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**SUBSTITUTE HOUSE BILL 1534**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Consumer Protection & Business (originally sponsored by Representatives Santos, Wylie, Parshley, Scott, Leavitt, Reeves, Doglio, Tharinger, Nance, Corry, Ybarra, Couture, McClintock, Hackney, Berry, Davis, Dufault, Ramel, Reed, Mendoza, Obras, Gregerson, Kloba, Callan, Shavers, Peterson, Zahn, Ormsby, Pollet, and Hill)

READ FIRST TIME 02/21/25.

1 AN ACT Relating to protecting public health and safety by  
2 enhancing the regulation of tobacco products, alternative nicotine  
3 products, and vapor products; amending RCW 26.28.080, 70.155.010,  
4 70.155.090, 70.155.100, 70.345.010, 70.345.030, 82.25.030, 82.25.095,  
5 82.26.010, 82.26.020, 82.26.060, 82.26.190, 82.26.200, 82.26.240, and  
6 42.56.270; adding new sections to chapter 70.345 RCW; and prescribing  
7 penalties.

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

9 **Sec. 1.** RCW 26.28.080 and 2019 c 15 s 1 are each amended to read  
10 as follows:

11 (1) A person who sells or gives, or permits to be sold or given,  
12 to any person under the age of twenty-one years any cigar, cigarette,  
13 cigarette paper or wrapper, tobacco in any form, alternative nicotine  
14 product, or a vapor product is guilty of a gross misdemeanor and is  
15 additionally liable for a fine of up to \$500.

16 (2) It is not a defense to a prosecution for a violation of this  
17 section that the person acted, or was believed by the defendant to  
18 act, as agent or representative of another.

19 (3) For the purposes of this section(~~(, "vapor")~~):

20 (a) "Alternative nicotine product" has the same meaning as  
21 provided in RCW 82.26.010; and

1 (b) "Vapor product" has the same meaning as provided in RCW  
2 70.345.010.

3 **Sec. 2.** RCW 70.155.010 and 2019 c 15 s 3 are each amended to  
4 read as follows:

5 The definitions set forth in RCW 82.24.010 apply to this chapter.  
6 In addition, for the purposes of this chapter, unless otherwise  
7 required by the context:

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

9 (2) "Internet" means any computer network, telephonic network, or  
10 other electronic network.

11 (3) "Sample" means a tobacco product distributed to members of  
12 the general public at no cost or at nominal cost for product  
13 promotion purposes.

14 (4) "Sampling" means the distribution of samples to members of  
15 the public.

16 (5) "Tobacco product" means an alternative nicotine product as  
17 defined in RCW 82.26.010 or a product that contains tobacco and is  
18 intended for human use, including any product defined in RCW  
19 82.24.010(2) or 82.26.010(~~((21))~~) (22), except that for the purposes  
20 of RCW 70.155.140 only, "tobacco product" does not include cigars  
21 defined in RCW 82.26.010 as to which one thousand units weigh more  
22 than three pounds.

23 (6) "Vapor product" has the same meaning as defined in RCW  
24 70.345.010.

25 **Sec. 3.** RCW 70.155.090 and 2006 c 14 s 4 are each amended to  
26 read as follows:

27 (1) (~~Where there may be a question of a person's right to~~  
28 ~~purchase or obtain tobacco products by reason of age, the)) A  
29 retailer or agent ((thereof,)) shall require the purchaser of a  
30 tobacco product or vapor product to present any one of the following  
31 officially issued identification that shows the purchaser's age and  
32 bears his or her signature and photograph: (a) Liquor control  
33 authority card of identification of a state or province of Canada;  
34 (b) driver's license, instruction permit, or identification card of a  
35 state or province of Canada; (c) "identocard" issued by the  
36 Washington state department of licensing under chapter 46.20 RCW; (d)  
37 United States military identification; (e) passport; (f) enrollment  
38 card, issued by the governing authority of a federally recognized~~

1 Indian tribe located in Washington, that incorporates security  
2 features comparable to those implemented by the department of  
3 licensing for Washington drivers' licenses. At least ninety days  
4 prior to implementation of an enrollment card under this subsection,  
5 the appropriate tribal authority shall give notice to the board. The  
6 board shall publish and communicate to licensees regarding the  
7 implementation of each new enrollment card; or (g) merchant marine  
8 identification card issued by the United States coast guard.

9 (2) It is a defense to a prosecution under RCW 26.28.080 that the  
10 person making a sale reasonably relied on any of the officially  
11 issued identification as defined in subsection (1) of this section.  
12 The liquor (~~control~~) and cannabis board shall waive the suspension  
13 or revocation of a license if the licensee clearly establishes that  
14 he or she acted in good faith to prevent violations and a violation  
15 occurred despite the licensee's exercise of due diligence.

16 **Sec. 4.** RCW 70.155.100 and 2023 c 398 s 4 are each amended to  
17 read as follows:

18 (1) The liquor and cannabis board may suspend or revoke a  
19 retailer's license issued under RCW 82.24.510(1)(b) or  
20 82.26.150(1)(b) held by a business at any location, or may impose a  
21 monetary penalty as set forth in subsection (3) of this section, if  
22 the liquor and cannabis board finds that the licensee has violated  
23 RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040, 70.155.050,  
24 70.155.070, or 70.155.090.

25 (2) Any retailer's licenses issued under RCW 70.345.020 to a  
26 person whose license or licenses under chapter 82.24 or 82.26 RCW  
27 have been suspended or revoked for violating RCW 26.28.080 must also  
28 be suspended or revoked during the period of suspension or revocation  
29 under this section.

30 (3) The sanctions that the liquor and cannabis board may impose  
31 against a person licensed under RCW 82.24.530 or 82.26.170 based upon  
32 one or more findings under subsection (1) of this section may not  
33 exceed the following:

34 (a) For violations of RCW 70.155.020 or 21 C.F.R. Sec. 1140.14,  
35 and for violations of RCW 70.155.040 occurring on the licensed  
36 premises:

37 (i) A monetary penalty of \$200 for the first violation within any  
38 (~~three-year~~) two-year period;

1 (ii) A monetary penalty of \$600 for the second violation within  
2 any (~~(three-year)~~) two-year period;

3 (iii) A monetary penalty of \$2,000 and suspension of the license  
4 for a period of six months for the third violation within any  
5 (~~(three-year)~~) two-year period;

6 (iv) A monetary penalty of \$3,000 and suspension of the license  
7 for a period of 12 months for the fourth violation within any  
8 (~~(three-year)~~) two-year period;

9 (v) (~~(Revocation)~~) A monetary penalty of \$5,000 and revocation of  
10 the license with no possibility of reinstatement for a period of five  
11 years for the fifth or more violation within any (~~(three-year)~~) two-  
12 year period;

13 (b) For violations of RCW 26.28.080:

14 (i) A monetary penalty of (~~(\$1,000)~~) \$1,500 for the first  
15 violation within any (~~(three-year)~~) two-year period;

16 (ii) A monetary penalty of (~~(\$2,500)~~) \$3,000 for the second  
17 violation within any (~~(three-year)~~) two-year period;

18 (iii) A monetary penalty of (~~(\$5,000)~~) \$6,000 and suspension of  
19 the license for a period of six months for the third violation within  
20 any (~~(three-year)~~) two-year period;

21 (iv) A monetary penalty of (~~(\$10,000)~~) \$12,000 and suspension of  
22 the license for a period of 12 months for the fourth violation within  
23 any (~~(three-year)~~) two-year period;

24 (v) (~~(Revocation)~~) A monetary penalty of \$15,000 and revocation  
25 of the license with no possibility of reinstatement for a period of  
26 five years for the fifth or more violation within any (~~(three-year)~~)  
27 two-year period;

28 (c) If the board finds that a person licensed under chapter 82.24  
29 or 82.26 RCW and RCW 70.345.020 has violated RCW 26.28.080, each  
30 subsequent violation of either of the person's licenses counts as an  
31 additional violation within that (~~(three-year)~~) two-year period;

32 (d) For violations of RCW 70.155.030, a monetary penalty in the  
33 amount of \$100 for each day upon which such violation occurred;

34 (e) For violations of RCW 70.155.050, a monetary penalty in the  
35 amount of \$600 for each violation;

36 (f) For violations of RCW 70.155.070, a monetary penalty in the  
37 amount of \$2,000 for each violation.

