
SECOND SUBSTITUTE HOUSE BILL 1873

State of Washington

66th Legislature

2019 Regular Session

By House Appropriations (originally sponsored by Representatives Pollet, Harris, Cody, Robinson, Tarleton, Frame, Bergquist, Ryu, Kilduff, Macri, Stonier, Dolan, Orwall, Doglio, Senn, Stanford, Appleton, Callan, Wylie, Peterson, Valdez, Walen, Leavitt, Kloba, and Lovick)

READ FIRST TIME 04/25/19.

1 AN ACT Relating to the taxation of vapor products as tobacco
2 products; amending RCW 66.08.145, 66.44.010, 70.345.090, 70.345.160,
3 82.24.510, 82.24.550, 82.26.060, 82.26.080, 82.26.150, 82.26.220,
4 82.32.300, and 43.06.450; adding new sections to chapter 43.06 RCW;
5 adding a new section to chapter 82.08 RCW; adding a new section to
6 chapter 82.12 RCW; adding a new chapter to Title 82 RCW; creating new
7 sections; prescribing penalties; making an appropriation; and
8 providing an effective date.

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

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Part I
Findings

12 NEW SECTION. **Sec. 101.** (1) The legislature finds that the use
13 of vapor inhalation products, such as e-cigarettes, e-devices,
14 electronic nicotine delivery systems, and vape pens, has risen at an
15 alarming rate both among adults and youth. The vaping epidemic has
16 reversed decades of progress in reducing youth use of nicotine. Vapor
17 products pose a serious public health risk because of the
18 addictiveness of nicotine, the impact of nicotine on fetal
19 development and adolescent brain development, the risk of liquid
20 nicotine poisoning, and exposure to carcinogens and other toxic

1 chemicals. Although these products have been documented as being
2 interchangeably used by consumers with cigarettes or other tobacco
3 products, and there is nicotine produced or derived from tobacco in
4 the product intended for human consumption and absorption into the
5 human body, the manufacturers, wholesalers, and retailers have not
6 been paying the tax levied on tobacco products pursuant to chapter
7 82.26 RCW. The legislature intends to transition from no tobacco or
8 cigarette tax having been paid on these products to adopting a
9 specific tax rate for tobacco products classified as vapor products
10 in this act. Adoption of this specific tax will resolve claims of
11 nonpayment of tobacco product taxes pursuant to chapter 82.26 RCW.
12 The legislature believes that vapor products containing nicotine have
13 always been subject to taxation pursuant to chapter 82.26 RCW, and
14 passage of this act may not be interpreted as an indication
15 otherwise.

16 (2) Specifically, the legislature finds that:

17 (a) Vapor products are battery-operated devices with cartridges
18 or refillable tanks that contain a mixture of various liquids, such
19 as propylene glycol, glycerol, nicotine, and chemical flavorings. The
20 devices atomize the liquid mixture, producing an aerosol that the
21 user inhales and that bystanders can also breathe in when the user
22 exhales into the air. The aerosol can contain harmful and potentially
23 harmful substances, including volatile organic compounds, ultrafine
24 particles, cancer-causing chemicals, heavy metals, and flavoring such
25 as diacetyl, which has been linked to a serious lung disease. Vapor
26 products may also be used to deliver marijuana or other drugs;

27 (b) In 2016, the federal food and drug administration finalized a
28 rule to extend its regulatory authority to all tobacco products,
29 including e-cigarettes, to improve public health. The food and drug
30 administration's regulatory authority over noncombustible tobacco
31 products includes e-cigarette components and parts, such as e-
32 liquids, cartridges, tank systems, and flavorings;

33 (c) Vapor products are heavily promoted as being far less costly
34 than consuming the equivalent nicotine through cigarettes, with one
35 industry estimate that vapor products are over eighty percent less
36 expensive. Legislative testimony has indicated that refillable
37 nicotine liquid and disposable e-cigarettes are as low as ten and
38 twenty percent of the cost of a pack of cigarettes in Washington. For
39 Washington residents, industry promotions note thousands of dollars
40 in individual savings annually, compared to smoking cigarettes, due

1 in part to consumers and retailers of vapor products not paying the
2 taxes which the state places on cigarettes or other tobacco products;

3 (d) The sale and use of vapor products has rapidly increased over
4 the past several years. The 2018 national youth tobacco survey found
5 that use of e-cigarettes increased seventy-eight percent among high
6 school students and forty-eight percent among middle school students
7 from 2017 to 2018. Last year more than 3.6 million youth used e-
8 cigarettes, making them the most commonly used tobacco products. The
9 legislature finds that vapor products are heavily promoted to attract
10 youth to purchase them, with concomitant addiction to nicotine.
11 Research shows that most young e-cigarette and vapor product users
12 also smoke cigarettes, and that the attraction and low cost
13 availability of vapor products is mitigating the positive benefits
14 from the decline in cigarette use among youth;

15 (e) In Washington, the 2018 healthy youth survey found that
16 thirty percent of twelfth graders, twenty-one percent of tenth
17 graders, and ten percent of eighth graders had used an e-cigarette in
18 the past month. These rates are alarming because an overwhelming
19 majority of smokers begin smoking and become addicted to nicotine as
20 teenagers, and the equipment used may be sold and used
21 interchangeably for marijuana and nicotine. State law now prohibits
22 the sale of vapor products containing nicotine to persons under the
23 age of twenty-one, but the availability of vapor products online and
24 equipment sold separately at retail stores pose enforcement
25 challenges;

26 (f) The low cost of e-cigarettes and nicotine liquids for vapor
27 products, particularly compared to cigarettes, is a key factor in
28 youth access and use. E-cigarettes are advertised as saving smokers
29 thousands of dollars. One survey of adult users has shown that the
30 low price of e-cigarettes compared to other tobacco products is a key
31 reason for their use, and youth are even more sensitive to price than
32 adults. Increasing the price of vapor products will provide parity
33 with the price of other harmful substances. Moreover, a price
34 increase of vapor products will decrease youth access and addiction,
35 just as raising taxes on cigarettes to discourage youth and adult
36 smoking decreased youth access and addiction; and

37 (g) Public health infrastructure and enforcement to prevent youth
38 access to tobacco, including vapor products, in Washington will
39 benefit from the investment of tax revenues and fees established or
40 increased by this act.

1 (3) The legislature finds, therefore, that this act is necessary
2 to protect the public health, safety, and welfare by providing
3 consumers with information about products that are potentially
4 dangerous, providing support for programs that reduce youth access to
5 addictive nicotine products, preventing nicotine poisonings of
6 children, and providing support for many essential public health
7 services and educational programs for which needs and cost are
8 increased due to increased consumption of vapor products.

