
HOUSE BILL 2321

State of Washington

66th Legislature

2020 Regular Session

By Representatives Leavitt, Harris, Kilduff, Stonier, Thai, Davis, Orwall, and Kloba

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1 AN ACT Relating to reducing youth access to products intended for
2 consumption only by adults age twenty-one and over; amending RCW
3 69.50.369, 70.345.020, 70.345.180, 28A.210.310, and 70.345.150;
4 reenacting and amending RCW 70.345.010; adding new sections to
5 chapter 70.345 RCW; adding a new section to chapter 28B.10 RCW; and
6 prescribing penalties.

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

8 **Sec. 1.** RCW 69.50.369 and 2017 c 317 s 14 are each amended to
9 read as follows:

10 (1) No licensed marijuana producer, processor, researcher, or
11 retailer may place or maintain, or cause to be placed or maintained,
12 any sign or other advertisement for a marijuana business or marijuana
13 product, including useable marijuana, marijuana concentrates, or
14 marijuana-infused product, in any form or through any medium
15 whatsoever within one thousand feet of the perimeter of a school
16 grounds, playground, recreation center or facility, child care
17 center, public park, or library, or any game arcade admission to
18 which is not restricted to persons aged twenty-one years or older.

19 (2) (~~Except for the use of billboards as authorized under this~~
20 ~~section, licensed~~) Licensed marijuana retailers may not display any
21 signage outside of the licensed premises(~~, other than two signs~~

1 ~~identifying the retail outlet by the licensee's business or trade~~
2 ~~name, stating the location of the business, and identifying the~~
3 ~~nature of the business. Each sign must be no larger than one thousand~~
4 ~~six hundred square inches and be permanently affixed to a building or~~
5 ~~other structure)) that is appealing to youth or violates the
6 requirements of this section or board rules adopted under this
7 section. The location and content of ((~~the~~)) retail marijuana signs
8 ((~~authorized under this subsection~~)) are subject to all other
9 requirements and restrictions established in this section for indoor
10 signs, outdoor signs, and other marijuana-related advertising
11 methods.~~

12 (3) A marijuana licensee may not utilize transit advertisements
13 for the purpose of advertising its business or product line. "Transit
14 advertisements" means advertising on or within private or public
15 vehicles and all advertisements placed at, on, or within any bus
16 stop, taxi stand, transportation waiting area, train station,
17 airport, or any similar transit-related location.

18 (4) A marijuana licensee may not engage in advertising or other
19 marketing practice that specifically targets persons residing outside
20 of the state of Washington.

21 (5) All signs(~~, billboards,~~) or other print advertising for
22 marijuana businesses or marijuana products must contain text stating
23 that marijuana products may be purchased or possessed only by persons
24 twenty-one years of age or older.

25 (6) A marijuana licensee may not:

26 (a) Take any action, directly or indirectly, to target youth in
27 the advertising, promotion, or marketing of marijuana and marijuana
28 products, or take any action the primary purpose of which is to
29 initiate, maintain, or increase the incidence of youth use of
30 marijuana or marijuana products;

31 (b) Use objects such as toys or inflatables, movie or cartoon
32 characters, or any other depiction or image likely to be appealing to
33 youth, where such objects, images, or depictions indicate an intent
34 to cause youth to become interested in the purchase or consumption of
35 marijuana products; or

36 (c) Use or employ a commercial mascot outside of, and in
37 proximity to, a licensed marijuana business. A "commercial mascot"
38 means live human being, animal, or mechanical device used for
39 attracting the attention of motorists and passersby so as to make
40 them aware of marijuana products or the presence of a marijuana

1 business. Commercial mascots include, but are not limited to,
2 inflatable tube displays, persons in costume, or wearing, holding, or
3 spinning a sign with a marijuana-related commercial message or image,
4 where the intent is to draw attention to a marijuana business or its
5 products.

6 (7) A marijuana licensee that engages in outdoor advertising is
7 subject to the advertising requirements and restrictions set forth in
8 this subsection (7) and elsewhere in this chapter.