38 (4) The liquor and cannabis board may impose a monetary penalty  
39 upon any person other than a licensed cigarette or tobacco product  
40 retailer if the liquor and cannabis board finds that the person has

1 violated RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040,  
2 70.155.050, 70.155.070, or 70.155.090.

3 (5) The monetary penalty that the liquor and cannabis board may  
4 impose based upon one or more findings under subsection (4) of this  
5 section may not exceed the following:

6 (a) For violation of RCW 26.28.080 or 70.155.020, \$100 for the  
7 first violation and \$200 for each subsequent violation;

8 (b) For violations of RCW 70.155.030, \$200 for each day upon  
9 which such violation occurred;

10 (c) For violations of RCW 70.155.040, \$200 for each violation;

11 (d) For violations of RCW 70.155.050, \$600 for each violation;

12 (e) For violations of RCW 70.155.070, \$2,000 for each violation.

13 (6) The liquor and cannabis board may develop and offer a class  
14 for retail clerks and use this class in lieu of a monetary penalty  
15 for the clerk's first violation.

16 (7) The liquor and cannabis board may issue a cease and desist  
17 order to any person who is found by the liquor and cannabis board to  
18 have violated or intending to violate the provisions of this chapter,  
19 RCW 26.28.080, 82.24.500, or 82.26.190 requiring such person to cease  
20 specified conduct that is in violation. The issuance of a cease and  
21 desist order does not preclude the imposition of other sanctions  
22 authorized by this statute or any other provision of law.

23 (8) The liquor and cannabis board may seek injunctive relief to  
24 enforce the provisions of RCW 26.28.080, 82.24.500, 82.26.190 or this  
25 chapter. The liquor and cannabis board may initiate legal action to  
26 collect civil penalties imposed under this chapter if the same have  
27 not been paid within thirty days after imposition of such penalties.  
28 In any action filed by the liquor and cannabis board under this  
29 chapter, the court may, in addition to any other relief, award the  
30 liquor and cannabis board reasonable attorneys' fees and costs.

31 (9) All proceedings under subsections (1) through (7) of this  
32 section shall be conducted in accordance with chapter 34.05 RCW.

33 (10) The liquor and cannabis board may reduce or waive either the  
34 penalties or the suspension or revocation of a license, or both, as  
35 set forth in this chapter where the elements of proof are inadequate  
36 or where there are mitigating circumstances. Mitigating circumstances  
37 may include, but are not limited to, an exercise of due diligence by  
38 a retailer. Further, the board may exceed penalties set forth in this  
39 chapter based on aggravating circumstances.

1       **Sec. 5.** RCW 70.345.010 and 2022 c 16 s 135 are each amended to  
2 read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Alternative nicotine product" has the same meaning as  
6 provided in RCW 82.26.010.

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

8       ~~((+2))~~ (3) "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))~~ (4) "Child care facility" has the same meaning as  
12 provided in RCW 70A.320.020.

13       ~~((+4))~~ (5) "Closed system nicotine container" means a sealed,  
14 prefilled, and disposable container of nicotine in a solution or  
15 other form in which such container is inserted directly into an  
16 electronic cigarette, electronic nicotine delivery system, or other  
17 similar product, if the nicotine in the container is inaccessible  
18 through customary or reasonably foreseeable handling or use,  
19 including reasonably foreseeable ingestion or other contact by  
20 children.

21       ~~((+5))~~ (6) "Delivery sale" means any sale of a vapor product to  
22 a purchaser in this state where either:

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

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

31       ~~((+6))~~ (7) "Delivery seller" means a person who makes delivery  
32 sales.

33       ~~((+7))~~ (8) "Directory" means the directory established in  
34 section 10 of this act.

35       (9) "Distributor" has the same meaning as in RCW 82.25.005.

36       ~~((+8))~~ (10) "Liquid nicotine container" means a package from  
37 which nicotine in a solution or other form is accessible through  
38 normal and foreseeable use by a consumer and that is used to hold  
39 soluble nicotine in any concentration. "Liquid nicotine container"  
40 does not include closed system nicotine containers.

1       ~~((9))~~ (11) "Manufacturer" means a person who manufactures and  
2 sells vapor products.

3       ~~((10))~~ (12) "Person" means any individual, receiver,  
4 administrator, executor, assignee, trustee in bankruptcy, trust,  
5 estate, firm, copartnership, joint venture, club, company, joint  
6 stock company, business trust, municipal corporation, the state and  
7 its departments and institutions, political subdivision of the state  
8 of Washington, corporation, limited liability company, association,  
9 society, any group of individuals acting as a unit, whether mutual,  
10 cooperative, fraternal, nonprofit, or otherwise.

11       ~~((11))~~ (13) "Place of business" means any place where vapor  
12 products are sold or where vapor products are manufactured, stored,  
13 or kept for the purpose of sale.

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

20       ~~((13))~~ (15) "Retail outlet" means each place of business from  
21 which vapor products are sold to consumers.

22       ~~((14))~~ (16) "Retailer" means any person engaged in the business  
23 of selling vapor products to ultimate consumers.

24       ~~((15))~~ (17) (a) "Sale" means any transfer, exchange, or barter,  
25 in any manner or by any means whatsoever, for a consideration, and  
26 includes and means all sales made by any person.

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

30       ~~((16))~~ (18) "School" has the same meaning as provided in RCW  
31 70A.320.020.

32       ~~((17))~~ (19) "Self-service display" means a display that  
33 contains vapor products and is located in an area that is openly  
34 accessible to customers and from which customers can readily access  
35 such products without the assistance of a salesperson. A display case  
36 that holds vapor products behind locked doors does not constitute a  
37 self-service display.

38       ~~((18))~~ (20) "Timely filed premarket tobacco product  
39 application" means an application under 21 U.S.C. Sec. 387j for a  
40 vapor product containing nicotine derived from tobacco marketed in

1 the United States as of August 8, 2016, that was submitted to the  
2 food and drug administration on or before September 9, 2020, and  
3 accepted for filing.

4 (21) "Vapor product" means any noncombustible product that may  
5 contain nicotine and that employs a heating element, power source,  
6 electronic circuit, or other electronic, chemical, or mechanical  
7 means, regardless of shape or size, that can be used to produce vapor  
8 or aerosol from a solution or other substance.

9 (a) "Vapor product" includes any electronic cigarette, electronic  
10 cigar, electronic cigarillo, electronic pipe, or similar product or  
11 device and any vapor cartridge or other container that may contain  
12 nicotine in a solution or other form that is intended to be used with  
13 or in an electronic cigarette, electronic cigar, electronic  
14 cigarillo, electronic pipe, or similar product or device.

15 (b) "Vapor product" does not include any product that meets the  
16 definition of cannabis, useable cannabis, cannabis concentrates,  
17 cannabis-infused products, cigarette, alternative nicotine products,  
18 or tobacco products.

19 (c) For purposes of this subsection (~~((18))~~) (21), "cannabis,"  
20 "useable cannabis," "cannabis concentrates," and "cannabis-infused  
21 products" have the same meaning as provided in RCW 69.50.101.

22 **Sec. 6.** RCW 70.345.030 and 2019 c 445 s 211 are each amended to  
23 read as follows:

24 (1)(a) No person may engage in or conduct business as a retailer,  
25 distributor, or delivery seller in this state without a valid license  
26 issued under this chapter, except as otherwise provided by law. Any  
27 person who sells vapor products to ultimate consumers by a means  
28 other than delivery sales must obtain a retailer's license under this  
29 chapter. Any person who meets the definition of distributor under  
30 this chapter must obtain a distributor's license under this chapter.  
31 Any person who conducts delivery sales of vapor products must obtain  
32 a delivery sale license.

33 (b) A retailer may obtain vapor products only from a licensed  
34 distributor. A retailer that obtains vapor products from any person  
35 that is not licensed under this chapter, including directly from a  
36 manufacturer, must be licensed both as a retailer and a distributor  
37 under this chapter and is liable for the tax imposed under RCW  
38 82.25.010 with respect to the vapor products acquired from the



1 unlicensed person that are held for sale, handling, or distribution  
2 in this state.

3 (c) A violation of this subsection is punishable as a class C  
4 felony according to chapter 9A.20 RCW. Products offered for sale in  
5 violation of this subsection are contraband and subject to seizure in  
6 accordance with RCW 82.25.095.

