

**SENATE BILL REPORT**

**SB 5567**

**AS REPORTED BY COMMITTEE ON HEALTH & LONG-TERM CARE,  
MARCH 6, 1991**

**Brief Description:** Making major changes to tobacco laws.

**SPONSORS:** Senators West, Murray, Saling, L. Kreidler and Bailey; by request of Department of Health.

**SENATE COMMITTEE ON HEALTH & LONG-TERM CARE**

**Majority Report:** That Substitute Senate Bill No. 5567 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators West, Chairman; L. Smith, Vice Chairman; Amondson, Johnson, L. Kreidler, Niemi, and Wojahn.

**Staff:** Suzanne Brown (786-7483)

**Hearing Dates:** February 20, 1991; March 6, 1991

**BACKGROUND:**

The 1990 State Health Report identifies a reduction in tobacco usage as a priority health goal for the state of Washington. The report proposes a variety of action strategies to achieve this goal. These strategies include information and education programs and direct services such as smoking cessation programs. Regulatory measures such as advertising bans or limitations, restrictive smoking bans, restrictions on tobacco sales and samples to minors, additional taxes on tobacco sales are also suggested by the State Health Report.

Currently, Washington utilizes a number of measures to regulate tobacco use and sales. Washington's 1985 Clean Indoor Air Act restricts smoking in public places but does not address smoking restrictions in private workplaces. Washington's 1989 state excise tax of 34 cents per pack of cigarettes was the fifth highest in the nation. The sale of cigarettes to a minor is currently a misdemeanor. Cigarette wholesalers, retailers and vending machine operators must be licensed or face criminal misdemeanor charges.

**SUMMARY:**

The Legislature finds that the current system of health care and public health has not made efforts to reduce death and disability from preventable noncommunicable diseases. Tobacco use is the leading cause of preventable death in Washington. Despite the leadership of Washington businesses and citizens, smoking and smoking-related disease remains high among ethnic minorities, youth and young pregnant women. The development and implementation of prevention efforts is imperative.

The Legislature intends to support the development of community and state efforts to prevent tobacco-caused disease and reduce the effects of tobacco use by: (1) regulating the sale, distribution, and promotion of tobacco products to minors; (2) conducting a statewide advertising and public awareness campaign informing youth and their families about the negative health effects of using tobacco; and (3) providing funds for community based prevention, education, cessation programs, and other locally identified activities.

The Department of Health, in collaboration with state, local, tribal, federal and private groups, must use available information and resources to: (1) identify and monitor the leading causes of death and tobacco-caused disease, (2) identify trends, geographic areas and population groups at risk for preventable tobacco-related disease, (3) establish a broad, culturally relevant public media and education campaign to prevent tobacco use among children, teens, pregnant women and other high-risk groups, (4) act as a clearinghouse for tobacco-related policy and information, (5) evaluate, monitor and report on the impact of tobacco use intervention efforts, and (6) request and receive funds or gifts from state, federal or private sources to pursue these duties.

The Department of Health must provide grants to local communities to develop and implement, in collaboration with local government and community representatives, coordinated tobacco intervention strategies to reduce the incidence and impact of tobacco use. Intervention strategies must focus on at least: (1) education of children and teens, (2) strategies focused on high-risk populations, (3) increasing local smoking and tobacco use cessation programs, (4) distribution of local versions of statewide media campaign cessation and prevention materials or messages to high-risk groups, and (5) creation of coalitions to encourage local attitude changes.

Effective July 1, 1991, cigarette vending machines must be located 10 feet from the entrance or exit of areas or businesses which are legally inaccessible to minors. Violators are guilty of a gross misdemeanor.

Retailers are prohibited from selling cigarettes which are not in their original sealed unopened package. Violators are guilty of a gross misdemeanor.

No person may provide tobacco products by coupon, without cost or at nominal cost. Violators are guilty of a gross misdemeanor. Retailers whose annual gross sales from tobacco product sales exceed 60 percent of annual gross sales may distribute single serving samples of tobacco to adults.

Cigarette or other tobacco products may not be sold to any individual without requesting and examining officially issued identification from the purchaser. This identification must positively establish the purchaser's age as 18 years or older unless the seller has some other conclusive basis for determining the purchaser's age. Violators are guilty of a gross misdemeanor.

Retailers may not sell cigarettes or tobacco products unless the vending machine or sales location posts a clearly visible notice stating "IT IS ILLEGAL TO SELL OR PERMIT TO BE SOLD A TOBACCO PRODUCT TO A PERSON UNDER AGE 18." Violators are guilty of a misdemeanor.

