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## Regulated Substances & Gaming Committee

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### ESSB 5365

**Brief Description:** Preventing use of vapor and tobacco products by minors.

**Sponsors:** Senate Committee on Labor & Commerce (originally sponsored by Senators Saldaña, Lias, Billig, Dhingra, Hunt, Lovelett, Nguyen, Pedersen, Randall, Robinson, Stanford, Valdez, Wellman and Wilson, C.).

#### Brief Summary of Engrossed Substitute Bill

- Increases the maximum monetary penalties that the Liquor and Cannabis Board may impose against cigarette and tobacco products retailer licensees and vapor products retailer licensees for selling or giving cigarette, tobacco, or vapor products to persons under 21 years old.
- Modifies the enforcement of the civil infraction for the purchase or possession of tobacco or vapor products.
- Modifies the penalties for minors that purchase or possess tobacco or vapor products.

**Hearing Date:** 3/16/23

**Staff:** Matt Sterling (786-7289).

#### **Background:**

##### Penalties for Sales to Individuals Under 21 Years of Age.

A person who sells or gives, or permits to be sold or given, any cigar, cigarette, cigarette paper or wrapper, tobacco product in any form, or a vapor product to any person under 21 years old is guilty of a gross misdemeanor.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

The Liquor and Cannabis Board (LCB) may suspend or revoke a retailer's license issued or held by a business at any location, if the LCB finds that the licensee has sold or provided any cigarettes, tobacco products, or vapor products to a person under 21 years old. Additionally, the LCB may assess the following penalties for violations within any three-year period:

- a monetary penalty of \$200 for the first violation;
- a monetary penalty of \$600 for the second violation;
- a monetary penalty of \$2,000 and a suspension of the license for a period of six months for the third violation;
- a monetary penalty of \$3,000 and a suspension of the license for a period of 12 months for the third violation; and
- the revocation of the license with no possibility of reinstatement for a period of five years for the fifth or more violation.

*Use of Monetary Penalties.* Ninety percent of the licensing fees and monetary penalties that are collected from tobacco and vapor products licensees are deposited in the Youth Tobacco and Vapor Products Prevention Account (Account) with the other 10 percent deposited in the State General Fund. The Department of Health (Department) is required to enter into interagency agreements with the LCB to pay for costs incurred by the LCB in carrying out its enforcement responsibilities and to establish requirements for data reporting by the LCB regarding its enforcement activities. Up to 30 percent of the moneys in the Account may be paid to the LCB for costs incurred in carrying out its enforcement responsibilities. The Department is directed to use the other 70 percent of available funds to provide grants to local health departments or other local community agencies to develop and implement coordinated tobacco and vapor product intervention strategies to prevent and reduce tobacco and vapor product use by youth.

#### Penalties for Minor Possession.

A person under the age of 18 who purchases or attempts to purchase, possesses, or obtains or attempts to obtain cigarettes, tobacco products, or vapor products commits a class 3 civil infraction and is subject to up to four hours of community restitution, a class 3 civil infraction of \$50 and court ordered costs, or both. The court may also require participation in a smoking cessation program. This provision does not apply if a person under the age of eighteen, with parental authorization, is participating in a controlled purchase as part of the LCB, law enforcement, or local health department activity.

A peace officer or LCB enforcement officer who has reasonable grounds to believe a person observed by the officer is purchasing, attempting to purchase, or in possession of tobacco or vapor products and is under the age of 18 years, may detain such person to determine the person's true identity and date of birth. Tobacco or vapor products possessed by persons under the age of 18 years are considered contraband and may be seized by a peace officer or an LCB enforcement officer.

#### **Summary of Bill:**

### Penalties for Sales to Individuals Under 21 Years of Age.

A person who sells or gives, or permits to be sold or given, to any person under 21 years old any cigar, cigarette, cigarette paper or wrapper, tobacco in any form, or a vapor product is guilty of a gross misdemeanor.

The Liquor and Cannabis Board (LCB) may suspend or revoke a retailer's license issued or held by a business at any location, if the LCB finds that the licensee has sold or provided any cigarettes, tobacco products, or vapor products to a person under 21 years old. Additionally, the penalties that the LCB may assess for violations within any three-year period are increased to:

- a monetary penalty of \$1,000 for the first violation;
- a monetary penalty of \$2,500 for the second violation;
- a monetary penalty of \$5,000 and a suspension of the license for a period of six months for the third violation;
- a monetary penalty of \$10,000 and a suspension of the license for a period of 12 months for the third violation; and
- the revocation of the license with no possibility of reinstatement for a period of five years for the fifth or more violation.

### Penalties for Minor Possession.

A person under the age of 18 who purchases or attempts to purchase, possesses, or obtains or attempts to obtain cigarettes, tobacco products, or vapor products commits a class 3 civil infraction and is subject to up to four hours of community service and referral to a smoking cessation program at no cost.

An LCB enforcement officer who has reasonable grounds to believe a person observed by the officer is purchasing, attempting to purchase, or in possession of tobacco or vapor products and is under the age of 18 years, may detain such person to determine the person's true identity and date of birth. Tobacco or vapor products possessed by persons under the age of 18 years are considered contraband and may be seized by a LCB enforcement officer.

### Other Provisions.

Nothing in the act may be interpreted to limit the ability of a peace officer or an enforcement officer of the LCB to enforce the law pertaining to the sale of tobacco and vapor products to persons under 21 years old and the purchase or possession of such products by persons under 18 years old.

The LCB, law enforcement, or a local health department may, with parental authorization, include persons under the age of 18 in compliance activities. Legislative findings are made related to vapor and tobacco usage by persons under the age of 21.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.