

SSB 5542 - S AMD 434

By Senators Tom, White

WITHDRAWN 05/17/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 82.26 RCW
4 to read as follows:

5 (1) A person holding a tobacco products retailer's license issued
6 under this chapter may apply through the master license system under
7 chapter 19.02 RCW for a special endorsement as a cigar lounge or retail
8 tobacconist shop subject to the requirements of this section.

9 (2) A fee of forty thousand dollars must accompany each special
10 license endorsement application under subsection (3) of this section
11 and a fee of ten thousand dollars must accompany each special license
12 endorsement application under subsection (4) of this section. All fees
13 must be paid in full within the first month of each fiscal year.

14 (3) The board must issue an endorsement as a cigar lounge to a
15 business that meets the requirements of subsections (1) and (2) of this
16 section and that has submitted an affidavit to the board certifying
17 that it:

18 (a)(i) Is an establishment or part of an establishment specifically
19 designated for the smoking of cigars, purchased on the premises or
20 elsewhere, which is physically separated from any areas where smoking
21 is prohibited under state law.

22 (ii) For the purposes of this subsection:

23 (A) "Cigar" has the same meaning as provided in RCW 82.26.010; and

24 (B) "Physically separated" means an area that is enclosed on all
25 sides by solid, impermeable walls or windows extending from the floor
26 to ceiling with self-closing doors;

27 (b) Will not allow cigarettes or hookah or pipe tobacco to be
28 smoked in the area designated in (a) of this subsection;

29 (c) Holds a valid spirits, beer, and wine license in good standing
30 from the board;

1 (d) Has a valid uniform business identifier number and, if it is an
2 established business with reportable gross receipts, has paid all
3 applicable state business and occupation taxes in the year prior to
4 application for endorsement;

5 (e) In the year immediately preceding initial application or
6 renewal, derived at least twenty-five thousand dollars of the business'
7 annual gross income from the combination of the sale of tobacco
8 products, tobacco products related paraphernalia, and the rental of on-
9 site humidior space. In the case where this is the first endorsement
10 application, the applicant may use any year prior to the initial
11 application to meet the requirements of this subsection or must show
12 proof that it has purchased, at wholesale, at least twelve thousand
13 five hundred dollars in tobacco products and tobacco products related
14 paraphernalia;

15 (f) Has obtained a signed letter, on appropriate letterhead, from
16 a heating, ventilation, and air-conditioning, and refrigeration
17 contractor holding a valid registration with the department of labor
18 and industries pursuant to chapter 18.27 RCW, which certifies that the
19 ventilation and exhaust system for the area designated in (a) of this
20 subsection:

21 (i) Is separate and distinct from the location's general heating,
22 ventilation, and air-conditioning system;

23 (ii) Has an air flow, as calculated in cubic feet per minute, that
24 will provide for at least thirteen or more air changes within the space
25 served by the ventilation and exhaust system;

26 (iii) Uses the correct quantity of filters recommended by the
27 manufacturer of the ventilation and exhaust system and that those
28 filters have a minimum efficiency rating value of 14 or higher. For
29 the purposes of this subsection, "minimum efficiency rating value"
30 means the air-cleaning performance rating value as expressed in
31 American society of heating, refrigerating, and air-conditioning
32 engineers standard 52.2-2007; and

33 (iv) Uses a loose-fill, rechargeable-type sorbent material
34 positioned across the airflow in such a configuration that gaseous
35 contaminants will have a residence time of one-tenth of one second or
36 more within the sorbent material. For the purposes of this section,
37 "residence time" must be calculated consistent with the recommendations

1 outlined in Chapter 45 of the 2007 American society of heating,
2 refrigerating, and air-conditioning engineers handbook - HVAC
3 applications entitled "Control of Gaseous Indoor Air Contaminants"; and

4 (g) Will post signage indicating that environmental tobacco smoke
5 may be present in the establishment or part of the establishment. This
6 signage must be in the form and manner provided by the board and must
7 be placed in a conspicuous location at each entry to the area
8 designated in (a) of this subsection. The signage must contain the
9 following provision in bold-faced type: "WARNING: Cigar smoking
10 causes lung cancer, heart disease, and other diseases and cancers.
11 Cigars contain nicotine, tar, and carcinogens. Cigar smoking is not a
12 safe alternative to cigarette smoking."