9 **Part II**

10 **Tax on Vapor Products**

11 NEW SECTION. **Sec. 201.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires
13 otherwise. The definitions in chapters 82.04 and 82.08 RCW apply to
14 this chapter unless the term is defined in this chapter or the
15 context clearly requires otherwise.

16 (1) "Board" means the Washington state liquor and cannabis board.

17 (2) "Business" means any trade, occupation, activity, or
18 enterprise engaged in selling or distributing vapor products in this
19 state.

20 (3) "Indian country" has the same meaning as provided in RCW
21 82.24.010.

22 (4) "Retailer" has the same meaning as provided in RCW
23 70.345.010.

24 (5) "Vapor product" means any noncombustible product containing a
25 solution or other consumable substance, regardless of whether it
26 contains nicotine, which employs a mechanical heating element,
27 battery, or electronic circuit regardless of shape or size that can
28 be used to produce vapor from the solution or other substance,
29 including an electronic cigarette, electronic cigar, electronic
30 cigarillo, electronic pipe, or similar product or device. The term
31 also includes any cartridge or other container of solution or other
32 consumable substance, regardless of whether it contains nicotine,
33 that is intended to be used with or in a vapor product to produce
34 vapor and is sold for such purpose.

35 (a) The term does not include:

36 (i) Any product approved by the United States food and drug
37 administration for sale as a tobacco cessation product, medical

1 device, or for other therapeutic purposes when such product is
2 marketed and sold solely for such an approved purpose;

3 (ii) Any product that will become an ingredient or component in a
4 vapor product; or

5 (iii) Any product that meets the definition of marijuana, useable
6 marijuana, marijuana concentrates, marijuana-infused products,
7 cigarette, or tobacco products.

8 (b) For purposes of this subsection (10):

9 (i) "Cigarette" has the same meaning as provided in RCW
10 82.24.010; and

11 (ii) "Marijuana," "useable marijuana," "marijuana concentrates,"
12 and "marijuana-infused products" have the same meaning as provided in
13 RCW 69.50.101.

14 NEW SECTION. **Sec. 202.** (1) There is levied and collected a
15 vapor products excise tax equal to thirty-seven percent of the
16 selling price on each retail sale in this state of any vapor product
17 on which the retail sales tax imposed under RCW 82.08.020 is also
18 levied. This tax is:

19 (a) Separate and in addition to the general state retail sales
20 tax imposed in RCW 82.08.020; and

21 (b) Not part of the selling price or gross proceeds of sales for
22 purposes of the taxes imposed under RCW 82.08.020 and chapter 82.04
23 RCW.

24 (2) The vapor products excise tax in this section is imposed on
25 the buyer and must be collected from the buyer by the seller. The
26 vapor products excise tax must be separately itemized from the state
27 and local retail sales tax on the sales receipt provided to the
28 buyer.

29 (3) Sellers are solely liable for the vapor products excise tax
30 under this section, regardless of whether they have collected the tax
31 from the buyer.

32 (4) The tax under this section must be collected by all sellers
33 required to collect the tax imposed in RCW 82.08.020 on retail sales
34 of vapor products.

35 (5) The frequency of reporting and paying the tax imposed in this
36 section must coincide with the seller's reporting frequency for
37 purposes of the taxes imposed in chapters 82.04 and 82.08 RCW.

1 NEW SECTION. **Sec. 203.** To the extent not inconsistent with the
2 provisions of this chapter, the provisions of RCW 82.08.037,
3 82.08.040, RCW 82.08.050 (1) and (2), 82.08.054, 82.08.060,
4 82.08.120, and 82.08.145 and chapter 82.32 RCW apply to the tax
5 imposed in section 202 of this act.

6 NEW SECTION. **Sec. 204.** (1) The legislature intends for the
7 revenues generated by the tax imposed in this chapter to fund
8 foundational public health services, tobacco, vapor product, and
9 other substance abuse prevention, and expanded access to training of
10 public health professionals.

11 (2) Seventy-five percent of the moneys collected from the tax
12 imposed under section 202 of this act must be deposited into the
13 essential public health services account.

14 (3) Beginning in the 2021-2023 biennium and through June 30,
15 2025, five percent of the deposits into the essential public health
16 services account must be transferred to the Andy Hill cancer research
17 endowment fund match transfer account in RCW 43.348.080.

18 NEW SECTION. **Sec. 205.** (1) A bundled transaction that includes
19 a vapor product is subject to the tax imposed under this chapter on
20 the entire selling price of the bundled transaction.

21 (2) The definitions in this subsection apply throughout this
22 section unless the context clearly requires otherwise.

23 (a) "Bundled transaction" means:

24 (i) The sale of two or more products where the products are
25 otherwise distinct and identifiable, are sold for one nonitemized
26 price, and at least one product is a vapor product subject to the tax
27 under this chapter; and

28 (ii) A vapor product provided free of charge with the required
29 purchase of another product. A vapor product is provided free of
30 charge if the sales price of the product purchased does not vary
31 depending on the inclusion of the vapor product provided free of
32 charge.

33 (b) "Distinct and identifiable products" does not include
34 packaging such as containers, boxes, sacks, bags, and bottles, or
35 materials such as wrapping, labels, tags, and instruction guides,
36 that accompany the sale of the products and are incidental or
37 immaterial to the sale thereof.

1 NEW SECTION. **Sec. 206.** (1) The essential public health services
2 account is created in the state treasury. Seventy-five percent of the
3 moneys collected from the tax imposed under section 202 of this act
4 must be deposited into the account. Moneys in the account may be
5 spent only after appropriation to the office of financial management
6 and subsequent allocation to the department of health. The department
7 of health must use the moneys in the account for each of the four
8 following purposes:

9 (a) To fund foundational health services, with a minimum of
10 thirty-three percent of the funds deposited into the account to be
11 used for this purpose;

12 (b) To fund tobacco, vapor product, and nicotine control and
13 prevention, and other substance use prevention and education, with a
14 minimum of thirty-three percent of the funds deposited into the
15 account to be used for this purpose. In spending funds under this
16 subsection (1)(b), the department must follow best practices for
17 comprehensive tobacco control programs as described by the centers
18 for disease control;

19 (c) At least ten percent of funds deposited must be used to
20 support increased access and training of public health professionals
21 at public health programs at accredited public institutions of higher
22 education in Washington; and

23 (d) To fund enforcement by the state liquor and cannabis board of
24 the provisions of this chapter to prevent sales of vapor products to
25 minors and related provisions for control of marketing and product
26 safety, provided that no more than twelve and one-half percent of the
27 funds deposited into the account established by this section may be
28 utilized and distributed by the department of health to the board for
29 these enforcement purposes.