7 (2) No person engaged in or conducting business as a retailer,  
8 distributor, or delivery seller in this state may refuse to allow the  
9 enforcement officers of the board, on demand, to make full inspection  
10 of any place of business or vehicle where any of the vapor products  
11 regulated under this chapter are sold, stored, transported, or  
12 handled, or otherwise hinder or prevent such inspection. A person who  
13 violates this subsection is guilty of a gross misdemeanor.

14 (3) Any person licensed under this chapter as a distributor, any  
15 person licensed under this chapter as a retailer, and any person  
16 licensed under this chapter as a delivery seller may not operate in  
17 any other capacity unless the additional appropriate license is first  
18 secured, except as otherwise provided by law. A violation of this  
19 subsection is a misdemeanor.

20 (4) No person engaged in or conducting business as a retailer,  
21 distributor, or delivery seller in this state may sell or give, or  
22 permit to sell or give, a product that contains any amount of any  
23 cannabinoid, synthetic cannabinoid, cathinone, or methcathinone,  
24 unless otherwise provided by law. A violation of this subsection (4)  
25 is punishable according to RCW 69.50.401.

26 (5) The penalties provided in this section are in addition to any  
27 other penalties provided by law for violating the provisions of this  
28 chapter or the rules adopted under this chapter.

29 NEW SECTION. Sec. 7. A new section is added to chapter 70.345  
30 RCW to read as follows:

31 (1) By October 1, 2025, and annually thereafter, every  
32 manufacturer of a vapor product that contains nicotine that is sold  
33 for retail sale in this state or to a consumer in this state, whether  
34 directly or through a distributor, wholesaler, retailer, delivery  
35 seller, or similar intermediary or intermediaries, shall execute and  
36 deliver to the board a certification, under penalty of perjury on a  
37 form and in a manner prescribed by the board, that the manufacturer  
38 is compliant with this chapter and that, for each vapor product sold  
39 for retail sale in this state or to a consumer in this state:

1 (a) The manufacturer has received a marketing granted order for  
2 the vapor product from the food and drug administration under 21  
3 U.S.C. Sec. 387j;

4 (b) The manufacturer submitted a timely filed premarket tobacco  
5 product application for the vapor product to the food and drug  
6 administration under 21 U.S.C. Sec. 387j, and the application either  
7 remains under review by the food and drug administration or has  
8 received a denial order that has been and remains stayed by the food  
9 and drug administration or court order, rescinded by the food and  
10 drug administration, or vacated by a court; or

11 (c) The manufacturer is not required to submit an additional  
12 marketing granted order or premarket tobacco product application for  
13 the vapor product because the vapor product merely reflects changes  
14 to the name, brand style, or packaging of a vapor product that is  
15 covered under (a) or (b) of this subsection.

16 (2) The certification form must list for each vapor product  
17 containing nicotine that is sold in this state: Brand name; product  
18 name; category including but not limited to disposable vapor product,  
19 power unit, device, e-liquid cartridge, or e-liquid pod; and flavor.

20 (3) Each certification form must be accompanied by:

21 (a) A copy of: (i) The marketing granted order issued by the food  
22 and drug administration under 21 U.S.C. Sec. 387j; (ii) a copy of the  
23 acceptance letter issued by the food and drug administration under 21  
24 U.S.C. Sec. 387j for a timely filed premarket tobacco product  
25 application; or (iii) a document issued by the food and drug  
26 administration or by a court confirming that the premarket tobacco  
27 product application has received a denial order that has been and  
28 remains stayed by the food and drug administration or court order,  
29 rescinded by the food and drug administration or vacated by a court;  
30 and

31 (b) A payment of a \$1,000 fee for each vapor product containing  
32 nicotine the first time an annual certification form is delivered to  
33 the board and a payment of a \$500 fee for each vapor product  
34 containing nicotine the second and each subsequent time an annual  
35 certification form is delivered to the board.

36 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.345  
37 RCW to read as follows:

1 Information submitted by a manufacturer under section 7(3)(a) of  
2 this act is confidential and exempt from public disclosure under RCW  
3 42.56.270.

4 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.345  
5 RCW to read as follows:

6 A manufacturer required to submit a certification form under  
7 section 7 of this act must notify the attorney general within 30 days  
8 of any material change to the certification form, including the  
9 issuance or denial of a marketing authorization or other order by the  
10 food and drug administration under 21 U.S.C. Sec. 387j, or any other  
11 order or action by the food and drug administration or any court that  
12 affects the ability of the vapor product containing nicotine to be  
13 introduced or delivered into interstate commerce for commercial  
14 distribution in the United States.

15 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.345  
16 RCW to read as follows:

17 (1) Starting January 1, 2026, the board shall maintain and make  
18 publicly available on its website a directory that lists all  
19 manufacturers and vapor products containing nicotine including brand  
20 names, product names, categories including disposable vapor product,  
21 e-liquid, e-liquid cartridge, e-liquid pod, and power unit, and  
22 flavors, for which certification forms have been submitted and  
23 approved by the board.

24 (2) The board must update the directory at least monthly to  
25 ensure accuracy, and establish a process to provide licensed  
26 retailers, distributors, and other relevant parties notice of the  
27 initial publication of the directory and changes made to the  
28 directory in the previous month.

29 (3) No manufacturer or the manufacturer's vapor products  
30 containing nicotine may be included or retained in the directory if  
31 the board determines that any of the following apply:

32 (a) The manufacturer failed to provide a complete and accurate  
33 certification as required by section 7(1) of this act;

34 (b) The manufacturer submitted a certification that does not  
35 comply with the requirements of section 7 (2) or (3) of this act;

36 (c) The manufacturer failed to include with its certification the  
37 payment required by section 7(3)(b) of this act;

1 (d) The manufacturer sold vapor products containing nicotine in  
2 this state required to be certified under this chapter during a  
3 period when either the manufacturer or the vapor product had not been  
4 certified and listed on the directory; or

5 (e) The information provided by the manufacturer in its  
6 certification is determined by the attorney general to contain false  
7 information or contains material misrepresentations or omissions.

8 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.345  
9 RCW to read as follows:

10 (1) The board must provide manufacturers notice and an  
11 opportunity to cure deficiencies before removing manufacturers or  
12 vapor products containing nicotine from the directory.

13 (2) The board may not remove the manufacturer or its vapor  
14 products containing nicotine from the directory until at least 30  
15 days after the manufacturer has been given notice of an intended  
16 action setting forth the reasons for removal. Notice is sufficient  
17 and deemed to be immediately received by a manufacturer if the notice  
18 is sent either electronically or by facsimile to an email address or  
19 facsimile number, as the case may be, provided by the manufacturer in  
20 its most recent certification filed under section 7 (2) and (3) of  
21 this act.

22 (3) The manufacturer has 15 days from the date of service of the  
23 notice of the board's intended action to cure the deficiencies or  
24 otherwise establish that the manufacturer or its vapor products  
25 containing nicotine should be included in the directory.

26 (4) Retailers have 30 days following the removal of a  
27 manufacturer or its vapor products containing nicotine from the  
28 directory to sell such vapor products that were in the retailer's  
29 inventory as of the date of removal.

30 (5) After 30 days following removal from the directory, the vapor  
31 products containing nicotine of a manufacturer identified in the  
32 notice of removal and intended for retail sale in this state or to a  
33 consumer in this state are subject to seizure, in accordance with RCW  
34 82.25.095, from distributors and retailers, forfeiture from  
35 distributors and retailers, and destruction or disposal, and may not  
36 be purchased or sold for retail sale in this state or to a consumer  
37 in this state. The cost of the seizure, forfeiture, and destruction  
38 or disposal must be borne by the person from whom the vapor products  
39 are confiscated.

1        NEW SECTION.    **Sec. 12.**    A new section is added to chapter 70.345  
2    RCW to read as follows:

3        (1)    Except as provided in subsections (2) and (3) of this  
4    section, beginning January 1, 2026, or on the date that the board  
5    first makes the directory available for public inspection on its  
6    official website, whichever is later, vapor products containing  
7    nicotine not included in the directory may not be sold for retail  
8    sale in this state, either directly or through an importer,  
9    distributor, wholesaler, retailer, or similar intermediary or  
10    intermediaries.