9 (a) ~~((All outdoor))~~ Outdoor advertising signs ~~((, including~~
10 ~~billboards, are limited to text that identifies the retail outlet by~~
11 ~~the licensee's business or trade name, states the location of the~~
12 ~~business, and identifies the type or nature of the business. Such~~
13 ~~signs))~~ may not contain any depictions ~~((of marijuana plants,~~
14 ~~marijuana products,))~~ or images that might be appealing to children.
15 The ~~((state liquor and cannabis))~~ board is granted rule-making
16 authority subject to subsection (10)(c) of this section, to regulate
17 the text and images that are permissible on outdoor advertising to
18 ensure the text and images of signs and other outdoor advertisements
19 are not appealing to children or persons under twenty-one years of
20 age. Such rule making must be consistent with other administrative
21 rules generally applicable to the advertising of marijuana businesses
22 and products.

23 (b) Outdoor advertising is prohibited:

24 (i) On signs and placards in arenas, stadiums, shopping malls,
25 fairs that receive state allocations, farmers markets, and video game
26 arcades, whether any of the foregoing are open air or enclosed, but
27 not including any such sign or placard located in an adult only
28 facility; and

29 (ii) ~~((Billboards that are visible from any street, road,~~
30 ~~highway, right-of-way, or public parking area are prohibited, except~~
31 ~~as provided in (c) of this subsection))~~ On any billboard in this
32 state.

33 (c) ~~((Licensed retail outlets may use a billboard or outdoor sign~~
34 ~~solely for the purpose of identifying the name of the business, the~~
35 ~~nature of the business, and providing the public with directional~~
36 ~~information to the licensed retail outlet. Billboard advertising is~~
37 ~~subject to the same requirements and restrictions as set forth in (a)~~
38 ~~of this subsection.~~

39 ~~(d))~~ Advertising signs within the premises of a retail marijuana
40 business outlet that are visible to the public from outside the

1 premises must meet the signage regulations and requirements
2 applicable to outdoor signs as set forth in this section.

3 ~~((e))~~ (d) The restrictions and regulations applicable to
4 outdoor advertising under this section are not applicable to:

5 (i) An advertisement inside a licensed retail establishment that
6 sells marijuana products that is not placed on the inside surface of
7 a window facing outward; or

8 (ii) An outdoor advertisement at the site of an event to be held
9 at an adult only facility that is placed at such site during the
10 period the facility or enclosed area constitutes an adult only
11 facility, but in no event more than fourteen days before the event,
12 and that does not advertise any marijuana product other than by using
13 a brand name to identify the event.

14 (8) Merchandising within a retail outlet is not advertising for
15 the purposes of this section.

16 (9) This section does not apply to a noncommercial message.

17 (10)(a) The ~~((state liquor and cannabis))~~ board must:

18 (i) Adopt rules implementing this section and specifically
19 including provisions regulating ~~((the billboards and))~~ outdoor signs
20 authorized under this section to ensure signs are not appealing to
21 children or persons under twenty-one years of age; and

22 (ii) Fine a licensee ~~((one))~~ two thousand five hundred dollars
23 for each violation of this section until the ~~((state liquor and~~
24 ~~cannabis))~~ board adopts rules prescribing penalties for violations of
25 this section. The rules must establish escalating penalties including
26 fines and up to suspension or revocation of a marijuana license for
27 subsequent violations. A monetary fine for a violation of this
28 section must be at least two thousand five hundred dollars.

29 (b) Fines collected under this subsection must be deposited into
30 the dedicated marijuana account created under RCW 69.50.530.

31 (c) The rule-making authority of the board related to regulating
32 on-premises signs and on-premises advertisements of marijuana
33 licensees is limited to rules designed to prevent such signs and
34 advertisements from being appealing to children and persons under
35 twenty-one years of age. Nothing in this section or chapter
36 authorizes the board to limit the number or size of on-premises signs
37 or advertisements used by a marijuana licensee at their licensed
38 location.

39 (11) A city, town, or county may adopt rules of outdoor
40 advertising by licensed marijuana retailers that are more restrictive

1 than the advertising restrictions imposed under this chapter.
2 Enforcement of restrictions to advertising by a city, town, or county
3 is the responsibility of the city, town, or county.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.345
5 RCW to read as follows:

6 (1) No billboard may be placed or maintained in this state, by a
7 vapor product manufacturer, distributor, delivery seller, retailer,
8 or any other person or business, advertising a vapor product or a
9 vapor product business.