30 (2) To determine the funding for foundational health services
31 pursuant to subsection (1)(a) of this section, the governmental
32 public health system must work together to arrive at a mutually
33 acceptable allocation and distribution of funds using the process
34 established in RCW 43.70.--- (section 2, chapter 14, Laws of 2019).

35 (3) The department of health may determine, in consultation with
36 local public health agencies, the board, and stakeholders, how funds
37 that are not earmarked must be distributed for each biennium.

38 NEW SECTION. **Sec. 207.** (1) The taxes imposed by this chapter do
39 not apply to the sale of vapor products by an Indian retailer during

1 the effective period of a vapor product tax contract subject to
2 section 403 of this act or a vapor product tax agreement under
3 section 404 of this act.

4 (2) The definitions in section 402 of this act apply to this
5 section.

6 NEW SECTION. **Sec. 208.** The department must authorize, as duly
7 authorized agents, enforcement officers of the board to enforce
8 provisions of this chapter. These officers are not employees of the
9 department.

10 NEW SECTION. **Sec. 209.** The board must compile and maintain a
11 current record of the names of all distributors, retailers, and
12 delivery sales licenses under chapter 70.345 RCW and the status of
13 their license or licenses. The information must be updated on a
14 monthly basis and published on the board's official internet web
15 site. This information is not subject to the confidentiality
16 provisions of RCW 82.32.330 and must be disclosed to manufacturers,
17 distributors, retailers, and the general public upon request.

18 **Part III**
19 **Conforming Amendments**

20 **Sec. 301.** RCW 66.08.145 and 2016 sp.s. c 38 s 29 are each
21 amended to read as follows:

22 (1) The liquor and cannabis board may issue subpoenas in
23 connection with any investigation, hearing, or proceeding for the
24 production of books, records, and documents held under this chapter
25 or chapters 70.155, 70.158, 70.345, 82.24, ~~((and))~~ 82.26 ~~((RCW))~~, and
26 82.--- RCW (the new chapter created in section 603 of this act), and
27 books and records of common carriers as defined in RCW 81.80.010, or
28 vehicle rental agencies relating to the transportation or possession
29 of cigarettes, vapor products, or other tobacco products.

30 (2) The liquor and cannabis board may designate individuals
31 authorized to sign subpoenas.

32 (3) If any person is served a subpoena from the board for the
33 production of records, documents, and books, and fails or refuses to
34 obey the subpoena for the production of records, documents, and books
35 when required to do so, the person is subject to proceedings for
36 contempt, and the board may institute contempt of court proceedings

1 in the superior court of Thurston county or in the county in which
2 the person resides.

3 **Sec. 302.** RCW 66.44.010 and 1998 c 18 s 1 are each amended to
4 read as follows:

5 (1) All county and municipal peace officers are hereby charged
6 with the duty of investigating and prosecuting all violations of this
7 title, and the penal laws of this state relating to the manufacture,
8 importation, transportation, possession, distribution and sale of
9 liquor, and all fines imposed for violations of this title and the
10 penal laws of this state relating to the manufacture, importation,
11 transportation, possession, distribution and sale of liquor (~~shall~~)
12 belong to the county, city or town wherein the court imposing the
13 fine is located, and (~~shall~~) must be placed in the general fund for
14 payment of the salaries of those engaged in the enforcement of the
15 provisions of this title and the penal laws of this state relating to
16 the manufacture, importation, transportation, possession,
17 distribution and sale of liquor(~~:- PROVIDED, That~~). However, all
18 fees, fines, forfeitures and penalties collected or assessed by a
19 district court because of the violation of a state law (~~shall~~) must
20 be remitted as provided in chapter 3.62 RCW as now exists or is later
21 amended.

22 (2) In addition to any and all other powers granted, the board
23 (~~shall have~~) has the power to enforce the penal provisions of this
24 title and the penal laws of this state relating to the manufacture,
25 importation, transportation, possession, distribution and sale of
26 liquor and vapor products.

27 (3) In addition to the other duties under this section, the board
28 (~~shall~~) must enforce chapters 82.24 (~~and~~), 82.26 (~~RCW~~), and
29 82.--- RCW (the new chapter created in section 603 of this act).

30 (4) The board may appoint and employ, assign to duty and fix the
31 compensation of, officers to be designated as liquor enforcement
32 officers. Such liquor enforcement officers (~~shall~~) have the power,
33 under the supervision of the board, to enforce the penal provisions
34 of this title and the penal laws of this state relating to the
35 manufacture, importation, transportation, possession, distribution
36 and sale of liquor and vapor products. They (~~shall~~) have the power
37 and authority to serve and execute all warrants and process of law
38 issued by the courts in enforcing the penal provisions of this title
39 or of any penal law of this state relating to the manufacture,

1 importation, transportation, possession, distribution and sale of
2 liquor, and the provisions of chapters 82.24 (~~and~~), 82.26 ((RCW)) ,
3 and 82.--- RCW (the new chapter created in section 603 of this act).
4 They (~~shall~~) have the power to arrest without a warrant any person
5 or persons found in the act of violating any of the penal provisions
6 of this title or of any penal law of this state relating to the
7 manufacture, importation, transportation, possession, distribution
8 and sale of liquor, and the provisions of chapters 82.24 (~~and~~),
9 82.26 ((RCW)), and 82.--- RCW (the new chapter created in section 603
10 of this act).

11 **Sec. 303.** RCW 70.345.090 and 2016 sp.s. c 38 s 17 are each
12 amended to read as follows:

13 (1) No person may conduct a delivery sale or otherwise ship or
14 transport, or cause to be shipped or transported, any vapor product
15 ordered or purchased by mail or through the internet to any person
16 unless such seller has a valid delivery sale license as required
17 under this chapter.

18 (2) No person may conduct a delivery sale or otherwise ship or
19 transport, or cause to be shipped or transported, any vapor product
20 ordered or purchased by mail or through the internet to any person
21 under the minimum age required for the legal sale of vapor products
22 as provided under RCW 70.345.140.

23 (3) A delivery sale licensee must provide notice on its mail
24 order or internet sales forms of the minimum age required for the
25 legal sale of vapor products in Washington state as provided by RCW
26 70.345.140.

27 (4) A delivery sale licensee must not accept a purchase or order
28 from any person without first obtaining the full name, birth date,
29 and residential address of that person and verifying this information
30 through an independently operated third-party database or aggregate
31 of databases, which includes data from government sources, that are
32 regularly used by government and businesses for the purpose of age
33 and identity verification and authentication.

34 (5) A delivery sale licensee must accept payment only through a
35 credit or debit card issued in the purchaser's own name. The licensee
36 must verify that the card is issued to the same person identified
37 through identity and age verification procedures in subsection (4) of
38 this section.

