
SUBSTITUTE SENATE BILL 5567

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators West, Murray, Saling, L. Kreidler and Bailey; by request of Department of Health).

Read first time March 6, 1991.

1 AN ACT Relating to tobacco control; amending RCW 82.24.520 and
2 82.24.530; adding a new chapter to Title 70 RCW; adding a new section
3 to chapter 43.20 RCW; prescribing penalties; providing an effective
4 date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the current
7 system of health care and public health has been successful in
8 identifying and reducing many communicable diseases that were major
9 public health threats in years past but has not made efforts to reduce
10 death and disability from preventable noncommunicable diseases. The
11 leading cause of preventable death in our state is tobacco use.
12 Washington business has provided leadership in the adult community by
13 implementing smoke-free environments and cessation programs and
14 Washington citizens eliminated tobacco use on public school property.
15 However, the legislature recognizes the remaining high rate of tobacco-

1 caused disease among ethnic minority populations, and smoking
2 prevalence by youth and young pregnant women in our state. It is
3 imperative that prevention efforts be developed and implemented.

4 The legislature acknowledges the United States surgeon general's
5 findings that nicotine is the active drug in tobacco rendering it as
6 addictive as heroin and cocaine. The vast majority of new smokers are
7 teenagers or younger children. The earlier a child starts using
8 tobacco the more likely that he or she will be unable to quit.
9 Washington state has no organized effort to discourage children from
10 using tobacco.

11 The legislature finds that access to tobacco by minors is a major
12 problem. Youth obtain tobacco products with ease. Tobacco products
13 that are provided free or at nominal charge are likely to fall into the
14 hands of youth and the sale of single cigarettes are more affordable to
15 youth. The present system of prohibiting sales of tobacco to minors
16 has proven significantly defective. It is imperative to enforce the
17 prohibition of sales to minors.

18 The legislature finds that scientific evidence demonstrates that
19 environmental tobacco smoke causes lung cancer and is a contributor to
20 indoor air pollution, increasing the risk of disease and disability
21 among nonsmoking adults and children.

22 The most effective strategy for reducing the impact of tobacco use
23 is through the collaborative efforts of educators, business, local,
24 state, and tribal government officials, local health and community
25 agencies, ethnic minority groups, law enforcement, health care
26 providers, and concerned community and citizen groups to promote
27 healthy lifestyles and tobacco-free environments.

28 NEW SECTION. **Sec. 2.** The purpose of this chapter is to prevent
29 tobacco-caused disease by reducing the use of and subsequent addiction

1 to tobacco by youth and to promote tobacco reduction programs. The
2 legislature intends to support the development of community and state
3 efforts to reduce the effects of tobacco use by:

4 (1) Regulating the sale, distribution, and promotion of tobacco
5 products to minors;

6 (2) Conducting a state-wide advertising and public awareness
7 campaign informing youth and their families about the negative health
8 effects of using tobacco; and

9 (3) Providing funding for prevention, education, cessation
10 programs, and activities identified by communities that have brought
11 together local leadership and interested citizens, to help reduce
12 tobacco use and addiction. The department shall provide assistance and
13 support to help communities develop and carry out effective
14 intervention strategies and implement tobacco control programs.

15 NEW SECTION. **Sec. 3.** The definitions set forth in this section
16 apply throughout this chapter.

17 (1) "Department" means the state department of health.

18 (2) "Minor" means an individual who is less than eighteen years
19 old.

20 (3) "Package" means a pack, box, or container of any kind in which
21 a tobacco product is offered for sale, sold, or otherwise distributed.

22 (4) "Person" means an individual, partnership, corporation, or
23 other business or legal entity and includes the state or any political
24 subdivision of the state.

25 (5) "Retailer" means a person, firm, association, company,
26 partnership, or corporation who operates a store, stand, booth,
27 concession, or other place at which sales are made to purchasers for
28 consumption or use.

1 (6) "Vending machine" means a machine or device designated for or
2 used for the vending of cigarettes, cigars, tobacco, or tobacco
3 products upon the insertion of coins, trade checks, or slugs.

4 NEW SECTION. **Sec. 4.** The department of health shall collaborate
5 with entities within state, local, tribal, and federal governments, and
6 public and private agencies to use available information and resources
7 to carry out the following:

8 (1) Identify and monitor the leading causes of death and disease
9 caused by tobacco;

10 (2) Identify trends, geographic areas, and population groups at
11 risk for preventable tobacco-related disease;

12 (3) Establish a culturally relevant broad public media and
13 education campaign designed to prevent tobacco use among children,
14 teenagers, pregnant women, and other high-risk groups;

15 (4) Act as a clearinghouse for tobacco-related policy and
16 information including referral services to cessation programs and
17 information on effective prevention programs for health care providers,
18 business and industry, schools, and the general public;

19 (5) Evaluate, monitor, and report on the impact of tobacco use
20 intervention efforts state-wide;

21 (6) Request and receive funds, gifts, grants, or appropriations
22 from the legislature, the federal government, or private sources to
23 pursue the department's duties under this chapter.