10 (2) Vapor product retailers may not display signage outside of
11 their licensed premises that is appealing to youth.

12 (3) No transit advertisement may be placed or maintained in this
13 state by a vapor product manufacturer, distributor, delivery seller,
14 retailer, or any other person or business, advertising a vapor
15 product or a vapor product business.

16 (4) Except for signs at premises licensed on the effective date
17 of this section, no sign or other advertisement of a vapor product or
18 a vapor product manufacturer, distributor, delivery seller, retailer,
19 or other vapor product business, may be placed or maintained, in any
20 form or through any medium, within one thousand feet of the perimeter
21 of a school grounds, playground, recreation center or facility, child
22 care center, public park, or library, or any game arcade admission to
23 which is not restricted to persons aged twenty-one years or older.

24 (5) A violation of this section is punishable as provided in RCW
25 70.345.180(4).

26 (6) For purposes of this section, "transit advertisement" means
27 advertising on or within private or public vehicles and all
28 advertisements placed at, on, or within any bus stop, taxi stand,
29 transportation waiting area, train station, airport, or any similar
30 transit-related location.

31 **Sec. 3.** RCW 70.345.020 and 2016 sp.s. c 38 s 5 are each amended
32 to read as follows:

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

- 35 (a) A vapor product retailer's license;
- 36 (b) A vapor product distributor's license; and
- 37 (c) A vapor product delivery sale license.

1 (2) Application for the licenses must be made through the
2 business licensing system under chapter 19.02 RCW. The board may
3 adopt rules regarding the regulation of the licenses. The board may
4 refuse to issue any license under this chapter if the board has
5 reasonable cause to believe that the applicant has willfully withheld
6 information requested for the purpose of determining the eligibility
7 of the applicant to receive a license, or if the board has reasonable
8 cause to believe that information submitted in the application is
9 false or misleading or is not made in good faith. In addition, for
10 the purpose of reviewing an application for a distributor's license,
11 retailer's license, or delivery seller's license, and for considering
12 the denial, suspension, or revocation of any such license, the board
13 may consider criminal conduct of the applicant, including an
14 administrative violation history record with the board and a criminal
15 history record information check within the previous five years, in
16 any state, tribal, or federal jurisdiction in the United States, its
17 territories, or possessions, and the provisions of RCW 9.95.240 and
18 chapter 9.96A RCW do not apply to such cases. The board may, in its
19 discretion, issue or refuse to issue the retailer's license,
20 distributor's license, and delivery sale license subject to the
21 provisions of RCW 70.155.100.

22 (3) The application processes for the retailer license and the
23 distributor license, and any forms used for such processes, must
24 allow the applicant to simultaneously apply for a delivery sale
25 license without requiring the applicant to undergo a separate
26 licensing application process in order to be licensed to conduct
27 delivery sales. However, a delivery sale license obtained in
28 conjunction with a retailer or distributor license under this
29 subsection remains a separate license subject to the delivery sale
30 licensing fee established under this chapter.

31 (4) No person may qualify for a retailer's license, distributor's
32 license, or delivery sale license under this section without first
33 undergoing a criminal background check. The background check must be
34 performed by the board and must disclose any criminal conduct within
35 the previous five years in any state, tribal, or federal jurisdiction
36 in the United States, its territories, or possessions. If the
37 applicant or licensee also has a license issued under chapter 66.24,
38 69.50, 82.24, or 82.26 RCW, the background check done under the
39 authority of chapter 66.24, 69.50, 82.24, or 82.26 RCW satisfies the
40 requirements of this subsection.

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

6 (6) Each license and any other evidence of the license required
7 under this chapter must be exhibited in each place of business for
8 which it is issued and in the manner required for the display of a
9 business license.

10 (7) The board may not issue a vapor product retailer,
11 distributor, or delivery seller license to an applicant for a
12 premises located within one thousand feet of the perimeter of a
13 school ground, playground, recreation center or facility, child care
14 center, public park, or library, or any game arcade admission to
15 which is not restricted to persons aged twenty-one years or older.
16 Nothing in this subsection prevents the renewal of a license for a
17 location licensed on the effective date of this section.