1 (6) A delivery sale licensee must collect and remit vapor product
2 excise taxes due in accordance with chapter 82.--- RCW (the new
3 chapter created in section 603 of this act).

4 (7) Before a delivery sale licensee delivers an initial purchase
5 to any person, the licensee must verify the identity and delivery
6 address of the purchaser by mailing or shipping to the purchaser a
7 notice of sale and certification form confirming that the addressee
8 is in fact the person placing the order. The purchaser must return
9 the signed certification form to the licensee before the initial
10 shipment of product. Certification forms are not required for repeat
11 customers. In the alternative, before a seller delivers an initial
12 purchase to any person, the seller must first obtain from the
13 prospective customer an electronic certification, such as by email,
14 that includes a declaration that, at a minimum, the prospective
15 customer is over the minimum age required for the legal sale of a
16 vapor product, and the credit or debit card used for payment has been
17 issued in the purchaser's name.

18 (~~(7)~~) (8) A delivery sale licensee must include on shipping
19 documents a clear and conspicuous statement which includes, at a
20 minimum, that the package contains vapor products, Washington law
21 prohibits sales to those under the minimum age established by this
22 chapter, and violations may result in sanctions to both the licensee
23 and the purchaser.

24 (~~(8)~~) (9) A person who knowingly violates this section is
25 guilty of a class C felony, except that the maximum fine that may be
26 imposed is five thousand dollars.

27 (~~(9)~~) (10) In addition to or in lieu of any other civil or
28 criminal remedy provided by law, a person who has violated this
29 section is subject to a civil penalty of up to five thousand dollars
30 for each violation. The attorney general, acting in the name of the
31 state, may seek recovery of the penalty in a civil action in superior
32 court.

33 (~~(10)~~) (11) The attorney general may seek an injunction in
34 superior court to restrain a threatened or actual violation of this
35 section and to compel compliance with this section.

36 (~~(11)~~) (12) Any violation of this section is not reasonable in
37 relation to the development and preservation of business and is an
38 unfair and deceptive act or practice and an unfair method of
39 competition in the conduct of trade or commerce in violation of RCW
40 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for

1 violation of this section lies solely with the attorney general.
2 Remedies provided by chapter 19.86 RCW are cumulative and not
3 exclusive.

4 ~~((12))~~ (13)(a) In any action brought under this section, the
5 state is entitled to recover, in addition to other relief, the costs
6 of investigation, expert witness fees, costs of the action, and
7 reasonable attorneys' fees.

8 (b) If a court determines that a person has violated this
9 section, the court shall order any profits, gain, gross receipts, or
10 other benefit from the violation to be disgorged and paid to the
11 state treasurer for deposit in the general fund.

12 ~~((13))~~ (14) Unless otherwise expressly provided, the penalties
13 or remedies, or both, under this section are in addition to any other
14 penalties and remedies available under any other law of this state.

15 ~~((14))~~ (15) A licensee who violates this section is subject to
16 license suspension or revocation by the board.

17 ~~((15))~~ (16) The board may adopt by rule additional requirements
18 for mail or internet sales.

19 ~~((16))~~ (17) The board must not adopt rules prohibiting internet
20 sales.

21 **Sec. 304.** RCW 70.345.160 and 2016 sp.s. c 38 s 24 are each
22 amended to read as follows:

23 (1) The board must have, in addition to the board's other powers
24 and authorities, the authority to enforce the provisions of this
25 chapter and chapter 82.--- RCW (the new chapter created in section
26 603 of this act).

27 (2) The board and the board's authorized agents or employees have
28 full power and authority to enter any place of business where vapor
29 products are sold for the purpose of enforcing the provisions of this
30 chapter.

31 (3) For the purpose of enforcing the provisions of this chapter,
32 a peace officer or enforcement officer of the board who has
33 reasonable grounds to believe a person observed by the officer
34 purchasing, attempting to purchase, or in possession of vapor
35 products is under eighteen years of age, may detain such person for a
36 reasonable period of time and in such a reasonable manner as is
37 necessary to determine the person's true identity and date of birth.
38 Further, vapor products possessed by persons under eighteen years of

1 age are considered contraband and may be seized by a peace officer or
2 enforcement officer of the board.

3 (4) The board may work with local county health departments or
4 districts and local law enforcement agencies to conduct random,
5 unannounced, inspections to assure compliance.

6 (5) Upon a determination by the secretary of health or a local
7 health jurisdiction that a vapor product may be injurious to human
8 health or poses a significant risk to public health:

9 (a) The board, in consultation with the department of health and
10 local county health jurisdictions, may cause a vapor product
11 substance or solution sample, purchased or obtained from any vapor
12 product retailer, distributor, or delivery sale licensee, to be
13 analyzed by an analyst appointed or designated by the board;

14 (b) If the analyzed vapor product contains an ingredient,
15 substance, or solution present in quantities injurious to human
16 health or posing a significant risk to public health, as determined
17 by the secretary of health or a local health jurisdiction, the board
18 may suspend the license of the retailer or delivery sale licensee
19 unless the retailer or delivery sale licensee agrees to remove the
20 product from sales; and

21 (c) If upon a finding from the secretary of health or local
22 health jurisdiction that the vapor product poses an injurious risk to
23 public health or significant public health risk, the retailer or
24 delivery sale licensee does not remove the product from sale, the
25 secretary of health or local health officer may file for an
26 injunction in superior court prohibiting the sale or distribution of
27 that specific vapor product substance or solution.

28 (6) Nothing in subsection (5) of this section permits a total ban
29 on the sale or use of vapor products.

30 (7) Product found to be in violation of the provisions of this
31 chapter or chapter 82.--- RCW (the new chapter created in section 603
32 of this act) are subject to seizure.

33 **Sec. 305.** RCW 82.24.510 and 2013 c 144 s 50 are each amended to
34 read as follows:

35 (1) The licenses issuable under this chapter are as follows:

36 (a) A wholesaler's license.

37 (b) A retailer's license.

38 (2) Application for the licenses must be made through the
39 business licensing system under chapter 19.02 RCW. The board must

1 adopt rules regarding the regulation of the licenses. The board may
2 refrain from the issuance of any license under this chapter if the
3 board has reasonable cause to believe that the applicant has
4 willfully withheld information requested for the purpose of
5 determining the eligibility of the applicant to receive a license, or
6 if the board has reasonable cause to believe that information
7 submitted in the application is false or misleading or is not made in
8 good faith. In addition, for the purpose of reviewing an application
9 for a wholesaler's license or retailer's license and for considering
10 the denial, suspension, or revocation of any such license, the board
11 may consider any prior criminal conduct of the applicant, including
12 an administrative violation history record with the board and a
13 criminal history record information check within the previous five
14 years, in any state, tribal, or federal jurisdiction in the United
15 States, its territories, or possessions, and the provisions of RCW
16 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board
17 may, in its discretion, grant or refuse the wholesaler's license or
18 retailer's license, subject to the provisions of RCW 82.24.550.