11       (2)    Each retailer has 60 days from the date that the board first  
12    makes the directory available for inspection on its public website to  
13    sell vapor products containing nicotine that were in its inventory  
14    and not included in the directory or remove those vapor products from  
15    inventory.

16       (3)    Each distributor or wholesaler has 60 days from the date that  
17    the board first makes the directory available for inspection on its  
18    public website to remove vapor products containing nicotine intended  
19    for retail sale in the state that are not included in the directory  
20    from its inventory.

21       (4)    After 60 days following publication of the directory, vapor  
22    products containing nicotine not listed in the directory and intended  
23    for retail sale in this state or to a consumer in this state are  
24    subject to seizure, forfeiture, and destruction or disposal, and may  
25    not be purchased or sold for retail sale in this state or to a  
26    consumer in this state except as provided in subsections (2) and (3)  
27    of this section. The cost of such seizure, forfeiture, and  
28    destruction or disposal must be borne by the person from whom the  
29    vapor products are confiscated.

30       NEW SECTION.    **Sec. 13.**    A new section is added to chapter 70.345  
31    RCW to read as follows:

32       The following penalties apply to violations of sections 7 through  
33    17 of this act:

34       (1)(a) In addition to, or in lieu of, any other civil or criminal  
35    remedy provided by law, a retailer, distributor, wholesaler, or  
36    importer, who sells or offers for sale a vapor product containing  
37    nicotine for retail sale in this state or to a consumer in this state  
38    that is not included in the directory is subject to a civil penalty

1 of \$500 for each individual vapor product containing nicotine offered  
2 for sale in violation of sections 7 through 17 of this act.

3 (b) For a second violation of (a) of this subsection within a 12-  
4 month period, the civil penalty must be at least \$750 but not more  
5 than \$1,000 per vapor product containing nicotine and the licensee's  
6 license must be suspended for 30 days.

7 (c) For a third violation of (a) of this subsection within a 12-  
8 month period, the civil penalty must be at least \$1,000 but not more  
9 than \$1,500 per vapor product containing nicotine and the licensee's  
10 license must be revoked;

11 (2) A manufacturer whose vapor products containing nicotine are  
12 not listed in the directory and who causes the vapor products  
13 containing nicotine that are not listed to be sold for retail sale in  
14 this state, whether directly or through an importer, distributor,  
15 wholesaler, retailer, or similar intermediary or intermediaries, is  
16 subject to a civil penalty of \$10,000 for each individual vapor  
17 product offered for sale in violation of this section. In addition,  
18 any manufacturer that falsely represents any information required by  
19 a certification form is guilty of a class C misdemeanor for each  
20 false representation;

21 (3) In an action under this section, the state is entitled to  
22 recover costs, including the costs of investigation, expert witness  
23 fees, and reasonable attorneys' fees;

24 (4) Vapor products containing nicotine offered for sale in  
25 violation of sections 7 through 17 of this act are considered  
26 contraband and may be seized and disposed of or destroyed by an  
27 enforcement officer of the board. The cost of seizure and disposal or  
28 destruction must be borne by the person from whom the vapor products  
29 are confiscated, and not by the board;

30 (5) The board may seek recovery of the penalty in a civil action  
31 in superior court;

32 (6) The board may seek an injunction in superior court to  
33 restrain a threatened or actual violation of this section and to  
34 compel compliance with this section; and

35 (7) A second or subsequent violation of sections 7 through 17 of  
36 this act is not reasonable in relation to the development and  
37 preservation of business and is an unfair and deceptive act or  
38 practice and an unfair method of competition in the conduct of trade  
39 or commerce in violation of RCW 19.86.020. Standing to bring an  
40 action to enforce RCW 19.86.020 for violation of this section lies

1 solely with the attorney general. Remedies provided by chapter 19.86  
2 RCW are cumulative and not exclusive.

3 NEW SECTION. **Sec. 14.** A new section is added to chapter 70.345  
4 RCW to read as follows:

5 Each retailer, distributor, and wholesaler that sells or  
6 distributes vapor products containing nicotine in this state are  
7 subject to at least two unannounced compliance checks annually for  
8 purposes of enforcing this section. Unannounced follow-up compliance  
9 checks of all noncompliant retailers, distributors, and wholesalers  
10 must be conducted within 30 days after any violation of sections 7  
11 through 17 of this act. The board must publish the results of all  
12 compliance checks at least annually and make the results available to  
13 the public on request. The requirements of this section do not apply  
14 to an Indian tribal organization, Indian retailer, or Indian  
15 distributor, as those terms are defined in RCW 82.25.105.

16 NEW SECTION. **Sec. 15.** A new section is added to chapter 70.345  
17 RCW to read as follows:

18 (1) Any nonresident or foreign manufacturer that has not  
19 registered to do business in the state as a foreign corporation or  
20 business entity must, as a condition precedent to having its vapor  
21 products containing nicotine included or retained in the directory,  
22 appoint and continually engage without interruption the services of  
23 an agent in this state to act as agent for the service of process on  
24 whom all process, and any action or proceeding against it concerning  
25 or arising out of the enforcement of sections 7 through 17 of this  
26 act, may be served in any manner authorized by law. The service must  
27 constitute legal and valid service of process on the manufacturer.  
28 The manufacturer must provide the name, address, phone number, and  
29 proof of the appointment and availability of the agent to the  
30 satisfaction of the board.

31 (2) The manufacturer must provide notice to the board 30 days  
32 before termination of the authority of an agent and must further  
33 provide proof to the satisfaction of the board of the appointment of  
34 a new agent no fewer than five days before the termination of an  
35 existing agent appointment. If an agent terminates an agency  
36 appointment, the manufacturer must notify the board of the  
37 termination within five days and include proof to the satisfaction of  
38 the board of the appointment of a new agent.

1 (3) Any manufacturer whose vapor products containing nicotine are  
2 sold in this state, who has not appointed and engaged an agent as  
3 required in this section, must be deemed to have appointed the  
4 secretary of state as the agent and may be proceeded against in  
5 courts of this state by service of process upon the secretary of  
6 state. However, the appointment of the secretary of state as agent  
7 does not satisfy the condition precedent for having the vapor  
8 products containing nicotine of the manufacturer included or retained  
9 in the directory.

10 NEW SECTION. **Sec. 16.** A new section is added to chapter 70.345  
11 RCW to read as follows:

12 (1) Any nonresident or foreign manufacturer that has not  
13 registered to do business in the state as a foreign corporation or  
14 business entity must, as a condition precedent to having its name or  
15 its vapor products containing nicotine listed and retained in the  
16 directory, submit to the board a surety bond or other cash security  
17 payable to the state of Washington in the amount of \$25,000. The bond  
18 must be posted by a corporate surety located within the United  
19 States.

20 (2) The bond under subsection (1) of this section must be  
21 conditioned on the performance by the manufacturer of all  
22 requirements and obligations imposed by this section. A surety on a  
23 manufacturer's bond is liable up to the amount of the bond and the  
24 state may execute on the surety bond for the payment of fines and  
25 penalties imposed on the manufacturer under section 13 of this act  
26 and for the costs of seizure and destruction of products sold in  
27 violation of sections 7 through 17 of this act. If the state executes  
28 on the surety bond, it may require the manufacturer to provide an  
29 additional bond as a condition precedent for retaining the  
30 manufacturer or its vapor products containing nicotine in the  
31 directory.

32 (3) A surety on a bond furnished by a manufacturer as provided in  
33 this section must be released and discharged from liability to the  
34 state accruing on the bond after 60 days from the date upon which the  
35 surety has filed with the board a written request to be released and  
36 discharged. This subsection does not operate to relieve, release, or  
37 discharge the surety from liability already accrued or that accrues  
38 before the expiration of the 60-day period. The board must, upon  
39 receiving a request under this subsection, notify the manufacturer



1 who furnished the bond. The board must remove the manufacturer and  
2 its vapor products containing nicotine from the directory unless the  
3 manufacturer files a new bond with the board before the expiration of  
4 the 60-day period, with the surety approved by and acceptable to the  
5 board.

6 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.345  
7 RCW to read as follows:

8 (1) Nicotine analogue means a substance:

9 (a) Chemical structure of which is substantially similar to the  
10 chemical structure of nicotine; or

11 (b) That has, purports to have, or is represented to have, an  
12 effect on the central nervous system that is similar to or greater  
13 than the effect on the central nervous system of nicotine.