18 **Sec. 4.** RCW 70.345.180 and 2016 sp.s. c 38 s 22 are each amended
19 to read as follows:

20 (1) The board may impose a monetary penalty as set forth in
21 subsection (2) of this section, if the board finds that the licensee
22 has violated RCW 26.28.080 or any other provision of this chapter.

23 (2) Subject to subsections (3) and (4) of this section, the
24 sanctions that the board may impose against a person licensed under
25 this chapter based upon one or more findings under subsection (1) of
26 this section may not exceed the following:

27 (a) A monetary penalty of two hundred dollars for the first
28 violation within any three-year period;

29 (b) A monetary penalty of six hundred dollars for the second
30 violation within any three-year period;

31 (c) A monetary penalty of two thousand dollars for the third
32 violation within any three-year period and suspension of the license
33 for a period of six months for the third violation of RCW 26.28.080
34 within any three-year period;

35 (d) A monetary penalty of three thousand dollars for the fourth
36 or subsequent violation within any three-year period and suspension
37 of the license for a period of twelve months for the fourth violation
38 of RCW 26.28.080 within any three-year period;

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

4 (3) If the board finds that a person licensed under this chapter
5 and chapter 82.24 or 82.26 RCW has violated RCW 26.28.080, each
6 subsequent violation of either of the person's licenses counts as an
7 additional violation within that three-year period.

8 (4) (a) A violation of section 2 of this act:

9 (i) Is punishable by a fine of two thousand five hundred dollars
10 for a first violation; and

11 (ii) May be considered when determining how many total violations
12 a licensee has within any three-year period and whether license
13 suspension or revocation is appropriate under subsection (2) of this
14 section.

15 (b) The board may establish a monetary fine in excess of two
16 thousand five hundred dollars for cumulative violations of section 2
17 of this act, and may include license suspension and revocation as a
18 penalty for cumulative violations of section 2 of this act.

19 (5) Any retailer's licenses issued under chapter 82.24 or 82.26
20 RCW to a person whose vapor product retailer's license or licenses
21 have been suspended or revoked for violating RCW 26.28.080 must also
22 be suspended or revoked during the period of suspension or revocation
23 under this section.

24 ~~((+5))~~ (6) The board may impose a monetary penalty upon any
25 person other than a licensed retailer if the board finds that the
26 person has violated RCW 26.28.080.

27 ~~((+6))~~ (7) The monetary penalty that the board may impose based
28 upon one or more findings under subsection ~~((+5))~~ (6) of this
29 section may not exceed fifty dollars for the first violation and one
30 hundred dollars for each subsequent violation.

31 ~~((+7))~~ (8) The board may develop and offer a class for retail
32 clerks and use this class in lieu of a monetary penalty for the
33 clerk's first violation.

34 ~~((+8))~~ (9) The board may issue a cease and desist order to any
35 person who is found by the board to have violated or ~~((intending~~
36 ~~[intends]))~~ intends to violate the provisions of this chapter or RCW
37 26.28.080, requiring such person to cease specified conduct that is
38 in violation. The issuance of a cease and desist order does not
39 preclude the imposition of other sanctions authorized by this statute
40 or any other provision of law.

1 ~~((9))~~ (10) The board may seek injunctive relief to enforce the
2 provisions of RCW 26.28.080 or this chapter. The board may initiate
3 legal action to collect civil penalties imposed under this chapter if
4 the same have not been paid within thirty days after imposition of
5 such penalties. In any action filed by the board under this chapter,
6 the court may, in addition to any other relief, award the board
7 reasonable attorneys' fees and costs.

8 ~~((10))~~ (11) All proceedings under subsections (1) through
9 ~~((8))~~ (9) of this section must be conducted in accordance with
10 chapter 34.05 RCW.

11 ~~((11))~~ (12) The board may reduce or waive either the penalties
12 or the suspension or revocation of a license, or both, as set forth
13 in this chapter where the elements of proof are inadequate or where
14 there are mitigating circumstances. Mitigating circumstances may
15 include, but are not limited to, an exercise of due diligence by a
16 retailer. Further, the board may exceed penalties set forth in this
17 chapter based on aggravating circumstances.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.345
19 RCW to read as follows:

20 (1) An operator of a web site, online service, online
21 application, or mobile application directed to minors shall not
22 market or advertise a vapor product on its web site, online service,
23 online application, or mobile application directed to minors.

