

2 SHB 2610 - S AMD TO HHS COMM AMD (S5340.3)
3 By Senators Talmadge, Oke and Moyer

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5 On page 2, after line 3 of the amendment, insert the following:

6 NEW SECTION. Sec. 4. A new section is added to chapter 70.54 RCW
7 to read as follows:

8 (1) Except as provided in subsection (3) of this section, tobacco
9 products may not be sold or distributed in those portions of buildings
10 or vessels that are publicly owned or leased.

11 (2) A violation of this section is grounds for the termination or
12 nonrenewal of a contract for occupancy or rental of any area of any
13 publicly owned or leased building or vessel.

14 (3) This section does not apply to correctional institutions.
15 However, the secretary of corrections or a local correctional
16 institution authority may prohibit sales and distributions of tobacco
17 products if the prohibition applies equally to employees and inmates.

18 NEW SECTION. Sec. 5. A new section is added to chapter 70.160 RCW
19 to read as follows:

20 This chapter does not preempt local regulation of indoor smoking
21 that is as restrictive or more restrictive than this chapter.

22 NEW SECTION. Sec. 6. The legislature finds:

23 (1) The leading cause of preventable death is tobacco use.
24 Further, the legislature recognizes the high rate of tobacco use by
25 youth in our state.

26 (2) The giving of free samples and the use of coupons for the
27 provision of cigarettes and tobacco products at no cost constitute
28 methods of distribution of such products, rather than advertisement or
29 promotion of such products, and are the proper subject of prohibition
30 or regulation.

31 (3) Cigarettes and other tobacco products are being distributed to
32 minors by means of free samples and no-cost coupons, and prohibition of
33 such means of distribution is required in the interest of public
34 health.

1 (4) Enforcement of an age-related restriction on the distribution
2 of cigarettes and tobacco product samples and redemption of no-cost
3 coupons is impractical and ineffective.

4 NEW SECTION. **Sec. 7.** (1) The following acts are prohibited:

5 (a) Giving away cigarettes or tobacco products, by any
6 manufacturer, wholesaler, retailer, or its employees, to any person
7 whether in person or through the mail; and

8 (b) Providing cigarettes or tobacco products, by any manufacturer,
9 wholesaler, retailer, or its employees, to any person by a coupon at no
10 cost.

11 (2) The prohibition in subsection (1) of this section only applies
12 to cigarettes, tobacco products, and coupons for those products, when
13 given away for free. It does not apply to any other gifts that are
14 combined with a retail transaction for cigarettes or tobacco products.

15 (3) For the purposes of this chapter, "cigarettes" has the meaning
16 given in RCW 82.24.010 and "tobacco products" has the meaning given in
17 RCW 82.26.010.

18 NEW SECTION. **Sec. 8.** (1) The local health officer may take any or
19 all of the following actions to enforce section 7 of this act if the
20 health officer finds that there has been a violation of section 7 of
21 this act:

22 (a) Suspend or revoke a retailer's license held by a business at a
23 location within the health officer's geographical jurisdiction.

24 (b) Impose a civil penalty of three hundred dollars for each
25 violation upon any person other than a licensed cigarette retailer.

26 (c) Issue a cease and desist order to any person who is found by
27 the local health officer to have violated or intended to violate
28 section 7 of this act which requires such person to cease specified
29 conduct that is in violation. The issuance of a cease and desist order
30 shall not preclude the imposition of other sanctions authorized by this
31 chapter or any other provision of law.

32 (d) Seek injunctive relief to enforce section 7 of this act. The
33 health officer may initiate legal action to collect civil penalties
34 imposed under this chapter if the penalties have not been paid within
35 thirty days after they are imposed. In any action filed by the local
36 health officer under the provisions of this chapter, the court may, in

1 addition to any other relief, award the health officer reasonable
2 attorneys' fees and costs.