19 (3) No person may qualify for a wholesaler's license or a
20 retailer's license under this section without first undergoing a
21 criminal background check. The background check must be performed by
22 the board and must disclose any criminal conduct within the previous
23 five years in any state, tribal, or federal jurisdiction in the
24 United States, its territories, or possessions. A person who
25 possesses a valid license on July 22, 2001, is subject to this
26 subsection and subsection (2) of this section beginning on the date
27 of the person's business license expiration under chapter 19.02 RCW,
28 and thereafter. If the applicant or licensee also has a license
29 issued under chapter 66.24 ((~~66~~)), 82.26, or 70.345 RCW, the
30 background check done under the authority of chapter 66.24 ((~~66~~)),
31 82.26, or 70.345 RCW satisfies the requirements of this section.

32 (4) Each such license expires on the business license expiration
33 date, and each such license must be continued annually if the
34 licensee has paid the required fee and complied with all the
35 provisions of this chapter and the rules of the board made pursuant
36 thereto.

37 (5) Each license and any other evidence of the license that the
38 board requires must be exhibited in each place of business for which
39 it is issued and in the manner required for the display of a business
40 license.

1 **Sec. 306.** RCW 82.24.550 and 2015 c 86 s 307 are each amended to
2 read as follows:

3 (1) The board must enforce the provisions of this chapter. The
4 board may adopt, amend, and repeal rules necessary to enforce the
5 provisions of this chapter.

6 (2) The department may adopt, amend, and repeal rules necessary
7 to administer the provisions of this chapter. The board may revoke or
8 suspend the license or permit of any wholesale or retail cigarette
9 dealer in the state upon sufficient cause appearing of the violation
10 of this chapter or upon the failure of such licensee to comply with
11 any of the provisions of this chapter.

12 (3) A license may not be suspended or revoked except upon notice
13 to the licensee and after a hearing as prescribed by the board. The
14 board, upon finding that the licensee has failed to comply with any
15 provision of this chapter or any rule adopted under this chapter,
16 must, in the case of the first offense, suspend the license or
17 licenses of the licensee for a period of not less than thirty
18 consecutive business days, and, in the case of a second or further
19 offense, must suspend the license or licenses for a period of not
20 less than ninety consecutive business days nor more than twelve
21 months, and, in the event the board finds the licensee has been
22 guilty of willful and persistent violations, it may revoke the
23 license or licenses.

24 (4) Any licenses issued under chapter 82.26 or 70.345 RCW to a
25 person whose license or licenses have been suspended or revoked under
26 this section must also be suspended or revoked during the period of
27 suspension or revocation under this section.

28 (5) Any person whose license or licenses have been revoked under
29 this section may reapply to the board at the expiration of one year
30 from the date of revocation of the license or licenses. The license
31 or licenses may be approved by the board if it appears to the
32 satisfaction of the board that the licensee will comply with the
33 provisions of this chapter and the rules adopted under this chapter.

34 (6) A person whose license has been suspended or revoked may not
35 sell cigarettes, vapor products, or tobacco products or permit
36 cigarettes, vapor products, or tobacco products to be sold during the
37 period of such suspension or revocation on the premises occupied by
38 the person or upon other premises controlled by the person or others
39 or in any other manner or form whatever.

1 (7) Any determination and order by the board, and any order of
2 suspension or revocation by the board of the license or licenses
3 issued under this chapter, or refusal to reinstate a license or
4 licenses after revocation is reviewable by an appeal to the superior
5 court of Thurston county. The superior court must review the order or
6 ruling of the board and may hear the matter de novo, having due
7 regard to the provisions of this chapter and the duties imposed upon
8 the board.

9 (8) If the board makes an initial decision to deny a license or
10 renewal, or suspend or revoke a license, the applicant may request a
11 hearing subject to the applicable provisions under Title 34 RCW.

12 (9) For purposes of this section(~~(7)~~):

13 (a) "Tobacco products" has the same meaning as provided in RCW
14 82.26.010; and

15 (b) "Vapor products" has the same meaning as provided in section
16 201 of this act.

17 **Sec. 307.** RCW 82.26.060 and 2009 c 154 s 3 are each amended to
18 read as follows:

19 (1) Every distributor (~~shall~~) must keep at each place of
20 business complete and accurate records for that place of business,
21 including itemized invoices, of tobacco products held, purchased,
22 manufactured, brought in or caused to be brought in from without the
23 state, or shipped or transported to retailers in this state, and of
24 all sales of tobacco products made.

25 (2) These records (~~shall~~) must show the names and addresses of
26 purchasers, the inventory of all tobacco products, and other
27 pertinent papers and documents relating to the purchase, sale, or
28 disposition of tobacco products. All invoices and other records
29 required by this section to be kept (~~shall~~) must be preserved for a
30 period of five years from the date of the invoices or other documents
31 or the date of the entries appearing in the records.

32 (3) At any time during usual business hours the department,
33 board, or its duly authorized agents or employees, may enter any
34 place of business of a distributor, without a search warrant, and
35 inspect the premises, the records required to be kept under this
36 chapter, and the tobacco products contained therein, to determine
37 whether or not all the provisions of this chapter are being fully
38 complied with. If the department, board, or any of its agents or
39 employees, are denied free access or are hindered or interfered with

1 in making such examination, the registration certificate issued under
2 RCW 82.32.030 of the distributor at such premises (~~shall be~~) is
3 subject to revocation, and any licenses issued under this chapter or
4 chapter 82.24 or 70.345 RCW are subject to suspension or revocation,
5 by the department or board.

6 **Sec. 308.** RCW 82.26.080 and 2005 c 180 s 5 are each amended to
7 read as follows:

8 (1) Every retailer (~~shall~~) must procure itemized invoices of
9 all tobacco products purchased. The invoices (~~shall~~) must show the
10 seller's name and address, the date of purchase, and all prices and
11 discounts.

12 (2) The retailer (~~shall~~) must keep at each retail outlet copies
13 of complete, accurate, and legible invoices for that retail outlet or
14 place of business. All invoices required to be kept under this
15 section (~~shall~~) must be preserved for five years from the date of
16 purchase.