Any person or group may initiate civil action in superior court to enforce existing bans on tobacco product sales to persons under 18 years or any of the provisions included in this bill. The court may also issue an order requiring the violator to comply with either existing prohibitions on tobacco sales to minors or the provisions of this bill. The court may impose a civil penalty of up to \$1,000 for each violation.

The State Board of Health may adopt additional rules, consistent with the provisions of this bill, restricting retail tobacco sales in order to limit tobacco use by minors.

Cigarette wholesaler license application or license renewal application fees are increased from \$650 to \$1,000. Licensing fees for wholesalers selling cigarettes at two or more business locations are increased from \$115 to \$300 for each additional place of business.

Retailer license applications or license renewal applications are increased from \$10 to \$75. Retail dealer licensing fees are increased from \$1 to \$25 for each cigarette vending machine.

Cigarette taxes are increased by one cent per pack. This additional tax revenue, less administrative costs, must be deposited in a newly created state tobacco prevention account. Expenditures from the state tobacco prevention account may be used only for funding the services and programs outlined in this bill and to cover any negative impact on the general fund, the water quality account and the drug enforcement and education account created by the cigarette taxes proposed in this bill.

**EFFECT OF PROPOSED SUBSTITUTE:**

The development of local grant criteria and the 5 percent lid on local administrative costs are deleted. Contracts for local grants must maximize expenditures on the development and implementation of local tobacco intervention strategies. The Department of Health must make at least 25 percent of the proposed tax revenues available to local authorities. Unexpended funds which are designated for local intervention programs may be reallocated to other authorized tobacco intervention strategies.

All sections creating additional cigarette taxes and the tobacco prevention account are deleted.

Tobacco vending machines cannot be located in any part of a commercial building or industrial plant which is accessible to the public or where minor employees are usually admitted.

Criminal penalties against violators of vending machine restrictions are deleted. Violators of these restrictions are issued a notice of noncompliance and must relocate or remove the tobacco vending machine within one week. If the violator fails to comply, civil action is initiated in superior court. The court may order the violator to comply with vending machine restrictions. The court may also impose a civil penalty of up to \$1,000 for each violation.

**Appropriation:** none

**Revenue:** yes

**Fiscal Note:** available

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**TESTIMONY FOR:**

The proposed regulatory restrictions address an urgent public health need. These restrictions protect Washington's youth from seductive advertising lures and easy access to a harmful and addictive substance. The proposed restrictions will enable young people to make informed decisions regarding smoking. Local programs and actions provide the most direct and effective approach to addressing tobacco usage among Washington citizens. The measures included in this bill will help prevent or decrease smoking among high-risk groups such as ethnic minorities, youth and young pregnant women.

**TESTIMONY AGAINST:**

The Department of Health's evidence regarding the costs and health impacts of smoking lacks scientific validity. The proposed taxes are regressive and require only smokers to pay for important programs which benefit all Washington citizens. The cost of the bill's proposed programs should be more fairly shared by all citizens. Existing and proposed regulatory restrictions unfairly harass smokers and violate their right to participate in a legal activity. These regulatory proposals restrict the sale and advertisement of a legal product.

**TESTIFIED:** PRO: Senator Patty Murray; Kristine Gebbie, Department of Health; Mike Ryherd, Fred Hutchinson Cancer Research Center; Carl Allen, M.D., Tobacco Addiction Coordinating Council; Marianne Lyle, Washington State Nurses Association; Sharon Foster, YMCA of Greater Seattle; Judy Van Horn, Washington State Lung Association; Jeff Mero, Washington State Hospital Association; Doug Bovee, M.D., Washington State Medical Association; Dr. Buck Moses, Pierce County Medical Association; Sue Asher, Coalition for a Tobacco-Free Pierce County; Mark Leek, Fred Hutchinson Cancer Research; Gary Tollesfson, Parent Teacher Student Association; M. Ward Hinds, M.D., Snohomish County Health Officer; Kurt Sharar, Washington State Association of Counties; Margaret Casey, The Children's Alliance; Maribeth O'Connor, Group Health; Willa Fisher, M.D.,

Washington Association of Local Public Health Officers;  
Charles Dodson, Jr., Richard Nelson, Jr., Wayne Nelson, Jr.,  
Magnuson Community School; Carrie Bashaw, Washington Health  
Care Association; Bill Van Horn, FANS; CON: George  
Cunningham; Jim Salatino; Steve Wehrly, Smokeless Tobacco;  
Bill Fritz, Tobacco Institute; Kathleen Durkan, Phillip  
Morris; Meta Heller, Olympia Smokers' Rights; Don Howard,  
Olympia Smokers' Rights; Valerie Perry, Smokers' Rights of  
Seattle