24 NEW SECTION. **Sec. 5.** The legislature finds that a practical
25 method of responding to health problems, including direct access to
26 target populations, is found at the community level.

27 (1) The department shall, within available funds, provide grants to
28 local communities to develop and implement coordinated tobacco

1 intervention strategies to reduce the incidence and impact of tobacco
2 use. Geographic boundaries for local communities shall be the same as
3 that of local public health departments. In order to receive local
4 community grants, communities must demonstrate a commitment to carrying
5 out a coordinated intervention strategy plan and meet local matching
6 requirements. Intervention strategy plans must involve the active
7 participation by leadership from local public health, education, health
8 care providers, tribal government, law enforcement, business and
9 industry, labor, and other concerned citizens and community groups. In
10 consultation with the state board of health, the department shall
11 develop criteria by which funding allocations are determined for this
12 section.

13 (2) Grant applications shall be submitted on behalf of the
14 community by the local health department. If the local health
15 department does not wish to participate in submission of a grant
16 application the application may be submitted by a local organization.
17 If a grant application is not received from a local community, the
18 department may work with the community to develop an intervention
19 strategy plan.

20 (3) Community intervention strategies shall be sensitive to
21 cultural and ethnic differences and shall focus on at least the
22 following:

23 (a) Education to school-aged children and teenagers;

24 (b) Strategies focused on high-risk populations;

25 (c) Increased local availability of smoking and tobacco use
26 cessation classes and programs;

27 (d) Distribution of cessation messages and prevention materials to
28 high-risk groups, using local versions of the state-wide media and
29 marketing campaign; and

1 (e) Creation of local coalitions to encourage changes in community
2 attitudes about tobacco use.

3 (4) The department shall ensure that contracts for local grants
4 maximize expenditures on developing and implementing tobacco
5 intervention strategies. Grants shall not exceed ninety-five percent
6 of the local tobacco intervention budgets, and the department shall
7 make available to local intervention programs at least twenty-five
8 percent of the total revenues authorized under this chapter. Funds
9 designated for local intervention programs that remain unexpended may
10 be expended on other authorized tobacco intervention strategies.

11 NEW SECTION. **Sec. 6.** Effective July 1, 1991, no tobacco product
12 may be sold or offered for sale from a vending machine unless the
13 machine is located:

14 (1) In a portion of a commercial building or industrial plant where
15 the public is expressly prohibited and where no minor employees are
16 usually admitted; or

17 (2) On any premises or portion thereof to which access by minors is
18 expressly prohibited by law if, and only if, the tobacco vending
19 machine is located fully within such premises from which minors are
20 prohibited and not less than ten feet from all entrance or exit ways.

21 If an appropriate enforcing agency has reason to believe that a
22 violation of this chapter has occurred, the enforcing agency shall
23 issue an order of noncompliance to the alleged violator, informing the
24 alleged violator that a civil action shall begin in one week if the
25 tobacco vending machine is not removed. If after one week the tobacco
26 vending machine has not been removed, the enforcing agency shall
27 initiate a civil action in superior court to enforce the provisions of
28 this chapter. If the court finds that one or more violations have
29 occurred, the court shall award the prevailing party its costs,

1 including reasonable attorneys' fees. The court may also enjoin future
2 violations and impose a civil penalty of up to one thousand dollars per
3 violation. For purposes of this section enforcing agencies shall
4 include state and local health departments, local fire departments or
5 fire districts and local law enforcement.

6 NEW SECTION. **Sec. 7.** A retailer who sells cigarettes not in the
7 original sealed unopened package upon which revenue stamps are required
8 to be placed under RCW 82.24.030 is guilty of a gross misdemeanor.

9 NEW SECTION. **Sec. 8.** A person who gives or provides by a coupon,
10 tobacco products to a person at no cost or at a nominal cost is guilty
11 of a gross misdemeanor, except that a retailer whose annual gross sales
12 from the sale of tobacco products exceeds sixty percent of annual gross
13 sales may distribute single serving samples of tobacco to adults
14 without violating this section.