17 (3) At any time during usual business hours the department,
18 board, or its duly authorized agents or employees may enter any
19 retail outlet without a search warrant, and inspect the premises for
20 invoices required to be kept under this section and the tobacco
21 products contained in the retail outlet, to determine whether or not
22 all the provisions of this chapter are being fully complied with. If
23 the department, board, or any of its agents or employees, are denied
24 free access or are hindered or interfered with in making the
25 inspection, the registration certificate issued under RCW 82.32.030
26 of the retailer at the premises is subject to revocation, and any
27 licenses issued under this chapter or chapter 82.24 or 70.345 RCW are
28 subject to suspension or revocation by the department.

29 **Sec. 309.** RCW 82.26.150 and 2013 c 144 s 52 are each amended to
30 read as follows:

31 (1) The licenses issuable by the board under this chapter are as
32 follows:

- 33 (a) A distributor's license; and
- 34 (b) A retailer's license.

35 (2) Application for the licenses must be made through the
36 business licensing system under chapter 19.02 RCW. The board may
37 adopt rules regarding the regulation of the licenses. The board may
38 refuse to issue any license under this chapter if the board has

1 reasonable cause to believe that the applicant has willfully withheld
2 information requested for the purpose of determining the eligibility
3 of the applicant to receive a license, or if the board has reasonable
4 cause to believe that information submitted in the application is
5 false or misleading or is not made in good faith. In addition, for
6 the purpose of reviewing an application for a distributor's license
7 or retailer's license and for considering the denial, suspension, or
8 revocation of any such license, the board may consider criminal
9 conduct of the applicant, including an administrative violation
10 history record with the board and a criminal history record
11 information check within the previous five years, in any state,
12 tribal, or federal jurisdiction in the United States, its
13 territories, or possessions, and the provisions of RCW 9.95.240 and
14 chapter 9.96A RCW do not apply to such cases. The board may, in its
15 discretion, issue or refuse to issue the distributor's license or
16 retailer's license, subject to the provisions of RCW 82.26.220.

17 (3) No person may qualify for a distributor's license or a
18 retailer's license under this section without first undergoing a
19 criminal background check. The background check must be performed by
20 the board and must disclose any criminal conduct within the previous
21 five years in any state, tribal, or federal jurisdiction in the
22 United States, its territories, or possessions. If the applicant or
23 licensee also has a license issued under chapter 66.24 (~~(or)~~), 82.24,
24 or 70.345 RCW, the background check done under the authority of
25 chapter 66.24, 70.345, or 82.24 RCW satisfies the requirements of
26 this section.

27 (4) Each license issued under this chapter expires on the
28 business license expiration date. The license must be continued
29 annually if the licensee has paid the required fee and complied with
30 all the provisions of this chapter and the rules of the board adopted
31 pursuant to this chapter.

32 (5) Each license and any other evidence of the license required
33 under this chapter must be exhibited in each place of business for
34 which it is issued and in the manner required for the display of a
35 business license.

36 **Sec. 310.** RCW 82.26.220 and 2015 c 86 s 308 are each amended to
37 read as follows:

38 (1) The board must enforce this chapter. The board may adopt,
39 amend, and repeal rules necessary to enforce this chapter.

1 (2) The department may adopt, amend, and repeal rules necessary
2 to administer this chapter. The board may revoke or suspend the
3 distributor's or retailer's license of any distributor or retailer of
4 tobacco products in the state upon sufficient cause showing a
5 violation of this chapter or upon the failure of the licensee to
6 comply with any of the rules adopted under it.

7 (3) A license may not be suspended or revoked except upon notice
8 to the licensee and after a hearing as prescribed by the board. The
9 board, upon finding that the licensee has failed to comply with any
10 provision of this chapter or of any rule adopted under it, must, in
11 the case of the first offense, suspend the license or licenses of the
12 licensee for a period of not less than thirty consecutive business
13 days, and in the case of a second or further offense, suspend the
14 license or licenses for a period of not less than ninety consecutive
15 business days but not more than twelve months, and in the event the
16 board finds the licensee has been guilty of willful and persistent
17 violations, it may revoke the license or licenses.

18 (4) Any licenses issued under chapter 82.24 or 70.345 RCW to a
19 person whose license or licenses have been suspended or revoked under
20 this section must also be suspended or revoked during the period of
21 suspension or revocation under this section.

22 (5) Any person whose license or licenses have been revoked under
23 this section may reapply to the board at the expiration of one year
24 of the license or licenses. The license or licenses may be approved
25 by the board if it appears to the satisfaction of the board that the
26 licensee will comply with the provisions of this chapter and the
27 rules adopted under it.

28 (6) A person whose license has been suspended or revoked may not
29 sell tobacco products, vapor products, or cigarettes or permit
30 tobacco products, vapor products, or cigarettes to be sold during the
31 period of suspension or revocation on the premises occupied by the
32 person or upon other premises controlled by the person or others or
33 in any other manner or form.

34 (7) Any determination and order by the board, and any order of
35 suspension or revocation by the board of the license or licenses
36 issued under this chapter, or refusal to reinstate a license or
37 licenses after revocation is reviewable by an appeal to the superior
38 court of Thurston county. The superior court must review the order or
39 ruling of the board and may hear the matter de novo, having due

1 regard to the provisions of this chapter and the duties imposed upon
2 the board.

3 (8) If the board makes an initial decision to deny a license or
4 renewal, or suspend or revoke a license, the applicant may request a
5 hearing subject to the applicable provisions under Title 34 RCW.

6 **Sec. 311.** RCW 82.32.300 and 1997 c 420 s 9 are each amended to
7 read as follows:

8 (1) The administration of this and chapters 82.04 through 82.27
9 RCW of this title is vested in the department (~~(of revenue which~~
10 ~~shall))~~, which must prescribe forms and rules of procedure for the
11 determination of the taxable status of any person, for the making of
12 returns and for the ascertainment, assessment and collection of taxes
13 and penalties imposed thereunder.

14 (2) The department (~~(of revenue shall)~~) must make and publish
15 rules and regulations, not inconsistent therewith, necessary to
16 enforce provisions of this chapter and chapters 82.02 through 82.23B
17 and 82.27 RCW, and the liquor (~~(control)~~) and cannabis board
18 (~~(shall)~~) must make and publish rules necessary to enforce chapters
19 82.24 (~~(and)~~), 82.26 (RCW), and 82.--- RCW (the new chapter created
20 in section 603 of this act), which (~~(shall have)~~) has the same force
21 and effect as if specifically included therein, unless declared
22 invalid by the judgment of a court of record not appealed from.

23 (3) The department may employ such clerks, specialists, and other
24 assistants as are necessary. Salaries and compensation of such
25 employees (~~(shall)~~) must be fixed by the department and (~~(shall be)~~)
26 charged to the proper appropriation for the department.

27 (4) The department (~~(shall)~~) must exercise general supervision of
28 the collection of taxes and, in the discharge of such duty, may
29 institute and prosecute such suits or proceedings in the courts as
30 may be necessary and proper.