3 (2) Any order issued by the local health officer under this section
4 may be appealed to the local board of health. The appeal shall be
5 conducted de novo, and the health officer shall have the burden of
6 proving the violation or violations set forth in the order by a
7 preponderance of the evidence.

8 (3) Funds collected by local health departments or districts from
9 imposition of civil penalties shall be retained by them and used for
10 implementing programs intended to prevent the use of cigarettes and
11 tobacco products or promote the cessation of their use.

12 NEW SECTION. **Sec. 9.** The provisions of this chapter are not
13 exclusive, and any political subdivision of the state of Washington may
14 adopt additional provisions which are not less restrictive than the
15 provisions of this chapter.

16 **Sec. 10.** RCW 70.155.010 and 1993 c 507 s 2 are each amended to
17 read as follows:

18 The definitions set forth in RCW 82.24.010 shall apply to RCW
19 70.155.020 through 70.155.130. In addition, for the purposes of this
20 chapter, unless otherwise required by the context:

21 (1) "Board" means the Washington state liquor control board.

22 (2) "Minor" refers to an individual who is less than eighteen years
23 old.

24 (3) "Public place" means a public street, sidewalk, or park, or any
25 area open to the public in a publicly owned and operated building.

26 (4) (~~"Sample" means a tobacco product distributed to members of~~
27 ~~the general public at no cost or at nominal cost for product promotion~~
28 ~~purposes.~~

29 (5) ~~"Sampler" means a person engaged in the business of sampling~~
30 ~~other than a retailer.~~

31 (6) ~~"Sampling" means the distribution of samples to members of the~~
32 ~~general public in a public place.~~

33 (7)) "Tobacco product" means a product that contains tobacco and
34 is intended for human consumption.

35 **Sec. 11.** RCW 70.155.100 and 1993 c 507 s 11 are each amended to
36 read as follows:

1 (1) The liquor control board may suspend or revoke a retailer's
2 license held by a business at any location, or may impose a monetary
3 penalty as set forth in subsection (2) of this section, if the liquor
4 control board finds that the licensee has violated RCW 26.28.080(4), or
5 70.155.020, 70.155.030, 70.155.040, (~~70.155.050, 70.155.060,~~
6 ~~70.155.070, or~~) 70.155.090, or section 7 of this act.

7 (2) The sanctions that the liquor control board may impose against
8 a person licensed under RCW 82.24.530 (~~and 70.155.050 and 70.155.060~~)
9 based upon one or more findings under subsection (1) of this section
10 may not exceed the following:

11 (a) For violation of RCW 26.28.080(4) or 70.155.020:

12 (i) A monetary penalty of one hundred dollars for the first
13 violation within any two-year period;

14 (ii) A monetary penalty of three hundred dollars for the second
15 violation within any two-year period;

16 (iii) A monetary penalty of one thousand dollars and suspension of
17 the license for a period of six months for the third violation within
18 any two-year period;

19 (iv) A monetary penalty of one thousand five hundred dollars and
20 suspension of the license for a period of twelve months for the fourth
21 violation within any two-year period;

22 (v) Revocation of the license with no possibility of reinstatement
23 for a period of five years for the fifth or more violation within any
24 two-year period;

25 (b) For violations of RCW 70.155.030, a monetary penalty in the
26 amount of one hundred dollars for each day upon which such violation
27 occurred;

28 (c) For violations of RCW 70.155.040 occurring on the licensed
29 premises:

30 (i) A monetary penalty of one hundred dollars for the first
31 violation within any two-year period;

32 (ii) A monetary penalty of three hundred dollars for the second
33 violation within any two-year period;

34 (iii) A monetary penalty of one thousand dollars and suspension of
35 the license for a period of six months for the third violation within
36 any two-year period;

37 (iv) A monetary penalty of one thousand five hundred dollars and
38 suspension of the license for a period of twelve months for the fourth
39 violation within any two-year period;

1 (v) Revocation of the license with no possibility of reinstatement
2 for a period of five years for the fifth or more violation within any
3 two-year period;

4 (d) For violations of ~~((RCW 70.155.050 and 70.155.060))~~ section 7
5 of this act, a monetary penalty in the amount of three hundred dollars
6 for each violation(~~(+~~

7 ~~(e) For violations of RCW 70.155.070, a monetary penalty in the~~
8 ~~amount of one thousand dollars for each violation))~~.