24 (2) An operator of a web site, online service, online
25 application, or mobile application:

26 (a) Shall not market or advertise a vapor product to a minor who
27 the operator has actual knowledge of using its web site, online
28 service, online application, or mobile application and is a minor, if
29 the marketing or advertising is specifically directed to that minor
30 based upon information specific to that minor including, but not
31 limited to, the minor's profile, activity, address, or location
32 sufficient to establish contact with a minor, and excluding internet
33 protocol address and product identification numbers for the operation
34 of a service; and

35 (b) Is in compliance with (a) of this subsection if the operator
36 takes reasonable actions in good faith designed to avoid marketing or
37 advertising under circumstances prohibited under (a) of this
38 subsection.

1 (3) An operator of a web site, online service, online
2 application, or mobile application directed to minors or who has
3 actual knowledge that a minor is using its web site, online service,
4 online application, or mobile application, shall not knowingly use,
5 disclose, compile, or allow a third party to use, disclose, or
6 compile the personal information of a minor with actual knowledge
7 that the use, disclosure, or compilation is for the purpose of
8 marketing or advertising a vapor product to that minor.

9 (4) (a) This section may not be construed to require an operator
10 of a web site, online service, online application, or mobile
11 application to collect or retain age information about users.

12 (b) With respect to marketing or advertising provided by an
13 advertising service, the operator of a web site, online service,
14 online application, or mobile application directed to minors is
15 deemed in compliance with subsection (1) of this section if the
16 operator notifies the advertising service, in the manner required by
17 the advertising service, that the site, service, or application is
18 directed to minors.

19 (c) If an advertising service is notified, in the manner required
20 by the advertising service, that a web site, online service, online
21 application, or mobile application is directed to minors pursuant to
22 (b) of this subsection, the advertising service shall not market or
23 advertise a vapor product or a vapor product business on the
24 operator's web site, online service, online application, or mobile
25 application.

26 (5) The marketing and advertising restrictions described in
27 subsections (1) through (3) of this section do not apply to the
28 incidental placement of products or services embedded in content if
29 the content is not distributed by or at the direction of the operator
30 primarily for the purposes of marketing and advertising vapor
31 products or a vapor product business.

32 (6) The legislature finds that the practices covered by this
33 section are matters vitally affecting the public interest for the
34 purpose of applying chapter 19.86 RCW. A violation of this section is
35 not reasonable in relation to the development and preservation of
36 business and is an unfair or deceptive act in trade or commerce and
37 an unfair method of competition for the purpose of applying chapter
38 19.86 RCW.

39 (7) The definitions in this subsection apply throughout this
40 section unless the context clearly requires otherwise.

1 (a) "Marketing or advertising" means, in exchange for monetary
2 compensation, to make a communication to one or more individuals, or
3 to arrange for the dissemination to the public of a communication,
4 about a vapor product or a vapor product business, the primary
5 purpose of which is to encourage recipients of the communication to
6 purchase or use the product or business.

7 (b) "Minor" means a natural person under twenty-one years of age
8 who resides in this state.

9 (c) "Operator" means any person or entity who owns a web site,
10 online service, online application, or mobile application. "Operator"
11 does not include any third party that operates, hosts, or manages,
12 but does not own, a web site, online service, online application, or
13 mobile application on the owner's behalf or processes information on
14 the owner's behalf.

15 (d) "Web site, online service, online application, or mobile
16 application directed to minors" means a web site, online service,
17 online application, or mobile application, or a portion thereof, that
18 is created for the purpose of reaching an audience that is
19 predominately comprised of minors, and is not intended for a more
20 general audience comprised of adults. However, a web site, online
21 service, online application, or mobile application, or a portion
22 thereof, is not directed at minors solely because it refers or links
23 to a web site, online service, online application, or mobile
24 application directed to minors by using information location tools,
25 including a directory, index, reference, pointer, or hypertext link.