31 **Part IV**
32 **Tribal Compacting**

33 **Sec. 401.** RCW 43.06.450 and 2001 c 235 s 1 are each amended to
34 read as follows:

35 The legislature intends to further the government-to-government
36 relationship between the state of Washington and Indians in the state
37 of Washington by authorizing the governor to enter into contracts

1 concerning the sale of cigarettes and vapor products. The legislature
2 finds that these cigarette tax and vapor product tax contracts will
3 provide a means to promote economic development, provide needed
4 revenues for tribal governments and Indian persons, and enhance
5 enforcement of the state's cigarette tax (~~law~~) and vapor product
6 tax, ultimately saving the state money and reducing conflict. In
7 addition, it is the intent of the legislature that the negotiations
8 and the ensuing contracts (~~shall~~) have no impact on the state's
9 share of the proceeds under the master settlement agreement entered
10 into on November 23, 1998, by the state. Chapter 235, Laws of 2001
11 (~~does~~) and this act do not constitute a grant of taxing authority
12 to any Indian tribe nor (~~does it~~) do they provide precedent for the
13 taxation of non-Indians on fee land.

14 NEW SECTION. Sec. 402. A new section is added to chapter 43.06
15 RCW to read as follows:

16 (1) The governor may enter into vapor product tax contracts
17 concerning the sale of vapor products. All vapor product tax
18 contracts must meet the requirements for vapor product tax contracts
19 under this section.

20 (2) Vapor product tax contracts must be in regard to retail sales
21 in which Indian retailers make delivery and physical transfer of
22 possession of the vapor products from the seller to the buyer within
23 Indian country, and are not in regard to transactions by non-Indian
24 retailers. In addition, contracts must provide that retailers may not
25 sell or give, or permit to be sold or given, vapor products to any
26 person who is under the state legal age for the purchase of vapor
27 products.

28 (3) A vapor product tax contract with a tribe must provide for a
29 tribal vapor product tax in lieu of all state vapor product taxes and
30 state and local sales and use taxes on sales of vapor products in
31 Indian country by Indian retailers. The tribe may allow an exemption
32 for sales to tribal members.

33 (4) Vapor product tax contracts must provide that retailers must
34 purchase vapor products only from:

35 (a) Wholesalers or manufacturers licensed to do business in the
36 state of Washington;

37 (b) Out-of-state wholesalers or manufacturers who, although not
38 licensed to do business in the state of Washington, agree to comply
39 with the terms of the vapor product tax contract, are certified to

1 the state as having so agreed, and do in fact so comply. However, the
2 state may in its sole discretion exercise its administrative and
3 enforcement powers over such wholesalers or manufacturers to the
4 extent permitted by law;

5 (c) A tribal wholesaler that purchases only from a wholesaler or
6 manufacturer described in (a), (b), or (d) of this subsection; and

7 (d) A tribal manufacturer.

8 (5) Vapor product tax contracts must be for renewable periods of
9 no more than eight years.

10 (6) Vapor product tax contracts must include provisions for
11 compliance, such as transport and notice requirements, inspection
12 procedures, recordkeeping, and audit requirements.

13 (7) Tax revenue retained by a tribe must be used for essential
14 government services. Use of tax revenue for subsidization of vapor
15 products and food retailers is prohibited.

16 (8) The vapor product tax contract may include provisions to
17 resolve disputes using a nonjudicial process, such as mediation.

18 (9) The governor may delegate the power to negotiate vapor
19 product tax contracts to the department of revenue. The department of
20 revenue must consult with the liquor and cannabis board during the
21 negotiations.

22 (10) Information received by the state or open to state review
23 under the terms of a contract is subject to the provisions of RCW
24 82.32.330.

25 (11) It is the intent of the legislature that the liquor and
26 cannabis board and the department of revenue continue the division of
27 duties and shared authority under chapter 82.--- RCW (the new chapter
28 created in section 603 of this act) and therefore the liquor and
29 cannabis board is responsible for enforcement activities that come
30 under the terms of chapter 82.--- RCW (the new chapter created in
31 section 603 of this act).

32 (12) Each vapor product tax contract must include a procedure for
33 notifying the other party that a violation has occurred, a procedure
34 for establishing whether a violation has in fact occurred, an
35 opportunity to correct such violation, and a provision providing for
36 termination of the contract should the violation fail to be resolved
37 through this process, such termination subject to mediation should
38 the terms of the contract so allow. A contract must provide for
39 termination of the contract if resolution of a dispute does not occur
40 within twenty-four months from the time notification of a violation

1 has occurred. Intervening violations do not extend this time period.
2 In addition, the contract must include provisions delineating the
3 respective roles and responsibilities of the tribe, the department of
4 revenue, and the liquor and cannabis board.

5 (13) The definitions in this subsection apply throughout this
6 section unless the context clearly requires otherwise.

7 (a) "Essential government services" means services such as tribal
8 administration, public facilities, fire, police, public health,
9 education, job services, sewer, water, environmental and land use,
10 transportation, utility services, and economic development.

11 (b) "Indian country" has the same meaning as provided in RCW
12 82.24.010.

13 (c) "Indian retailer" or "retailer" means:

14 (i) A retailer wholly owned and operated by an Indian tribe;

15 (ii) A business wholly owned and operated by a tribal member and
16 licensed by the tribe; or

17 (iii) A business owned and operated by the Indian person or
18 persons in whose name the land is held in trust.

19 (d) "Indian tribe" or "tribe" means a federally recognized Indian
20 tribe located within the geographical boundaries of the state of
21 Washington.

22 (e) "Vapor products" has the same meaning as provided in section
23 201 of this act.

24 NEW SECTION. **Sec. 403.** A new section is added to chapter 43.06
25 RCW to read as follows:

26 (1) The governor is authorized to enter into vapor product tax
27 contracts with federally recognized Indian tribes located within the
28 geographical boundaries of the state of Washington. Each contract
29 adopted under this section must provide that the tribal vapor product
30 tax rate be one hundred percent of the state vapor product tax and
31 state and local sales and use taxes. The tribal vapor product tax is
32 in lieu of the state vapor product tax and state and local sales and
33 use taxes, as provided in section 402(3) of this act.

34 (2) A vapor product tax contract under this section is subject to
35 section 402 of this act and is separate from a cigarette tax contract
36 subject to RCW 43.06.455 or 43.06.466.

