

25 (6) If a court determines that a person has violated the provisions
26 of this chapter, the court shall order any profits, gain, gross
27 receipts, or other benefit from the violation to be disgorged and paid
28 to the state treasurer for deposit in the general fund.

29 (7) Unless otherwise expressly provided, the penalties or remedies,
30 or both, under this section are in addition to any other penalties and
31 remedies available under any other law of this state.

32 NEW SECTION. **Sec. 4.** RCW 70.155.105 (Delivery sale of
33 cigarettes--Requirements, unlawful practices--Penalties--Enforcement)
34 and 2003 c 113 s 2 are each repealed.

1 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act constitute
2 a new chapter in Title 70 RCW.

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