

SENATE BILL REPORT

SB 5025

As of February 9, 2017

Title: An act relating to protecting youth from tobacco products and vapor products by increasing the minimum legal age of sale of tobacco and vapor products.

Brief Description: Concerning the age of individuals at which sale or distribution of tobacco and vapor products may be made.

Sponsors: Senators Miloscia, Walsh, O'Ban, Darneille, Cleveland, King, Keiser, Pedersen, Frockt, Lias, Hunt, Chase and Kuderer; by request of Attorney General and Department of Health.

Brief History:

Committee Activity: Commerce, Labor & Sports: 2/09/17.

Brief Summary of Bill

- Raises the age at which a person may purchase and possess cigarettes, tobacco, and vapor products from 18 to 21 years of age.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Staff: Jarrett Sacks (786-7448)

Background: Sales to Minors. A person who sells cigars, cigarettes, tobacco, or vapor products to a person under the age of 18 is guilty of a gross misdemeanor. A person under the age of 18 who purchases, possesses, or obtains—or who attempts to purchase or obtain—cigarettes or tobacco products commits a Class 3 civil infraction, which may be penalized with a \$50 fine, up to four hours of community restitution, and participation in a smoking cessation program. There is an exception for a person under the age of 18 who, with parental authorization, participates in a controlled purchase as part of a Liquor Cannabis Board (LCB), law enforcement, or local health department activity.

Vapor Products. Vapor product means any noncombustible product that may contain nicotine and that employs a heating element, power source, or electronic circuit—or other electronic, chemical, or mechanical means, regardless of shape or size—that can be used to produce

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vapor or aerosol from a solution or other substance. Vapor products do not include any types of marijuana products.

Signs. Licensed tobacco and vapor product retailers must prominently display signs concerning the prohibition of tobacco and vapor product sales to minors. Minor is defined as a person under the age of 18.

Enforcement. The LCB has authority to enforce the laws governing minors' access to tobacco and vapor products, including the authority to revoke a wholesaler or retailer license. The LCB may work with local county health departments or districts and law enforcement to conduct unannounced inspections to assure compliance. If an LCB peace officer or enforcement officer observes a person purchasing or in possession of tobacco or vapor products, and the officer has reasonable grounds to believe the person is under the age of 18, the officer may detain the person for a reasonable period of time and in a reasonable manner to determine the person's identity and date of birth. An LCB officer may also seize tobacco and vapor products in the possession of a minor.

Prevention Account. The Department of Health (DOH) may use monies appropriated from the Youth Tobacco And Vapor Products Prevention Account (Account), which includes licensing fees and monetary penalties, for implementation of the laws governing minors' access to tobacco and vapor products. The DOH is required to enter into an agreement with the LCB to pay for costs incurred for enforcement, and the agreement must set standards of enforcement to reduce the extent to which tobacco products are available to persons under the age of 18. The remainder of the funds in the Account are used for covering the cost of administering the licensing system and for providing grants to local health departments or other local community agencies to develop and implement strategies to prevent and reduce youth tobacco and vapor product use.

Tribal Compacts. Cigarette tax contracts between the Governor and tribes prohibit tribal retailers from selling or giving cigarettes to a person under the age of 18.

A Health Impact Review of this legislation was requested and is available at the Washington State Board of Health's website,

<http://sboh.wa.gov/Portals/7/Doc/HealthImpactReviews/HIR-2017-04-SB5025.pdf>.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Sales to Minors. It is a gross misdemeanor to sell or give cigars, cigarettes, cigarette paper, tobacco in any form, or a vapor product to any person under the age of 21. Vapor product tasting by the general public is restricted to licensed retailers where entry into the premises is restricted to persons 21 or older. Mechanical tobacco product dispensers must be located fully within premises where persons under the age of 21 are prohibited.

Signs. Signs designed and produced by DOH to display the prohibition of tobacco and vapor product sales to minors are changed to state that the sale of tobacco products to a person under the age of 21 is prohibited.

Prevention Account. The DOH is required to enter into an agreement with the LCB to pay for costs incurred for enforcement. The agreement must set standards of enforcement to reduce the extent to which tobacco products are available to persons under the age of 21.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2018.

Staff Summary of Public Testimony on Proposed Substitute: PRO: Tobacco kills and robs people of their good health. Raising the age limit will lower the number of people who start smoking. In locations where they have raised the age, the small retailers are fine. Smoking hurts our armed services and makes it difficult to recruit. Soldiers who use tobacco are less effective. At 19 to 21 years of age, brains are still developing and nicotine structurally changes the brain. Social norms change with the law. Eighteen year olds give cigarettes to younger friends, raising the age will prevent this. Many smokers start before the age of 21, and they rarely start after. The state will make up the missing revenue because smokers will spend money elsewhere.

CON: Retailers are concerned with raising the age. It will not solve the problem of underage smoking. Retailers, especially those in border areas, will lose money to other states and to tribal retailers. Raising the age for alcohol proves how elastic the market is with goods people want. Such a change should be done at the federal level to avoid people going to other states.

Persons Testifying: PRO: Senator Mark Miloscia, Prime Sponsor; John Wiesman, Secretary of Health; Major General Bret Dougherty, Commander of the Washington National Guard; Daniel King, high school student; Sean Wright, citizen; Dr. Meta Lee, Pediatrician; Catherine Woodard, Nursing Care Quality Assurance Commission.

CON: Carolyn Logue, Washington Retail Association/Washington Food Industry Association; Daniel Kim, Korean American Grocers Association; Peter Kang, Pacific Mini Mart; Jung Yi, Korean American Grocers Association.

Persons Signed In To Testify But Not Testifying: OTHER: Alexandra Montano, State Board of Health/Policy Analyst.