37 NEW SECTION. **Sec. 404.** A new section is added to chapter 43.06
38 RCW to read as follows:

1 (1) The governor may enter into a vapor product tax agreement
2 with the Puyallup Tribe of Indians concerning the sale of vapor
3 products, subject to the limitations in this section. The legislature
4 intends to address the uniqueness of the Puyallup Indian reservation
5 and its selling environment through pricing and compliance
6 strategies, rather than through the imposition of equivalent taxes.
7 The governor may delegate the authority to negotiate a vapor product
8 tax agreement with the Puyallup Tribe to the department of revenue.
9 The department of revenue must consult with the liquor and cannabis
10 board during the negotiations. An agreement under this section is
11 separate from an agreement under RCW 43.06.465.

12 (2) Any agreement must require the tribe to impose a tribal vapor
13 product tax with a tax rate that is ninety percent of the state vapor
14 product tax. This tribal tax is in lieu of the combined state and
15 local sales and use taxes and the state vapor product tax, and as
16 such these state taxes are not imposed during the term of the
17 agreement on any transaction governed by the agreement. The tribal
18 vapor product tax must increase or decrease at the time of any
19 increase or decrease in the state vapor product tax so as to remain
20 at a level that is ninety percent of the rate of the state vapor
21 product tax.

22 (3) The agreement must include a provision requiring the tribe to
23 transmit thirty percent of the tribal tax revenue on all vapor
24 products sales to the state. The funds must be transmitted to the
25 state treasurer on a quarterly basis for deposit by the state
26 treasurer into the general fund. The remaining tribal tax revenue
27 must be used for essential government services, as that term is
28 defined in section 402 of this act.

29 (4) The agreement is limited to retail sales in which Indian
30 retailers make delivery and physical transfer of possession of the
31 vapor products from the seller to the buyer within Indian country,
32 and are not in regard to transactions by non-Indian retailers. In
33 addition, agreements must provide that retailers may not sell or
34 give, or permit to be sold or given, vapor products to any person who
35 is under the state legal age for the purchase of vapor products.

36 (5) (a) The agreement must include a provision to price and sell
37 the vapor products so that the retail selling price is not less than
38 the price paid by the retailer for the vapor products.

39 (b) The tribal tax is in addition to the retail selling price.

1 (c) The agreement must include a provision to assure the price
2 paid to the retailer includes the tribal tax.

3 (d) If the tribe is acting as a distributor to tribal retailers,
4 the retail selling price must not be less than the price the tribe
5 paid for such vapor products plus the tribal tax.

6 (6) (a) The agreement must include provisions regarding
7 enforcement and compliance by the tribe in regard to enrolled tribal
8 members who sell vapor products and must describe the individual and
9 joint responsibilities of the tribe, the department of revenue, and
10 the liquor and cannabis board.

11 (b) The agreement must include provisions for tax administration
12 and compliance, such as transport and notice requirements, inspection
13 procedures, recordkeeping, and audit requirements.

14 (c) The agreement must include provisions for sharing of
15 information among the tribe, the department of revenue, and the
16 liquor and cannabis board.

17 (7) The agreement must provide that retailers must purchase vapor
18 products only from distributors or manufacturers licensed to do
19 business in the state of Washington.

20 (8) The agreement must be for a renewable period of no more than
21 eight years.

22 (9) The agreement must include provisions to resolve disputes
23 using a nonjudicial process, such as mediation, and must include a
24 dispute resolution protocol. The protocol must include a procedure
25 for notifying the other party that a violation has occurred, a
26 procedure for establishing whether a violation has in fact occurred,
27 an opportunity to correct such violation, and a provision providing
28 for termination of the agreement should the violation fail to be
29 resolved through this process, such termination subject to mediation
30 should the terms of the agreement so allow. An agreement must provide
31 for termination of the agreement if resolution of a dispute does not
32 occur within twenty-four months from the time notification of a
33 violation has occurred. Intervening violations do not extend this
34 time period.

35 (10) Information received by the state or open to state review
36 under the terms of an agreement is subject to RCW 82.32.330.

37 (11) It is the intent of the legislature that the liquor and
38 cannabis board and the department of revenue continue the division of
39 duties and shared authority under chapter 82.--- RCW (the new chapter
40 created in section 603 of this act).

1 (12) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Indian country" has the same meaning as provided in RCW
4 82.24.010.

5 (b) "Indian retailer" or "retailer" means:

6 (i) A retailer wholly owned and operated by an Indian tribe; or

7 (ii) A business wholly owned and operated by an enrolled tribal
8 member and licensed by the tribe.

9 (c) "Indian tribe" or "tribe" means the Puyallup Tribe of
10 Indians, which is a federally recognized Indian tribe located within
11 the geographical boundaries of the state of Washington.

12 (d) "Vapor products" has the same meaning as provided in section
13 201 of this act.

14 NEW SECTION. **Sec. 405.** A new section is added to chapter 82.08
15 RCW to read as follows:

16 (1) The tax levied by RCW 82.08.020 does not apply to sales of
17 vapor products by an Indian retailer during the effective period of a
18 vapor product tax contract subject to section 403 of this act or a
19 vapor product tax agreement under section 404 of this act.

20 (2) The definitions in section 402 of this act apply to this
21 section.

22 NEW SECTION. **Sec. 406.** A new section is added to chapter 82.12
23 RCW to read as follows:

24 (1) The provisions of this chapter do not apply in respect to the
25 use of vapor products sold by an Indian retailer during the effective
26 period of a vapor product tax contract subject to section 403 of this
27 act or a vapor product tax agreement under section 404 of this act.

28 (2) The definitions in section 402 of this act apply to this
29 section.

30 **Part V**
31 **Appropriations**

32 NEW SECTION. **Sec. 501.** The sum of six hundred thirteen thousand
33 dollars, or as much thereof as may be necessary, is appropriated for
34 the fiscal year ending June 30, 2020, from the general fund to the
35 liquor and cannabis board for the purposes of enforcement of the

1 provisions of part II of this act, to prevent sales of vapor products
2 to minors, and for control of marketing and product safety.

3 **Part VI**

4 **Miscellaneous Provisions**

5 NEW SECTION. **Sec. 601.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 602.** If any part of this act is found to be
10 in conflict with federal requirements that are a prescribed condition
11 to the allocation of federal funds to the state, the conflicting part
12 of this act is inoperative solely to the extent of the conflict and
13 with respect to the agencies directly affected, and this finding does
14 not affect the operation of the remainder of this act in its
15 application to the agencies concerned. Rules adopted under this act
16 must meet federal requirements that are a necessary condition to the
17 receipt of federal funds by the state.

18 NEW SECTION. **Sec. 603.** Part II of this act constitutes a new
19 chapter in Title 82 RCW.

20 NEW SECTION. **Sec. 604.** The provisions of RCW 82.32.805 and
21 82.32.808 do not apply to this act.

22 NEW SECTION. **Sec. 605.** This act takes effect October 1, 2019.

--- END ---