S-0254.1

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**SENATE BILL 5129**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Saldaña, Darneille, Nguyen, Nobles, Stanford, and Wilson, C.

AN ACT Relating to possession of vapor, vapor products, tobacco, and tobacco products by minors; amending RCW 70.155.110 and 70.345.160; creating new sections; and repealing RCW 70.155.080 and 70.345.140.

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

NEW SECTION. **Sec.**  The legislature recognizes that prevention is the most effective tool to reduce vapor and tobacco usage by persons under the age of 21. The legislature finds that protection of adolescents' health and well-being requires enforcement and intervention efforts to focus upon effective vapor and tobacco control and access strategies. The legislature recognizes vapor and tobacco purchase, possession, and use by persons under the age of 21 as a public health issue. The legislature further recognizes that, with passage of chapter 15, Laws of 2019, individuals between the ages of 18 and 21 do not face criminal or civil liability for purchase or possession of vapor or tobacco products but that individuals under the age of 18 continue to face civil liability for purchase or possession of vapor or tobacco products. The legislature therefore finds that all persons under the age of 21 who engage in vapor or tobacco purchasing, possession, or use should not be treated as violators or status offenders but should be offered community-based interventions that are more effective at addressing the use of vapor products and tobacco.

**Sec.**  RCW 70.155.110 and 1993 c 507 s 12 are each amended to read as follows:

(1) The ((~~liquor control~~)) board shall, in addition to the board's other powers and authorities, have the authority to enforce the provisions of this chapter and RCW 26.28.080((~~(4)~~)) and 82.24.500. The ((~~liquor control~~)) board shall have full power to revoke or suspend the license of any retailer or wholesaler in accordance with the provisions of RCW 70.155.100.

(2) The ((~~liquor control~~)) board and the board's authorized agents or employees shall have full power and authority to enter any place of business where tobacco products are sold for the purpose of enforcing the provisions of this chapter.

(3) ((~~For the purpose of enforcing the provisions of this chapter and RCW 26.28.080(4) and 82.24.500, a peace officer or enforcement officer of the liquor control board who has reasonable grounds to believe a person observed by the officer purchasing, attempting to purchase, or in possession of tobacco products is under the age of eighteen years of age, may detain such person for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. Further, tobacco products possessed by persons under the age of eighteen years of age are considered contraband and may be seized by a peace officer or enforcement officer of the liquor control board.~~

~~(4)~~)) The ((~~liquor control~~)) board may work with local county health departments or districts and local law enforcement agencies to conduct random, unannounced, inspections to assure compliance. The board, local law enforcement agencies, or local health departments may coordinate controlled purchases including persons under the age of 18 with parental authorization and persons between the ages of 18 and 21, if they are performed in accordance with chapter 49.46 RCW.

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

(1) The board must have, in addition to the board's other powers and authorities, the authority to enforce the provisions of this chapter.

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

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

~~(4)~~)) The board may work with local county health departments or districts and local law enforcement agencies to conduct random, unannounced, inspections to assure compliance. The board, local law enforcement agencies, or local health departments may coordinate controlled purchases including persons under the age of 18 with parental authorization and persons between the ages of 18 and 21, if they are performed in accordance with chapter 49.46 RCW.

((~~(5)~~)) (4) Upon a determination by the secretary of health or a local health jurisdiction that a vapor product may be injurious to human health or poses a significant risk to public health:

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

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

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

((~~(6)~~)) (5) Nothing in subsection ((~~(5)~~)) (4) of this section permits a total ban on the sale or use of vapor products.

NEW SECTION. **Sec.**  Nothing in this act shall be interpreted to limit the ability of a peace officer or an enforcement officer of the liquor and cannabis board to enforce the provisions of chapters 70.155 and 70.345 RCW and RCW 26.28.080 and 82.24.500.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 70.155.080 (Purchasing, possessing by persons under eighteen—Civil infraction—Jurisdiction) and 2002 c 175 s 47, 1998 c 133 s 2, & 1993 c 507 s 9; and

(2)RCW 70.345.140 (Purchase or possession by persons under eighteen—Penalty—Jurisdiction) and 2016 sp.s. c 38 s 14.

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