14 (2) Factors relevant to determining whether a substance is a  
15 nicotine analogue include, but are not limited to, the marketing,  
16 advertising, and labeling of the substance, and whether the substance  
17 has been manufactured, formulated, sold, distributed, or marketed  
18 with the intent to avoid sections 7 through 16 of this act or other  
19 application provisions of law.

20 (3) It is unlawful for any person to sell, give, deliver, or  
21 furnish to a person in this state a product that contains a nicotine  
22 analogue.

23 (4) Violations of this section are subject to the following  
24 penalties:

25 (a) A monetary penalty of \$1,500 for the first violation within  
26 any 12-month period;

27 (b) A monetary penalty of \$3,000 for the second violation within  
28 any 12-month period;

29 (c) A monetary penalty of \$6,000 and suspension of a license  
30 issued under this chapter for a period of six months for the third  
31 violation within any 12-month period;

32 (d) A monetary penalty of \$12,000 and suspension of a license  
33 issued under this chapter for a period of 12 months for the fourth  
34 violation within any 12-month period;

35 (e) A monetary penalty of \$15,000 and revocation of a license  
36 issued under this chapter with no possibility of reinstatement for a  
37 period of five years for the fifth or a subsequent violation within  
38 any three-year period.

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

3        (1) The board may adopt rules necessary to implement sections 7  
4    through 17 of this act.

5        (2) Starting July 1, 2026, and annually thereafter, the board  
6    must provide a report to the legislature regarding: The status of the  
7    directory, manufacturers, and vapor products containing nicotine  
8    included in the directory; revenue and expenditures related to  
9    administration of this section; and enforcement activities undertaken  
10   under sections 7 through 17 of this act.

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

13        The vapor product nicotine directory account is created in the  
14    state treasury. All receipts from monetary penalties under sections 7  
15    through 18 of this act must be deposited into the account. Moneys in  
16    the account may be spent only after appropriation. Expenditures from  
17    the account may only be used by the board for implementation of  
18    sections 7 through 17 of this act.

19        **Sec. 20.**    RCW 82.25.030 and 2019 c 445 s 106 are each amended to  
20    read as follows:

21        (1) Every distributor must keep at each place of business  
22    complete and accurate records for that place of business, including  
23    itemized invoices, of vapor products held, purchased, manufactured,  
24    brought in or caused to be brought in from without the state, or  
25    shipped or transported to retailers in this state, and of all sales  
26    of vapor products made.

27        (2) These records must show the names and addresses of  
28    purchasers, the inventory of all vapor products including quantity of  
29    vapor products by brand, and other pertinent papers and documents  
30    relating to the purchase, sale, or disposition of vapor products. All  
31    invoices and other records required by this section to be kept must  
32    be preserved for a period of five years from the date of the invoices  
33    or other documents or the date of the entries appearing in the  
34    records.

35        (3) At any time during usual business hours the department,  
36    board, or its duly authorized agents or employees may enter any place  
37    of business of a distributor, without a search warrant, and inspect  
38    the premises, the records required to be kept under this chapter, and

1 the vapor products contained therein, to determine whether or not all  
2 the provisions of this chapter are being fully complied with. If the  
3 department, board, or any of its agents or employees are denied free  
4 access or are hindered or interfered with in making such examination,  
5 the registration certificate issued under RCW 82.32.030 of the  
6 distributor at such premises are subject to revocation by the  
7 department, and any licenses issued under chapter 70.345, 82.26, or  
8 82.24 RCW are subject to suspension or revocation by the board.

9 (4) The department or the board may share information obtained  
10 under this section that is deemed relevant to the potential violation  
11 of the laws of other jurisdictions with the duly authorized agents of  
12 those jurisdictions.

13 **Sec. 21.** RCW 82.25.095 and 2019 c 445 s 119 are each amended to  
14 read as follows:

15 (1) In all cases of seizure of any vapor products made subject to  
16 forfeiture under this chapter, the department or board must proceed  
17 as provided in RCW 82.24.135.

18 (2) When vapor products are forfeited under this chapter, the  
19 department or board may:

20 (a) Retain the property for official use or upon application by  
21 any law enforcement agency of this state, another state, or the  
22 District of Columbia, or of the United States for the exclusive use  
23 of enforcing this chapter or the laws of any other state or the  
24 District of Columbia or of the United States; (~~(e)~~)

25 (b) Destroy the vapor products; or

26 (c) Sell the vapor products at public auction to the highest  
27 bidder after due advertisement. Before delivering any of the goods to  
28 the successful bidder, the department or board must require the  
29 purchaser to pay the proper amount of any tax due. The proceeds of  
30 the sale must be first applied to the payment of all proper expenses  
31 of any investigation leading to the seizure and of the proceedings  
32 for forfeiture and sale, including expenses of seizure, maintenance  
33 of custody, advertising, and court costs. The balance of the proceeds  
34 and all money must be deposited in the general fund of the state.  
35 Proper expenses of investigation include costs incurred by any law  
36 enforcement agency or any federal, state, or local agency.

37 (3) The department or the board may return any property seized  
38 under the provisions of this chapter when it is shown that there was  
39 no intention to violate the provisions of this chapter. When any

1 property is returned under this section, the department or the board  
2 may return the property to the parties from whom they were seized if  
3 and when such parties have paid the proper amount of tax due under  
4 this chapter.

5 **Sec. 22.** RCW 82.26.010 and 2020 c 139 s 31 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) "Actual price" means the total amount of consideration for  
10 which tobacco products are sold, valued in money, whether received in  
11 money or otherwise, including any charges by the seller necessary to  
12 complete the sale such as charges for delivery, freight,  
13 transportation, or handling.

14 (2) "Affiliated" means related in any way by virtue of any form  
15 or amount of common ownership, control, operation, or management.

16 (3) (a) "Alternative nicotine product" means any noncombustible  
17 product containing nicotine that is intended for human consumption,  
18 whether chewed, absorbed, dissolved, or ingested by any other means.

19 (b) "Alternative nicotine product" does not include a vapor  
20 product or a product regulated as a drug or device by the food and  
21 drug administration.

22 (4) "Board" means the liquor and cannabis board.

23 ~~((4))~~ (5) "Business" means any trade, occupation, activity, or  
24 enterprise engaged in for the purpose of selling or distributing  
25 tobacco products in this state.

26 ~~((5))~~ (6) "Cigar" means a roll for smoking that is of any size  
27 or shape and that is made wholly or in part of tobacco, irrespective  
28 of whether the tobacco is pure or flavored, adulterated or mixed with  
29 any other ingredient, if the roll has a wrapper made wholly or in  
30 greater part of tobacco. "Cigar" does not include a cigarette.

31 ~~((6))~~ (7) "Cigarette" has the same meaning as in RCW 82.24.010.

32 ~~((7))~~ (8) "Department" means the department of revenue.

33 ~~((8))~~ (9) "Distributor" means (a) any person engaged in the  
34 business of selling tobacco products in this state who brings, or  
35 causes to be brought, into this state from without the state any  
36 tobacco products for sale, (b) any person who makes, manufactures,  
37 fabricates, or stores tobacco products in this state for sale in this  
38 state, (c) any person engaged in the business of selling tobacco  
39 products without this state who ships or transports tobacco products

1 to retailers in this state, to be sold by those retailers, (d) any  
2 person engaged in the business of selling tobacco products in this  
3 state who handles for sale any tobacco products that are within this  
4 state but upon which tax has not been imposed.

5 ~~((9))~~ (10) "Indian country" means the same as defined in  
6 chapter 82.24 RCW.

7 ~~((10))~~ (11) "Little cigar" means a cigar that has a cellulose  
8 acetate integrated filter.

9 ~~((11))~~ (12) "Manufacturer" means a person who manufactures and  
10 sells tobacco products.

11 ~~((12))~~ (13) "Manufacturer's representative" means a person  
12 hired by a manufacturer to sell or distribute the manufacturer's  
13 tobacco products, and includes employees and independent contractors.

14 ~~((13))~~ (14) "Moist snuff" means tobacco that is finely cut,  
15 ground, or powdered; is not for smoking; and is intended to be placed  
16 in the oral, but not the nasal, cavity.