9 (3) The liquor control board may impose a monetary penalty upon any
10 person other than a licensed cigarette retailer (~~or licensed sampler~~)
11 if the liquor control board finds that the person has violated RCW
12 26.28.080(4), or 70.155.020, 70.155.030, 70.155.040, ~~((70.155.050,~~
13 ~~70.155.060, 70.155.070, or))~~ 70.155.090, or section 7 of this act.

14 (4) The monetary penalty that the liquor control board may impose
15 based upon one or more findings under subsection (3) of this section
16 may not exceed the following:

17 (a) For violation of RCW 26.28.080(4) or 70.155.020, fifty dollars
18 for the first violation and one hundred dollars for each subsequent
19 violation;

20 (b) For violations of RCW 70.155.030, one hundred dollars for each
21 day upon which such violation occurred;

22 (c) For violations of RCW 70.155.040, one hundred dollars for each
23 violation;

24 (d) For violations of ~~((RCW 70.155.050 and 70.155.060))~~ section 7
25 of this act, three hundred dollars for each violation(~~(+~~

26 ~~(e) For violations of RCW 70.155.070, one thousand dollars for each~~
27 ~~violation))~~.

28 (5) The liquor control board may develop and offer a class for
29 retail clerks and use this class in lieu of a monetary penalty for the
30 clerk's first violation.

31 (6) The liquor control board may issue a cease and desist order to
32 any person who is found by the liquor control board to have violated or
33 intending to violate the provisions of this chapter, RCW 26.28.080(4)
34 or 82.24.500, requiring such person to cease specified conduct that is
35 in violation. The issuance of a cease and desist order shall not
36 preclude the imposition of other sanctions authorized by this statute
37 or any other provision of law.

38 (7) The liquor control board may seek injunctive relief to enforce
39 the provisions of RCW 26.28.080(4) or 82.24.500 or this chapter. The

1 liquor control board may initiate legal action to collect civil
2 penalties imposed under this chapter if the same have not been paid
3 within thirty days after imposition of such penalties. In any action
4 filed by the liquor control board under this chapter, the court may, in
5 addition to any other relief, award the liquor control board reasonable
6 attorneys' fees and costs.

7 (8) All proceedings under subsections (1) through (6) of this
8 section shall be conducted in accordance with chapter 34.05 RCW.

9 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
10 each repealed:

- 11 (1) RCW 70.155.050 and 1993 c 507 s 6;
- 12 (2) RCW 70.155.060 and 1993 c 507 s 7; and
- 13 (3) RCW 70.155.070 and 1993 c 507 s 8.

14 NEW SECTION. **Sec. 13.** Sections 7 through 9 of this act shall
15 constitute a new chapter in Title 70 RCW."

16 Renumber the remaining section consecutively.

17 On page 2, line 4 of the amendment, strike "and 2" and insert ", 2,
18 and 4"

19 **SHB 2610** - S AMD TO HHS COMM AMD (S5340.3)
20 By Senators Talmadge, Oke and Moyer

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22 On page 2, line 11 of the title amendment, after "28A.210.310"
23 insert ", 70.155.010, and 70.155.100"

24 On page 2, line 13 of the title amendment, after "28B.10 RCW;"
25 insert "adding a new section to chapter 70.54 RCW; adding a new section
26 to chapter 70.160 RCW; adding a new chapter to Title 70 RCW; creating
27 a new section; repealing RCW 70.155.050, 70.155.060, and 70.155.070;
28 prescribing penalties;"

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