

# SENATE BILL REPORT

## SB 5926

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As Reported By Senate Committee On:  
Technology & Communications, March 3, 2003

**Title:** An act relating to seizing, shipping, and delivery of cigarettes through internet, telephonic, or other delivery services.

**Brief Description:** Regulating the sale of cigarettes.

**Sponsors:** Senators Esser, Poulsen, Schmidt, Eide, Finkbeiner and Oke.

**Brief History:**

**Committee Activity:** Technology & Communications: 2/27/03, 3/3/03 [DPS].

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### SENATE COMMITTEE ON TECHNOLOGY & COMMUNICATIONS

**Majority Report:** That Substitute Senate Bill No. 5926 be substituted therefor, and the substitute bill do pass.

Signed by Senators Esser, Chair; Finkbeiner, Vice Chair; Eide, Poulsen, Reardon, Schmidt and Stevens.

**Staff:** Dario de la Rosa (786-7484)

**Background:** Washington regulates the sale of cigarettes by limiting access to and imposing taxes on the product. Anyone under the age of 18 is prohibited from purchasing or obtaining tobacco products. Selling cigarettes to anyone under the age of 18 is also a violation of Washington law.

Since July 1997, the Washington State Liquor Control Board (LCB) has had the responsibility of enforcing the state's tobacco tax laws. Washington imposes a cigarette tax of \$1.425 per pack. Some people do not pay this tax. As a consequence, as of March 2002, the Department of Revenue (DOR) estimates the state loses approximately \$106 million in cigarette tax revenue each year. One way the state loses this revenue is internet sales. Internet sales are attractive because taxes are not figured into the price. The Federal Jenkins Act allows DOR to monitor internet sales and requires interstate shippers to notify the state of any sale. Once DOR receives this notice, the LCB assists in collection of taxes due. Through this process, \$12,000 in cigarette tax has been recouped.

**Summary of Substitute Bill:** Telephone, mail-order, and internet sales of cigarettes are regulated. Sellers who mail, ship, or deliver cigarettes must verify the age of the buyer before shipment to a Washington address. Sellers are required to obtain confirmation that the customer is at least 18 years of age and that the customer understands Washington laws regarding the sale of cigarettes to and purchase of cigarettes by minors before shipment. Sellers must use a method of mailing, shipping, or delivery that obligates the recipient to sign for receipt of the package and that verifies the recipient's age.

Sellers must file business information with DOR, including a monthly statement of sales made to Washington addresses. Sellers must collect and remit all cigarette taxes imposed by Washington.

Violations of these provisions may result in fines, imprisonment, and the seizure and forfeiture of product.

**Substitute Bill Compared to Original Bill:** Penalties for selling cigarettes to a minor, for a minor who possesses cigarettes, and for failing to pay the proper Washington tax on cigarettes are made consistent with current Washington laws. It is clarified that the Liquor Control Board has primary enforcement duties over mail-order and internet sales of cigarettes.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The sale of cigarettes over the internet is a growing problem. People under the age of 18 can mail-order cigarettes over the internet, where most sites do not monitor the age of the people purchasing the product. Many cigarette sales over the internet do not pay Washington tax on cigarette sales. This bill would help to keep cigarettes out of the hands of people under the age of 18. This bill would also help Washington collect the cigarette tax owed. The federal Jenkins Act helps collect these taxes in some cases, but many companies do not report mail-order sales to Washington.

**Testimony Against:** None.

**Testified:** Anne Solwick, Department of Revenue (pro); T.K. Bentler, Washington State Association of Neighborhood Stores (pro); Joe Daniels, Phillip Morris (pro).