17 ~~((14))~~ (15) "Person" means any individual, receiver,  
18 administrator, executor, assignee, trustee in bankruptcy, trust,  
19 estate, firm, copartnership, joint venture, club, company, joint  
20 stock company, business trust, municipal corporation, the state and  
21 its departments and institutions, political subdivision of the state  
22 of Washington, corporation, limited liability company, association,  
23 society, any group of individuals acting as a unit, whether mutual,  
24 cooperative, fraternal, nonprofit, or otherwise. The term excludes  
25 any person immune from state taxation, including the United States or  
26 its instrumentalities, and federally recognized Indian tribes and  
27 enrolled tribal members, conducting business within Indian country.

28 ~~((15))~~ (16) "Place of business" means any place where tobacco  
29 products are sold or where tobacco products are manufactured, stored,  
30 or kept for the purpose of sale, including any vessel, vehicle,  
31 airplane, train, or vending machine.

32 ~~((16))~~ (17) "Retail outlet" means each place of business from  
33 which tobacco products are sold to consumers.

34 ~~((17))~~ (18) "Retailer" means any person engaged in the business  
35 of selling tobacco products to ultimate consumers.

36 ~~((18))~~ (19)(a) "Sale" means any transfer, exchange, or barter,  
37 in any manner or by any means whatsoever, for a consideration, and  
38 includes and means all sales made by any person.

1 (b) The term "sale" includes a gift by a person engaged in the  
2 business of selling tobacco products, for advertising, promoting, or  
3 as a means of evading the provisions of this chapter.

4 (~~(19)~~) (20) (a) "Taxable sales price" means:

5 (i) In the case of a taxpayer that is not affiliated with the  
6 manufacturer, distributor, or other person from whom the taxpayer  
7 purchased tobacco products, the actual price for which the taxpayer  
8 purchased the tobacco products;

9 (ii) In the case of a taxpayer that purchases tobacco products  
10 from an affiliated manufacturer, affiliated distributor, or other  
11 affiliated person, and that sells those tobacco products to  
12 unaffiliated distributors, unaffiliated retailers, or ultimate  
13 consumers, the actual price for which that taxpayer sells those  
14 tobacco products to unaffiliated distributors, unaffiliated  
15 retailers, or ultimate consumers;

16 (iii) In the case of a taxpayer that sells tobacco products only  
17 to affiliated distributors or affiliated retailers, the price,  
18 determined as nearly as possible according to the actual price, that  
19 other distributors sell similar tobacco products of like quality and  
20 character to unaffiliated distributors, unaffiliated retailers, or  
21 ultimate consumers;

22 (iv) In the case of a taxpayer that is a manufacturer selling  
23 tobacco products directly to ultimate consumers, the actual price for  
24 which the taxpayer sells those tobacco products to ultimate  
25 consumers;

26 (v) In the case of a taxpayer that has acquired tobacco products  
27 under a sale as defined in subsection (~~(18)~~) (19) (b) of this  
28 section, the price, determined as nearly as possible according to the  
29 actual price, that the taxpayer or other distributors sell the same  
30 tobacco products or similar tobacco products of like quality and  
31 character to unaffiliated distributors, unaffiliated retailers, or  
32 ultimate consumers; or

33 (vi) In any case where (a)(i) through (v) of this subsection do  
34 not apply, the price, determined as nearly as possible according to  
35 the actual price, that the taxpayer or other distributors sell the  
36 same tobacco products or similar tobacco products of like quality and  
37 character to unaffiliated distributors, unaffiliated retailers, or  
38 ultimate consumers.

39 (b) For purposes of (a)(i) and (ii) of this subsection only,  
40 "person" includes both persons as defined in subsection (~~(14)~~) (15)

1 of this section and any person immune from state taxation, including  
2 the United States or its instrumentalities, and federally recognized  
3 Indian tribes and enrolled tribal members, conducting business within  
4 Indian country.

5 (c) The department may adopt rules regarding the determination of  
6 taxable sales price under this subsection.

7 ~~((20))~~ (21) "Taxpayer" means a person liable for the tax  
8 imposed by this chapter.

9 ~~((21))~~ (22) "Tobacco products" means alternative nicotine  
10 products, cigars, cheroots, stogies, periques, granulated, plug cut,  
11 crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff  
12 flour, cavendish, plug and twist tobacco, fine-cut and other chewing  
13 tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of  
14 tobacco, and other kinds and forms of tobacco, prepared in such  
15 manner as to be suitable for chewing or smoking in a pipe or  
16 otherwise, or both for chewing and smoking, and any other product,  
17 regardless of form, that contains tobacco and is intended for human  
18 consumption or placement in the oral or nasal cavity or absorption  
19 into the human body by any other means, but does not include  
20 cigarettes as defined in RCW 82.24.010.

21 ~~((22))~~ (23) "Unaffiliated distributor" means a distributor that  
22 is not affiliated with the manufacturer, distributor, or other person  
23 from whom the distributor has purchased tobacco products.

24 ~~((23))~~ (24) "Unaffiliated retailer" means a retailer that is  
25 not affiliated with the manufacturer, distributor, or other person  
26 from whom the retailer has purchased tobacco products.

27 **Sec. 23.** RCW 82.26.020 and 2019 c 445 s 404 are each amended to  
28 read as follows:

29 (1) There is levied and collected a tax upon the sale, handling,  
30 or distribution of all tobacco products, except alternative nicotine  
31 products, in this state at the following rate:

32 (a) For cigars except little cigars, ninety-five percent of the  
33 taxable sales price of cigars, not to exceed sixty-five cents per  
34 cigar;

35 (b) For all tobacco products except those covered under separate  
36 provisions of this subsection and alternative nicotine products,  
37 ninety-five percent of the taxable sales price. The tax imposed on a  
38 product under this subsection must be reduced by fifty percent if  
39 that same product is issued a modified risk tobacco product order by

1 the secretary of the United States department of health and human  
2 services pursuant to Title 21 U.S.C. Sec. 387k(g)(1), or by twenty-  
3 five percent if that same product is issued a modified risk tobacco  
4 product order by the secretary of the United States department of  
5 health and human services pursuant to Title 21 U.S.C. Sec.  
6 387k(g)(2). The tax reduction applies during the period the modified  
7 risk tobacco product order is in effect;

8 (c) For moist snuff, as established in this subsection (1)(c) and  
9 computed on the net weight listed by the manufacturer:

10 (i) On each single unit consumer-sized can or package whose net  
11 weight is one and two-tenths ounces or less, a rate per single unit  
12 that is equal to the greater of 2.526 dollars or eighty-three and  
13 one-half percent of the cigarette tax under chapter 82.24 RCW  
14 multiplied by twenty; or

15 (ii) On each single unit consumer-sized can or package whose net  
16 weight is more than one and two-tenths ounces, a proportionate tax at  
17 the rate established in (c)(i) of this subsection (1) on each ounce  
18 or fractional part of an ounce; and

19 (d) For little cigars, an amount per cigar equal to the cigarette  
20 tax under chapter 82.24 RCW.

21 (2) Taxes under this section must be imposed at the time the  
22 distributor (a) brings, or causes to be brought, into this state from  
23 without the state tobacco products for sale, (b) makes, manufactures,  
24 fabricates, or stores tobacco products in this state for sale in this  
25 state, (c) ships or transports tobacco products to retailers in this  
26 state, to be sold by those retailers, or (d) handles for sale any  
27 tobacco products that are within this state but upon which tax has  
28 not been imposed.

29 (3) The moneys collected under this section must be deposited  
30 into the state general fund.

31 **Sec. 24.** RCW 82.26.060 and 2019 c 445 s 205 are each amended to  
32 read as follows:

33 (1) Every distributor must keep at each place of business  
34 complete and accurate records for that place of business, including  
35 itemized invoices, of tobacco products held, purchased, manufactured,  
36 brought in or caused to be brought in from without the state, or  
37 shipped or transported to retailers in this state, and of all sales  
38 of tobacco products made.



1 (2) These records must show the names and addresses of  
2 purchasers, the inventory of all tobacco products including quantity  
3 of tobacco products by brand, and other pertinent papers and  
4 documents relating to the purchase, sale, or disposition of tobacco  
5 products. All invoices and other records required by this section to  
6 be kept must be preserved for a period of five years from the date of  
7 the invoices or other documents or the date of the entries appearing  
8 in the records.

