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**SENATE BILL 6333**

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**State of Washington****66th Legislature****2020 Regular Session****By** Senators Salomon, Carlyle, Kuderer, Nguyen, and Wilson, C.

Read first time 01/15/20. Referred to Committee on Labor &amp; Commerce.

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.

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