26 **Sec. 6.** RCW 28A.210.310 and 1997 c 9 s 1 are each amended to
27 read as follows:

28 (1) To protect children in the public schools of this state from
29 exposure to the addictive substance of nicotine and from harms
30 associated with vapor products, each school district board of
31 directors shall have a written policy mandating a prohibition on the
32 use of all tobacco products and vapor products on public school
33 property.

34 (2) The policy in subsection (1) of this section shall include,
35 but not be limited to, a requirement that students and school
36 personnel be notified of the prohibition, the posting of signs
37 prohibiting the use of tobacco products and vapor products, sanctions
38 for students and school personnel who violate the policy, and a
39 requirement that school district personnel enforce the prohibition.

1 Enforcement policies adopted in the school board policy shall be in
2 addition to the enforcement provisions in RCW 70.160.070.

3 **Sec. 7.** RCW 70.345.010 and 2019 c 445 s 210 and 2019 c 15 s 4
4 are each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

8 (2) "Business" means any trade, occupation, activity, or
9 enterprise engaged in for the purpose of selling or distributing
10 vapor products in this state.

11 (3) "Child care facility" has the same meaning as provided in RCW
12 70.140.020.

13 (4) "Closed system nicotine container" means a sealed, prefilled,
14 and disposable container of nicotine in a solution or other form in
15 which such container is inserted directly into an electronic
16 cigarette, electronic nicotine delivery system, or other similar
17 product, if the nicotine in the container is inaccessible through
18 customary or reasonably foreseeable handling or use, including
19 reasonably foreseeable ingestion or other contact by children.

20 (5) "Delivery sale" means any sale of a vapor product to a
21 purchaser in this state where either:

22 (a) The purchaser submits the order for such sale by means of a
23 telephonic or other method of voice transmission, the mails or any
24 other delivery service, or the internet or other online service; or

25 (b) The vapor product is delivered by use of the mails or of a
26 delivery service. The foregoing sales of vapor products constitute a
27 delivery sale regardless of whether the seller is located within or
28 without this state. "Delivery sale" does not include a sale of any
29 vapor product not for personal consumption to a retailer.

30 (6) "Delivery seller" means a person who makes delivery sales.

31 (7) "Distributor" has the same meaning as in RCW 82.25.005.

32 (8) "Liquid nicotine container" means a package from which
33 nicotine in a solution or other form is accessible through normal and
34 foreseeable use by a consumer and that is used to hold soluble
35 nicotine in any concentration. "Liquid nicotine container" does not
36 include closed system nicotine containers.

37 (9) "Manufacturer" means a person who manufactures and sells
38 vapor products.

1 (10) "Person" means any individual, receiver, administrator,
2 executor, assignee, trustee in bankruptcy, trust, estate, firm,
3 copartnership, joint venture, club, company, joint stock company,
4 business trust, municipal corporation, the state and its departments
5 and institutions, political subdivision of the state of Washington,
6 corporation, limited liability company, association, society, any
7 group of individuals acting as a unit, whether mutual, cooperative,
8 fraternal, nonprofit, or otherwise.

9 (11) "Place of business" means any place where vapor products are
10 sold or where vapor products are manufactured, stored, or kept for
11 the purpose of sale.

12 (12) "Playground" means any public improved area designed,
13 equipped, and set aside for play of six or more children which is not
14 intended for use as an athletic playing field or athletic court,
15 including but not limited to any play equipment, surfacing, fencing,
16 signs, internal pathways, internal land forms, vegetation, and
17 related structures.

18 (13) "Retail outlet" means each place of business from which
19 vapor products are sold to consumers.

20 (14) "Retailer" means any person engaged in the business of
21 selling vapor products to ultimate consumers.

22 (15)(a) "Sale" means any transfer, exchange, or barter, in any
23 manner or by any means whatsoever, for a consideration, and includes
24 and means all sales made by any person.

25 (b) The term "sale" includes a gift by a person engaged in the
26 business of selling vapor products, for advertising, promoting, or as
27 a means of evading the provisions of this chapter.

28 (16) "School" has the same meaning as provided in RCW 70.140.020
29 and also includes all postsecondary institutions as defined in RCW
30 28B.10.016.

