
SUBSTITUTE HOUSE BILL 1246

State of Washington

62nd Legislature

2011 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Cody, Harris, Dunshee, Green, Seaquist, Van De Wege, Appleton, Clibborn, Walsh, Johnson, Roberts, Jenkins, Kenney, and Billig)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to regulation of tobacco products; amending RCW
2 70.155.030 and 70.155.130; adding a new section to chapter 70.155 RCW;
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the use
6 of tobacco products of all types is a significant public health
7 problem. Like cigarettes, cigars and smokeless tobacco can lead to
8 lifelong nicotine addiction. Cigar and cigarette smokers face
9 comparable risks for oral, throat and esophageal cancers. Smokeless
10 tobacco products similarly raise users' risk of various diseases
11 including cancers of the lip, tongue, cheeks, and gums.

12 (2)(a) The legislature finds that the use of noncigarette tobacco
13 products by youth is on the rise in Washington state. From 2004 -
14 2008, youth consumption of tobacco products other than cigarettes
15 increased forty-three percent locally. This increase has coincided
16 with the emergence on the market of a number of tobacco products with
17 enormous appeal to youth. These products include flavored tobacco
18 products, such as flavored cigars and smokeless tobacco, and
19 dissolvable tobacco products, which closely resemble candy.

1 (b) Although the sale of tobacco products to minors is illegal
2 throughout Washington, minors are still readily able to purchase
3 tobacco products from otherwise legally operating retail outlets.
4 Youth access to tobacco products is facilitated by the fact that these
5 products are not required to be stored behind a counter.

6 (3) Therefore, it is the intent of the legislature to:

7 (a) Reduce youth access to tobacco products by requiring that
8 tobacco products be stored in a location that is inaccessible to youth.
9 By reducing youth access to tobacco products, the legislature intends
10 to reduce youth tobacco use rates and reduce the number of today's
11 children who will grow up to become addicted users, suffer from tobacco
12 use, and die prematurely from it.

13 (b) Authorize local jurisdictions to adopt local ordinances or
14 regulations so that local concerns regarding youth access to tobacco
15 can be addressed.

16 **Sec. 2.** RCW 70.155.030 and 1994 c 202 s 1 are each amended to read
17 as follows:

18 (1) No person shall sell or permit to be sold any tobacco product
19 through any device that mechanically dispenses tobacco products unless
20 the device is located fully within premises from which minors are
21 prohibited or in industrial worksites where minors are not employed and
22 not less than ten feet from all entrance or exit ways to and from each
23 premise. The board shall adopt rules that allow an exception to the
24 requirement that a device be located not less than ten feet from all
25 entrance or exit ways to and from a premise if it is architecturally
26 impractical for the device to be located not less than ten feet from
27 all entrance and exit ways.

28 (2) No person shall display or store tobacco products, including
29 products that contain substances derived from tobacco and intended for
30 human use including but not limited to nicotine, where those products
31 are accessible to consumers without direct assistance by the sales
32 personnel. This subsection shall not apply to the following:

33 (a) Vending machine sales as authorized by subsection (1) of this
34 section;

35 (b) A display of tobacco products that is located in a commercial
36 establishment in which by law no person younger than eighteen years of
37 age is permitted to enter at any time; or

1 (c) Retailers licensed under RCW 82.26.150(1)(b), whose primary
2 business is the sale of tobacco products as defined in RCW 82.26.010.

3 **Sec. 3.** RCW 70.155.130 and 1993 c 507 s 14 are each amended to
4 read as follows:

5 This chapter (~~((preempts political subdivisions from adopting or~~
6 ~~enforcing requirements for the licensure and regulation of tobacco~~
7 ~~product promotions and sales within retail stores, except that~~
8 ~~political subdivisions that have adopted ordinances prohibiting~~
9 ~~sampling by January 1, 1993, may continue to enforce these ordinances.~~
10 ~~No political subdivision may: (1) Impose fees or license requirements~~
11 ~~on retail businesses for possessing or selling cigarettes or tobacco~~
12 ~~products, other than general business taxes or license fees not~~
13 ~~primarily levied on tobacco products; or (2) regulate or prohibit~~
14 ~~activities covered by RCW 70.155.020 through 70.155.080. This chapter~~
15 ~~does not otherwise preempt political subdivisions from adopting~~
16 ~~ordinances regulating the sale, purchase, use, or promotion of tobacco~~
17 ~~products not inconsistent with chapter 507, Laws of 1993)) is not to be~~
18 construed to supersede or preempt local ordinances or regulations if
19 those ordinances or regulations are at least as restrictive as the
20 provisions of this chapter. This chapter does not preclude local
21 ordinances or regulations adopting fees or licensure for retailers of
22 cigarettes or other tobacco products. However, this section does not
23 authorize local ordinances or regulations relating to cigarette or
24 other tobacco product excise taxes.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.155 RCW
26 to read as follows:

27 In addition to the board's other powers and authorities, the board
28 may suspend or revoke a retailer's license issued under RCW
29 82.26.150(1)(b) held by a business at any location, or may impose a
30 monetary penalty as set forth in RCW 70.155.100, if the board finds
31 that the licensee has violated this chapter.

32 NEW SECTION. **Sec. 5.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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