13 (4) The board must issue an endorsement as a retail tobacconist
14 shop to a business that meets the requirements of subsections (1) and
15 (2) of this section and that has submitted an affidavit to the board
16 certifying that it:

17 (a) Is an establishment whose primary purpose is the sale of
18 tobacco products and tobacco product related paraphernalia and that is
19 physically separated from any adjacent location where smoking is
20 prohibited under state law. For the purposes of this subsection,
21 "physically separated" means an area that is enclosed on all sides by
22 solid, impermeable walls or windows extending from the floor to ceiling
23 with self-closing doors;

24 (b) Will not allow cigarettes or hookah or pipe tobacco to be
25 smoked in the area designated in (a) of this subsection;

26 (c) Will prohibit entry into the area designated in subsection
27 (4)(a) of this section to any person under the age of eighteen;

28 (d) Has a valid uniform business identifier number and, if an
29 established business with reportable gross receipts, has paid all
30 applicable state business and occupation taxes in the year prior to
31 application for endorsement;

32 (e) In the year immediately preceding initial application or
33 renewal, derived at least seventy-five percent of the business' annual
34 gross income from the combination of the sale of tobacco products and
35 tobacco product related paraphernalia. In the case where this is the
36 first endorsement application, the applicant may use any year prior to
37 the initial application to meet the requirements of this subsection or

1 must show proof that it has purchased, at wholesale, at least twenty-
2 five thousand dollars in tobacco products and tobacco products related
3 paraphernalia;

4 (f) Has obtained a signed letter, on appropriate letterhead, from
5 a heating, ventilation, and air-conditioning, and refrigeration
6 contractor holding a valid registration with the department of labor
7 and industries pursuant to chapter 18.27 RCW, which certifies that the
8 ventilation and exhaust system for the area designated in (a) of this
9 subsection:

10 (i) Is separate and distinct from the location's general heating,
11 ventilation, and air-conditioning system;

12 (ii) Has an airflow, as calculated in cubic feet per minute, that
13 provides for at least thirteen or more air changes within the space
14 served by the ventilation and exhaust system; and

15 (iii) Uses the correct quantity of filters recommended by the
16 manufacturer of the ventilation and exhaust system and that those
17 filters have a minimum efficiency rating value of fourteen or higher.
18 For the purposes of this subsection, "minimum efficiency rating value"
19 means the air-cleaning performance rating value as expressed in
20 American society of heating, refrigerating, and air-conditioning
21 engineers standard 52.2-2007; and

22 (iv) Uses a loose-fill, rechargeable-type sorbent material
23 positioned across the airflow in such a configuration that gaseous
24 contaminants will have a residence time of one-tenth of one second or
25 more within the sorbent material. For the purposes of this section,
26 "residence time" must be calculated consistent with the recommendations
27 outlined in Chapter 45 of the 2007 American society of heating,
28 refrigerating, and air-conditioning engineers handbook - HVAC
29 applications entitled "Control of Gaseous Indoor Air Contaminants"; and

30 (g) Will post signage indicating that environmental tobacco smoke
31 may be present in the establishment or part of the establishment. This
32 signage must be in the form and manner provided by the board and must
33 be placed in a conspicuous location at each entry to the area
34 designated in (a) of this subsection. The signage must contain the
35 following provision in bold-faced type: "WARNING: Cigar smoking
36 causes lung cancer, heart disease, and other diseases and cancers.
37 Cigars contain nicotine, tar, and carcinogens. Cigar smoking is not a
38 safe alternative to cigarette smoking."

