

# FINAL BILL REPORT

## EHB 1074

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Synopsis as Enacted

**Brief Description:** Protecting youth from tobacco products and vapor products by increasing the minimum legal age of sale of tobacco and vapor products.

**Sponsors:** Representatives Harris, Orwall, Riccelli, Jinkins, DeBolt, Pollet, Stonier, Stanford, Rude, Davis, Tharinger, Macri, Slatter, Kloba, Peterson, Valdez, Kilduff, Ryu, Fitzgibbon, Robinson, Appleton, Wylie, Cody, Bergquist, Doglio, Senn, Frame, Walen and Callan; by request of Attorney General and Department of Health.

**House Committee on Health Care & Wellness**  
**House Committee on Appropriations**  
**Senate Committee on Ways & Means**

#### **Background:**

A person who sells cigars, cigarettes, cigarette paper, 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, tobacco, or vapor products commits a class 3 civil infraction, which may be penalized with a \$50 fine, up to four hours of community restitution, or participation in a smoking cessation program.

A person who holds a cigarette wholesaler, cigarette retailer, or vapor products retailer license is required to prominently display a sign concerning the prohibition of tobacco sales to persons under the age of 18. The sign states, "The sale of tobacco products to persons under age 18 is strictly prohibited by state law. If you are under 18, you could be penalized for purchasing a tobacco product. Photo ID required." Tobacco products may not be sold through a device that mechanically dispenses the products unless: (1) the device is located in a place where minors are prohibited or in an industrial worksite where minors are not employed; and (2) the device is located at least 10 feet from entrances and exits. "Minor" is defined as a person under the age of 18. A person may not offer a tasting of vapor products to the general public unless the person is a licensed retailer, the tastings are offered within the licensed premises, entry is restricted to persons 18 years of age or older, either the product does not contain nicotine or the customer consents to tasting nicotine, and a disposable mouthpiece is attached to the vapor product if the device is owned by the retailer.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Liquor and Cannabis Board (LCB) has authority to enforce the laws governing minors' access to tobacco and vapor products. The LCB may work with local county health departments or districts and law enforcement to conduct unannounced inspections to assure compliance. If a peace officer or enforcement officer of the LCB 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 his or her identity and date of birth. An LCB officer may also seize tobacco and vapor products in the possession of a minor.

The Department of Health (DOH) may use monies appropriated from the Youth Tobacco and Vapor Products Prevention 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 and vapor products are available to persons under the age of 18.

The Governor is permitted to enter into tribal cigarette tax contracts regarding the sale of cigarettes. The Governor may delegate power to negotiate cigarette tax contracts to the Department of Revenue. Requirements for tribal cigarette tax contracts include:

- the terms of the cigarette tax contract apply to retail sales by Indian sellers in Indian country, which is land within the boundaries of the reservation and land held in trust for a tribe or by a tribal member;
- tribal retail sales are limited to Indian country;
- cigarettes may only be sold or given to individuals 18 years and older;
- tribal cigarette tax must be used for essential government services;
- cigarettes sold under this contract must bear a tribal cigarette tax stamp;
- tribal retailers must purchase cigarettes only from approved wholesalers; and
- contracts must contain provisions for compliance.

Disputes regarding the interpretation and administration of the contract's provisions may be resolved by mediation and other non-judicial processes.

### **Summary:**

A person who sells cigars, cigarettes, cigarette paper, tobacco, or vapor products to a person under the age of 21 is guilty of a gross misdemeanor.

The signs that licensed retailers and wholesalers of tobacco and vapor products must display concerning the prohibition of tobacco and vapor product sales to persons under the age of 18 are updated to 21, respectively. The sign language that previously stated an individual under 18 purchasing a tobacco or vapor product could be penalized is removed, and additional language stating identification is required only upon request is added.

Tobacco products may not be sold through a vending machine unless the machine is located in a place where persons under the age of 21 are prohibited or in an industrial worksite where persons under the age of 21 are not employed, and it is located at least 10 feet from entrances and exits. A person may not offer a tasting of vapor products to the general public unless

entry into the licensed premises is restricted to persons 21 years of age and older. The definition of "minor" is removed.

Interagency agreements between the Department of Health and the Liquor and Cannabis Board must set enforcement standards to reduce the extent to which tobacco and vapor products are available to persons under the age of 21.

The Governor is permitted to seek government-to-government consultations with federally recognized Indian tribes regarding raising the minimum age of sale in compacts for cigarette tax contracts. The Office of the Governor must report to the appropriate committees of the Legislature on the status of the consultations by December 1, 2020.

**Votes on Final Passage:**

House	66	30
Senate	33	12

**Effective:** January 1, 2020