31 (17) "Self-service display" means a display that contains vapor
32 products and is located in an area that is openly accessible to
33 customers and from which customers can readily access such products
34 without the assistance of a salesperson. A display case that holds
35 vapor products behind locked doors does not constitute a self-service
36 display.

37 (18) "Vapor product" means any noncombustible product that may
38 contain nicotine and that employs a heating element, power source,
39 electronic circuit, or other electronic, chemical, or mechanical

1 means, regardless of shape or size, that can be used to produce vapor
2 or aerosol from a solution or other substance.

3 (a) "Vapor product" includes any electronic cigarette, electronic
4 cigar, electronic cigarillo, electronic pipe, or similar product or
5 device and any vapor cartridge or other container that may contain
6 nicotine in a solution or other form that is intended to be used with
7 or in an electronic cigarette, electronic cigar, electronic
8 cigarillo, electronic pipe, or similar product or device.

9 (b) "Vapor product" does not include any product that meets the
10 definition of marijuana, useable marijuana, marijuana concentrates,
11 marijuana-infused products, cigarette, or tobacco products.

12 (c) For purposes of this subsection (18), "marijuana," "useable
13 marijuana," "marijuana concentrates," and "marijuana-infused
14 products" have the same meaning as provided in RCW 69.50.101.

15 **Sec. 8.** RCW 70.345.150 and 2016 sp.s. c 38 s 21 are each amended
16 to read as follows:

17 (1) Indoor areas.

18 (a) The use of vapor products is prohibited in the following
19 indoor areas:

20 (i) Inside a child care facility, provided that a child care
21 facility that is home-based is excluded from this paragraph when
22 children enrolled in such child care facility are not present;

23 (ii) Schools;

24 (iii) Within five hundred feet of schools;

25 (iv) Schools buses; and

26 (v) Elevators.

27 (b) The use of vapor products is permitted for tasting and
28 sampling in indoor areas of retail outlets.

29 (2) Outdoor areas. (~~The~~) Except as provided in subsection (3)
30 of this section, the use of vapor products is prohibited in the
31 following outdoor areas:

32 (a) Real property that is under the control of a child care
33 facility and upon which the child care facility is located, provided
34 that a child care facility that is home-based is excluded from this
35 paragraph when children enrolled in such child care facility are not
36 present;

37 (b) Real property that is under the control of a school and upon
38 which the school is located; and

1 (c) Playgrounds, during the hours between sunrise and sunset,
2 when one or more persons under twelve years of age are present at
3 such playground.

4 (3) Nothing in this section prohibits the use of vapor products
5 in a designated smoking area on property of a postsecondary
6 institution as defined in RCW 28B.10.016.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 28B.10
8 RCW to read as follows:

9 (1)(a) Except as provided in (b) of this subsection,
10 postsecondary institutions must have a written policy mandating a
11 prohibition on smoking and on the use of vapor products on the
12 property of the postsecondary institution.

13 (b) Nothing in this section requires postsecondary institutions
14 to have written policies mandating a prohibition on smoking and on
15 the use of vapor products in an area where smoking is permissible
16 under chapter 70.160 RCW or the use of vapor products is permissible
17 under chapter 70.345 RCW.

18 (2) The policy in subsection (1) of this section must include,
19 but not be limited to, a requirement that students and personnel of
20 postsecondary institutions be notified of the prohibition, the
21 posting of signs prohibiting smoking and the use of vapor products
22 except for in any designated areas, sanctions for students and
23 personnel who violate the policy, and a requirement that personnel of
24 postsecondary institutions enforce the prohibition. Enforcement
25 policies adopted in the postsecondary institution's policy are in
26 addition to the enforcement provisions in RCW 70.160.070.

27 (3) Nothing in this section prohibits postsecondary institutions
28 from prohibiting the use of all tobacco products on their property
29 and from including a prohibition on the use of tobacco products in
30 the same policy applicable to smoking and the use of vapor products.

31 (4) For purposes of this section:

32 (a) "Smoking" has the same meaning as in RCW 70.160.020;

33 (b) "Tobacco product" has the same meaning as in RCW 70.155.010;

34 and

35 (c) "Vapor product" has the same meaning as in RCW 70.345.010.

36 NEW SECTION. **Sec. 10.** If any provision of this act or its
37 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.

--- **END** ---