1 (5) The affidavits required under this section must be submitted in
2 a form and manner as prescribed by the board to effectively administer
3 the provisions of this chapter.

4 (6) The board may request additional documentation or information
5 from an applicant in order to verify that the business meets the
6 requirements of this section. The applicant must comply with requests
7 from the department under this subsection or the board may withhold
8 issuance of an endorsement.

9 (7) Endorsements granted under this section are effective for the
10 same period as provided in the tobacco products retailer's license
11 granted to the applicant under this chapter. However, the affidavit
12 required under this section must be completed and verified each year by
13 the board and the appropriate fee paid in full before any endorsement
14 to a tobacco retailer license is issued or renewed.

15 (8) Endorsement decisions by the board must be made no later than
16 twenty-one business days following the submittal of a completed
17 affidavit together with the appropriate fee. Rejections of an
18 application for an endorsement under this section may be appealed under
19 the same process provided for other licenses issued by the board.

20 (9) At no point during any calendar year may the board allow the
21 total number of cigar lounge endorsements in the state to exceed fifty
22 or the total number of retail tobacco shop endorsements in the state to
23 exceed two hundred. The board must administer the distribution of
24 cigar lounge or retail tobacco shop endorsements and must ensure that
25 the collective number of cigar lounge or retail tobacco shop
26 endorsements located within all counties with a population of over five
27 hundred thousand never exceed one-half of the endorsements allowed
28 under this subsection for each endorsement respectively. Renewing
29 applicants must be given priority over new applicants for endorsements
30 under these limitations.

31 (10) The liquor control board has sole enforcement authority
32 regarding the designated areas that receive an endorsement under this
33 section.

34 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.26 RCW
35 to read as follows:

36 (1) Up to five percent of the fees collected under section 1 of
37 this act must be deposited into the liquor revolving fund created in

1 RCW 66.08.170, to be used to cover the administrative costs of
2 implementing and enforcing the endorsements created in section 1 of
3 this act.

4 (2) The remaining funds collected under section 1 of this act must
5 be deposited into the general fund solely for appropriation for tobacco
6 usage prevention and treatment programs.

7 **Sec. 3.** RCW 70.160.060 and 1995 c 369 s 60 are each amended to
8 read as follows:

9 (1) This chapter is not intended to:

10 (a) Regulate smoking in a private enclosed workplace, within a
11 public place, even though such workplace may be visited by nonsmokers,
12 excepting places in which smoking is prohibited by the chief of the
13 Washington state patrol, through the director of fire protection, or by
14 other law, ordinance, or regulation;

15 (b) Regulate use or smoking of tobacco products, as that term is
16 defined under chapter 82.26 RCW, in a public place or place of
17 employment that holds a valid endorsement to their tobacco products
18 retailer's license under section 1 of this act.

19 (2) The liquor control board has sole enforcement authority
20 regarding the designated areas that receive an endorsement under
21 section 1 of this act.

22 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 immediately."

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26 On page 1, line 2 of the title, after "shops;" strike the remainder
27 of the title and insert "amending RCW 70.160.060; adding new sections
28 to chapter 82.26 RCW; and declaring an emergency."

EFFECT: Requires that an establishment be specifically designated for the smoking of cigars. Includes hookah and pipe tobacco as exempt from being used in each establishment.

Raises the cigar lounge/tobacconist annual fees from \$17,500 to \$40,000 and \$6,000 to \$10,000 for retail tobacconist shops. All annual fees must be paid in full during the first month of the fiscal year. Decreases the total number of special endorsements present at any time during the calendar year from 100 cigar lounges to 50 and 500 retail tobacconist shops to 200. The remainder of fee revenues generated will be deposited into the general fund.

Removes the requirement that establishments must have a signed acknowledgment of risks associated with working in an environment where tobacco smoke may be present from each employee. Requires specific language to be displayed in a conspicuous location warning of the hazards of tobacco smoke.

Makes a technical cross-reference correction.

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