
**Consumer Protection & Business
Committee**

HB 1203

Brief Description: Prohibiting the sale of certain tobacco and nicotine products.

Sponsors: Representatives Reeves, Entenman, Nance, Peterson, Pollet, Ryu, Stonier, Reed, Leavitt, Berry, Ramel, Macri, Callan, Obras, Doglio, Gregerson, Street, Kloba, Berg, Davis, Ormsby, Bergquist and Hill.

Brief Summary of Bill

- Prohibits the sale, display, and advertisement of any flavored tobacco, nicotine, or vapor product and any entertainment vapor product.
- Requires a statewide prevention and awareness campaign for flavored tobacco, nicotine, and vapor products and entertainment vapor products.
- Requires new signage about the prohibitions to be posted by cigarette, tobacco product, and vapor product licensees.
- Imposes penalties, grants the Liquor and Cannabis Board enforcement authority, applies the Consumer Protection Act, and authorizes consultations with federally recognized Indian tribes.

Hearing Date: 1/31/25

Staff: Peter Clodfelter (786-7127).

Background:

The Liquor and Cannabis Board (LCB) licenses and regulates businesses including cigarette, tobacco product, and vapor product retailers; distributors; and vapor product delivery sellers. A

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

A licensed cigarette or tobacco product retailer is subject to the following maximum penalties for a violation of this prohibition:

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

A licensed vapor product retailer is subject to the following maximum penalties for a violation of the prohibition:

- \$200 for the first violation within any three-year period;
- \$600 for the second violation within any three-year period;
- \$2,000 and a six-month license suspension for the third violation within any three-year period;
- \$3,000 and a 12-month license suspension for the fourth violation within any three-year period; and
- revocation of the license with no possibility of reinstatement for a five-year period for the fifth-or-more violation within any three-year period.

Federal law prohibits the sale of flavored cigarettes except for menthol cigarettes. A variety of state and local jurisdictions in the United States have enacted policies restricting or prohibiting the sale of flavored tobacco, nicotine, and vapor products.

Summary of Bill:

Prohibition on Sale and Advertisement of Flavored Tobacco, Nicotine, or Vapor Products and Entertainment Vapor Products.

Beginning January 1, 2026, no retailer may sell, offer for sale, display, market, or advertise for sale in Washington, any flavored tobacco, nicotine, or vapor product or entertainment vapor product.

There is a rebuttable presumption that a tobacco, nicotine, or vapor product is flavored if any communication by or on behalf of the manufacturer or retailer indicates that the product imparts: (1) a taste or smell other than the taste or smell of tobacco; or (2) a cooling or numbing sensation. Evidence of this communication may include but is not limited to the use of terms like "cool," "chill," "ice," "fresh," "arctic," or "frost" to describe the product.

Flavored tobacco, nicotine, or vapor products are defined to mean products that impart:

- a taste or smell, other than the taste or smell of tobacco, distinguishable by an ordinary consumer either before or during the consumption of the tobacco product including, but not limited to, the taste or smell of fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb, or spice; or
- a cooling or numbing sensation distinguishable by an ordinary consumer either before or during the consumption of such tobacco product.

Entertainment vapor products are defined to mean any vapor product that has interactive gaming or entertainment features including, but not limited to, allowing a user to play music or audio, display photos or video, play virtual games, or display other animations on the device.

Department of Health—Prevention and Awareness Campaign.

The Department of Health (DOH) must develop, implement, and maintain a statewide flavored tobacco, nicotine, and vapor products and entertainment vapor products prevention and awareness campaign to address the use of these products. The campaign must educate the public about the health risks and addictive nature of these products, include outreach to both youth and adults aimed at preventing use, and be consistent with best practices identified by the US Centers for Disease Control and Prevention. The DOH must report to the appropriate committees of the Legislature regarding the status of the education program by January 1, 2026.

Signage.

Cigarette retailers and wholesalers must display a sign concerning the sales prohibition. The sign must be posted so that it is clearly visible to anyone purchasing tobacco products from the licensee. It must be designed and produced by the DOH to read: "THE SALE OF FLAVORED TOBACCO AND NICOTINE PRODUCTS IN THIS STATE IS STRICTLY PROHIBITED BY STATE LAW."

Vapor products retailers must display a sign concerning the sales prohibition. The sign must be posted so that it is clearly visible to anyone purchasing vapor products or entertainment vapor products from the licensee. It must be designed and produced by the DOH to read: "THE SALE OF FLAVORED TOBACCO AND NICOTINE PRODUCTS AND ENTERTAINMENT VAPOR PRODUCTS IN THIS STATE IS STRICTLY PROHIBITED BY STATE LAW."

Penalties.

The LCB's authority to suspend a cigarette, tobacco product, or vapor product retailers license and to seek injunction relief and impose monetary penalties for violations is extended to include a violation of the new prohibition on sales of flavored tobacco or nicotine products or entertainment vapor products. Retailers are subject to the same monetary penalties as persons who sell or give a cigarette, tobacco, or a vapor product to a person under age 21.

Consumer Protection Act.

It is deemed an unfair or deceptive practice under the Consumer Protection Act (CPA) for any retailer to sell, offer for sale, display, market, or advertise for sale any flavored tobacco, nicotine,

or vapor product or any entertainment vapor product in Washington. The per se public interest element of a CPA claim is also deemed met for a violation.

Tribal Consultations.

In recognition of the sovereign authority of tribal governments, the Governor may seek government-to-government consultations with federally recognized Indian tribes regarding prohibiting the sale or offer for sale of any flavored tobacco, nicotine, vapor product, or entertainment vapor product, and the display, marketing, or advertising for sale of such products in compacts between tribes and Washington.

Liquor and Cannabis Board Rules.

The LCB must adopt rules to implement the new requirements and compliance education for licensed retailers, distributors, and manufacturers and their employees.

Appropriation: None.

Fiscal Note: Requested on January 13, 2025.

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