9 (3) At any time during usual business hours the department,  
10 board, or its duly authorized agents or employees, may enter any  
11 place of business of a distributor, without a search warrant, and  
12 inspect the premises, the records required to be kept under this  
13 chapter, and the tobacco products contained therein, to determine  
14 whether or not all the provisions of this chapter are being fully  
15 complied with. If the department, board, or any of its agents or  
16 employees, are denied free access or are hindered or interfered with  
17 in making such examination, the registration certificate issued under  
18 RCW 82.32.030 of the distributor at such premises is subject to  
19 revocation, and any licenses issued under this chapter or chapter  
20 82.24 or 70.345 RCW are subject to suspension or revocation, by the  
21 department or board.

22 (4) The department or the board may share information obtained  
23 under this section that is deemed relevant to the potential violation  
24 of the laws of other jurisdictions with the duly authorized agents of  
25 those jurisdictions.

26 **Sec. 25.** RCW 82.26.190 and 2020 c 139 s 34 are each amended to  
27 read as follows:

28 (1)(a) No person may engage in or conduct business as a  
29 distributor or retailer in this state after September 30, 2005,  
30 without a valid license issued under this chapter. Any person who  
31 sells tobacco products to persons other than ultimate consumers or  
32 who meets the definition of distributor under RCW 82.26.010(~~(+8)~~)  
33 (9)(d) must obtain a distributor's license under this chapter. Any  
34 person who sells tobacco products to ultimate consumers must obtain a  
35 retailer's license under this chapter. Products offered for sale in  
36 violation of this subsection are contraband and subject to seizure in  
37 accordance with RCW 82.25.095.

38 (b) A violation of this subsection (1) is punishable as a class C  
39 felony according to chapter 9A.20 RCW.

1 (2) (a) No person engaged in or conducting business as a  
2 distributor or retailer in this state may:

3 (i) Refuse to allow the department or the board, on demand, to  
4 make a full inspection of any place of business where any of the  
5 tobacco products taxed under this chapter are sold, stored, or  
6 handled, or otherwise hinder or prevent such inspection;

7 (ii) Make, use, or present or exhibit to the department or the  
8 board any invoice for any of the tobacco products taxed under this  
9 chapter that bears an untrue date or falsely states the nature or  
10 quantity of the goods invoiced; or

11 (iii) Fail to produce on demand of the department or the board  
12 all invoices of all the tobacco products taxed under this chapter  
13 within five years prior to such demand unless the person can show by  
14 satisfactory proof that the nonproduction of the invoices was due to  
15 causes beyond the person's control.

16 (b) No person, other than a licensed distributor or retailer, may  
17 transport tobacco products for sale in this state for which the taxes  
18 imposed under this chapter have not been paid unless:

19 (i) Notice of the transportation has been given as required under  
20 RCW 82.26.140;

21 (ii) The person transporting the tobacco products actually  
22 possesses invoices or delivery tickets showing the true name and  
23 address of the consignor or seller, the true name and address of the  
24 consignee or purchaser, and the quantity and brands of tobacco  
25 products being transported; and

26 (iii) The tobacco products are consigned to or purchased by a  
27 person in this state who is licensed under this chapter.

28 (c) A violation of this subsection (2) is a gross misdemeanor.

29 (3) Any person licensed under this chapter as a distributor, and  
30 any person licensed under this chapter as a retailer, may not operate  
31 in any other capacity unless the additional appropriate license is  
32 first secured. A violation of this subsection (3) is a misdemeanor.

33 (4) The penalties provided in this section are in addition to any  
34 other penalties provided by law for violating the provisions of this  
35 chapter or the rules adopted under this chapter.

36 **Sec. 26.** RCW 82.26.200 and 2020 c 139 s 35 are each amended to  
37 read as follows:

38 (1) A retailer may obtain tobacco products only from a licensed  
39 distributor. A retailer that obtains tobacco products from (~~an~~

1 ~~unlicensed distributor or any other~~) a person that is not licensed  
2 under this chapter, including directly from a manufacturer, must be  
3 licensed both as a retailer and a distributor under this chapter and  
4 is liable for the tax imposed under RCW 82.26.020 with respect to the  
5 tobacco products acquired from the unlicensed person that are held  
6 for sale, handling, or distribution in this state. For the purposes  
7 of this subsection, "person" includes both persons defined in RCW  
8 82.26.010(~~(14)~~) (15) and any person immune from state taxation,  
9 such as the United States or its instrumentalities, and federally  
10 recognized Indian tribes and enrolled tribal members, conducting  
11 business within Indian country.

12 (2) Every distributor licensed under this chapter must sell  
13 tobacco products to retailers located in Washington only if the  
14 retailer has a current retailer's license under this chapter.

15 **Sec. 27.** RCW 82.26.240 and 2005 c 180 s 21 are each amended to  
16 read as follows:

17 (1) In all cases of seizure of any tobacco products made subject  
18 to forfeiture under this chapter, the department or board shall  
19 proceed as provided in RCW 82.24.135.

20 (2) When tobacco products are forfeited under this chapter, the  
21 department or board may:

22 (a) Retain the property for official use or upon application by  
23 any law enforcement agency of this state, another state, or the  
24 District of Columbia, or of the United States for the exclusive use  
25 of enforcing this chapter or the laws of any other state or the  
26 District of Columbia or of the United States; (~~(e)~~)

27 (b) Destroy the tobacco products; or

28 (c) Sell the tobacco products at public auction to the highest  
29 bidder after due advertisement. Before delivering any of the goods to  
30 the successful bidder, the department or board shall require the  
31 purchaser to pay the proper amount of any tax due. The proceeds of  
32 the sale shall be first applied to the payment of all proper expenses  
33 of any investigation leading to the seizure and of the proceedings  
34 for forfeiture and sale, including expenses of seizure, maintenance  
35 of custody, advertising, and court costs. The balance of the proceeds  
36 and all money shall be deposited in the general fund of the state.  
37 Proper expenses of investigation include costs incurred by any law  
38 enforcement agency or any federal, state, or local agency.

1 (3) The department or the board may return any property seized  
2 under the provisions of this chapter when it is shown that there was  
3 no intention to violate the provisions of this chapter. When any  
4 property is returned under this section, the department or the board  
5 may return the property to the parties from whom they were seized if  
6 and when such parties have paid the proper amount of tax due under  
7 this chapter.

8 **Sec. 28.** RCW 42.56.270 and 2023 c 340 s 11 are each amended to  
9 read as follows:

10 The following financial, commercial, and proprietary information  
11 is exempt from disclosure under this chapter:

12 (1) Valuable formulae, designs, drawings, computer source code or  
13 object code, and research data obtained by any agency within five  
14 years of the request for disclosure when disclosure would produce  
15 private gain and public loss;

16 (2) Financial information supplied by or on behalf of a person,  
17 firm, or corporation for the purpose of qualifying to submit a bid or  
18 proposal for (a) a ferry system construction or repair contract as  
19 required by RCW 47.60.680 through 47.60.750; (b) highway construction  
20 or improvement as required by RCW 47.28.070; or (c) alternative  
21 public works contracting procedures as required by RCW 39.10.200  
22 through 39.10.905;

23 (3) Financial and commercial information and records supplied by  
24 private persons pertaining to export services provided under chapters  
25 43.163 and 53.31 RCW, and by persons pertaining to export projects  
26 under RCW 43.23.035;

27 (4) Financial and commercial information and records supplied by  
28 businesses or individuals during application for loans or program  
29 services provided by chapters 43.325, 43.163, 43.160, 43.330, 43.168,  
30 and 43.181 RCW and RCW 43.155.160, or during application for economic  
31 development loans or program services provided by any local agency;

32 (5) Financial information, business plans, examination reports,  
33 and any information produced or obtained in evaluating or examining a  
34 business and industrial development corporation organized or seeking  
35 certification under chapter 31.24 RCW;

36 (6) Financial and commercial information supplied to the state  
37 investment board by any person when the information relates to the  
38 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the  
2 providers of this information;

3 (7) Financial and valuable trade information under RCW 51.36.120;

4 (8) Financial, commercial, operations, and technical and research  
5 information and data submitted to or obtained by the clean Washington  
6 center in applications for, or delivery of, program services under  
7 chapter 70.95H RCW;

8 (9) Financial and commercial information requested by the public  
9 stadium authority from any person or organization that leases or uses  
10 the stadium and exhibition center as defined in RCW 36.102.010;