15 NEW SECTION. **Sec. 9.** A retailer or employee who sells or permits
16 to be sold cigarettes or other tobacco products to an individual
17 without requesting and examining identification from the purchaser
18 positively establishing the purchaser's age as eighteen years or
19 greater, unless the seller has some other conclusive basis for
20 determining the buyer is over the age of eighteen years, is guilty of
21 a gross misdemeanor.

22 For purposes of this section, the purchaser shall be required to
23 present one of the following officially issued cards of identification
24 which shows his or her correct age and bears his or her signature and
25 photograph:

26 (1) Liquor control authority card of identification of a state or
27 a province of Canada;

1 (2) Driver's license, instruction permit, or identification of a
2 state or a province of Canada, or "identocard" issued by the Washington
3 state department of licensing under chapter 46.20 RCW;

4 (3) United States active duty military identification;

5 (4) Passport; or

6 (5) Merchant marine identification card issued by the United States
7 coast guard.

8 NEW SECTION. **Sec. 10.** No retailer may sell or permit to be
9 sold, cigarettes or other tobacco products, unless the vending machine
10 or other location at which the cigarettes or other tobacco products are
11 available for purchase is posted with a notice that is clearly visible
12 to anyone purchasing the products, and that states:

13 IT IS ILLEGAL TO SELL OR PERMIT TO BE SOLD A TOBACCO PRODUCT TO
14 A PERSON UNDER THE AGE OF EIGHTEEN

15 The notice must be black letters at least one inch in height on a white
16 background. The notice will be made available through the state
17 department of licensing at the time of issuing the state license. A
18 retailer failing to post the notice is guilty of a gross misdemeanor.

19 NEW SECTION. **Sec. 11.** A person or entity including agencies
20 or political subdivisions of the state may initiate civil action in
21 superior court to enforce RCW 26.28.080(4) or the provisions of this
22 chapter except as provided in section 6 of this act. Venue for such
23 action is in the county where the violation is alleged to have taken
24 place. If the court finds that one or more violations have occurred,
25 the court shall award the prevailing party its costs, including
26 reasonable attorneys' fees. The court may also enjoin future
27 violations, and, in addition to any other sanction allowed by law,

1 impose a civil penalty of up to one thousand dollars for each
2 violation.

3 NEW SECTION. **Sec. 12.** The provisions of this chapter shall
4 not preempt any ordinance or rule adopted by any political subdivisions
5 of the state to enact rules governing the retail sale or use of tobacco
6 products, provided that such ordinances or rules are at least as
7 restrictive as those of applicable state law.

8 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.20 RCW
9 to read as follows:

10 The state board of health may adopt such additional rules as are
11 not inconsistent with the provisions of this chapter to control the
12 retail sale of tobacco products so as to limit the purchase and use of
13 tobacco by minors.

14 **Sec. 14.** RCW 82.24.520 and 1986 c 321 s 6 are each amended to read
15 as follows:

16 A fee of (~~six hundred fifty~~) one thousand dollars shall accompany
17 each wholesaler's license application or license renewal application.
18 If a wholesaler sells or intends to sell cigarettes at two or more
19 places of business, whether established or temporary, a separate
20 license with a license fee of (~~one hundred fifteen~~) three hundred
21 dollars shall be required for each additional place of business. Each
22 license, or certificate thereof, and such other evidence of license as
23 the department of revenue requires, shall be exhibited in the place of
24 business for which it is issued and in such manner as is prescribed for
25 the display of a master license. The department of revenue shall
26 require each licensed wholesaler to file with the department a bond in
27 an amount not less than one thousand dollars to guarantee the proper

1 performance of the duties and the discharge of the liabilities under
2 this chapter. The bond shall be executed by such licensed wholesaler
3 as principal, and by a corporation approved by the department of
4 revenue and authorized to engage in business as a surety company in
5 this state, as surety. The bond shall run concurrently with the
6 wholesaler's license.

7 **Sec. 15.** RCW 82.24.530 and 1986 c 321 s 7 are each amended to read
8 as follows:

9 A fee of (~~ten~~) seventy-five dollars shall accompany each
10 retailer's license application or license renewal application. A fee
11 of (~~one additional dollar~~) twenty-five dollars for each vending
12 machine shall accompany each application or renewal for a license
13 issued to a retail dealer operating a cigarette vending machine.

14 NEW SECTION. **Sec. 16.** Sections 1 through 12 of this act shall
15 constitute a new chapter in Title 70 RCW.

16 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of the
18 state government and its existing public institutions, and shall take
19 effect July 1, 1991.

20 NEW SECTION. **Sec. 18.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.