11 (10)(a) Financial information, including but not limited to  
12 account numbers and values, and other identification numbers supplied  
13 by or on behalf of a person, firm, corporation, limited liability  
14 company, partnership, or other entity related to an application for a  
15 horse racing license submitted pursuant to RCW 67.16.260(1)(b),  
16 cannabis producer, processor, or retailer license, liquor license,  
17 gambling license, or lottery retail license;

18 (b) Internal control documents, independent auditors' reports and  
19 financial statements, and supporting documents: (i) Of house-banked  
20 social card game licensees required by the gambling commission  
21 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted  
22 by tribes with an approved tribal/state compact for class III gaming;

23 (c) Valuable formulae or financial or proprietary commercial  
24 information records received during a consultative visit or while  
25 providing consultative services to a licensed cannabis business in  
26 accordance with RCW 69.50.561;

27 (11) Proprietary data, trade secrets, or other information that  
28 relates to: (a) A vendor's unique methods of conducting business; (b)  
29 data unique to the product or services of the vendor; or (c)  
30 determining prices or rates to be charged for services, submitted by  
31 any vendor to the department of social and health services or the  
32 health care authority for purposes of the development, acquisition,  
33 or implementation of state purchased health care as defined in RCW  
34 41.05.011;

35 (12)(a) When supplied to and in the records of the department of  
36 commerce:

37 (i) Financial and proprietary information collected from any  
38 person and provided to the department of commerce pursuant to RCW  
39 43.330.050(8);

1 (ii) Financial or proprietary information collected from any  
2 person and provided to the department of commerce or the office of  
3 the governor in connection with the siting, recruitment, expansion,  
4 retention, or relocation of that person's business and until a siting  
5 decision is made, identifying information of any person supplying  
6 information under this subsection and the locations being considered  
7 for siting, relocation, or expansion of a business; and

8 (iii) Financial or proprietary information collected from any  
9 person and provided to the department of commerce pursuant to RCW  
10 43.31.625 (3) (b) and (4);

11 (b) When developed by the department of commerce based on  
12 information as described in (a) (i) of this subsection, any work  
13 product is not exempt from disclosure;

14 (c) For the purposes of this subsection, "siting decision" means  
15 the decision to acquire or not to acquire a site;

16 (d) If there is no written contact for a period of 60 days to the  
17 department of commerce from a person connected with siting,  
18 recruitment, expansion, retention, or relocation of that person's  
19 business, information described in (a) (ii) of this subsection will be  
20 available to the public under this chapter;

21 (13) Financial and proprietary information submitted to or  
22 obtained by the department of ecology or the authority created under  
23 chapter 70A.500 RCW to implement chapter 70A.500 RCW;

24 (14) Financial, commercial, operations, and technical and  
25 research information and data submitted to or obtained by the life  
26 sciences discovery fund authority in applications for, or delivery  
27 of, grants under RCW 43.330.502, to the extent that such information,  
28 if revealed, would reasonably be expected to result in private loss  
29 to the providers of this information;

30 (15) Financial and commercial information provided as evidence to  
31 the department of licensing as required by RCW 19.112.110 or  
32 19.112.120, except information disclosed in aggregate form that does  
33 not permit the identification of information related to individual  
34 fuel licensees;

35 (16) Any production records, mineral assessments, and trade  
36 secrets submitted by a permit holder, mine operator, or landowner to  
37 the department of natural resources under RCW 78.44.085;

38 (17) (a) Farm plans developed by conservation districts, unless  
39 permission to release the farm plan is granted by the landowner or

1 operator who requested the plan, or the farm plan is used for the  
2 application or issuance of a permit;

3 (b) Farm plans developed under chapter 90.48 RCW and not under  
4 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject  
5 to RCW 42.56.610 and 90.64.190;

6 (18) Financial, commercial, operations, and technical and  
7 research information and data submitted to or obtained by a health  
8 sciences and services authority in applications for, or delivery of,  
9 grants under RCW 35.104.010 through 35.104.060, to the extent that  
10 such information, if revealed, would reasonably be expected to result  
11 in private loss to providers of this information;

12 (19) Information gathered under chapter 19.85 RCW or RCW  
13 34.05.328 that can be identified to a particular business;

14 (20) Financial and commercial information submitted to or  
15 obtained by the University of Washington, other than information the  
16 university is required to disclose under RCW 28B.20.150, when the  
17 information relates to investments in private funds, to the extent  
18 that such information, if revealed, would reasonably be expected to  
19 result in loss to the University of Washington consolidated endowment  
20 fund or to result in private loss to the providers of this  
21 information;

22 (21) Market share data submitted by a manufacturer under RCW  
23 70A.500.190(4);

24 (22) Financial information supplied to the department of  
25 financial institutions, when filed by or on behalf of an issuer of  
26 securities for the purpose of obtaining the exemption from state  
27 securities registration for small securities offerings provided under  
28 RCW 21.20.880 or when filed by or on behalf of an investor for the  
29 purpose of purchasing such securities;

30 (23) Unaggregated or individual notices of a transfer of crude  
31 oil that is financial, proprietary, or commercial information,  
32 submitted to the department of ecology pursuant to RCW  
33 90.56.565(1)(a), and that is in the possession of the department of  
34 ecology or any entity with which the department of ecology has shared  
35 the notice pursuant to RCW 90.56.565;

36 (24) Financial institution and retirement account information,  
37 and building security plan information, supplied to the liquor and  
38 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and  
39 69.50.345, when filed by or on behalf of a licensee or prospective  
40 licensee for the purpose of obtaining, maintaining, or renewing a

1 license to produce, process, transport, or sell cannabis as allowed  
2 under chapter 69.50 RCW;

3 (25) Cannabis transport information, vehicle and driver  
4 identification data, and account numbers or unique access identifiers  
5 issued to private entities for traceability system access, submitted  
6 by an individual or business to the liquor and cannabis board under  
7 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and  
8 69.50.345 for the purpose of cannabis product traceability.  
9 Disclosure to local, state, and federal officials is not considered  
10 public disclosure for purposes of this section;

11 (26) Financial and commercial information submitted to or  
12 obtained by the retirement board of any city that is responsible for  
13 the management of an employees' retirement system pursuant to the  
14 authority of chapter 35.39 RCW, when the information relates to  
15 investments in private funds, to the extent that such information, if  
16 revealed, would reasonably be expected to result in loss to the  
17 retirement fund or to result in private loss to the providers of this  
18 information except that (a) the names and commitment amounts of the  
19 private funds in which retirement funds are invested and (b) the  
20 aggregate quarterly performance results for a retirement fund's  
21 portfolio of investments in such funds are subject to disclosure;

22 (27) Proprietary financial, commercial, operations, and technical  
23 and research information and data submitted to or obtained by the  
24 liquor and cannabis board in applications for cannabis research  
25 licenses under RCW 69.50.372, or in reports submitted by cannabis  
26 research licensees in accordance with rules adopted by the liquor and  
27 cannabis board under RCW 69.50.372;

28 (28) Trade secrets, technology, proprietary information, and  
29 financial considerations contained in any agreements or contracts,  
30 entered into by a licensed cannabis business under RCW 69.50.395,  
31 which may be submitted to or obtained by the state liquor and  
32 cannabis board;

33 (29) Financial, commercial, operations, and technical and  
34 research information and data submitted to or obtained by the Andy  
35 Hill cancer research endowment program in applications for, or  
36 delivery of, grants under chapter 43.348 RCW, to the extent that such  
37 information, if revealed, would reasonably be expected to result in  
38 private loss to providers of this information;

39 (30) Proprietary information filed with the department of health  
40 under chapter 69.48 RCW;



1 (31) Records filed with the department of ecology under chapter  
2 70A.515 RCW that a court has determined are confidential valuable  
3 commercial information under RCW 70A.515.130; (~~and~~)

4 (32) Unaggregated financial, proprietary, or commercial  
5 information submitted to or obtained by the liquor and cannabis board  
6 in applications for licenses under RCW 66.24.140 or 66.24.145, or in  
7 any reports or remittances submitted by a person licensed under RCW  
8 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis  
9 board under chapter 66.08 RCW; and

10 (33) Confidential commercial or financial information submitted  
11 by manufacturers of vapor products to the liquor and cannabis board  
12 accompanying a certification delivered under section 7(3)(a) of this  
13 act.

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