
SENATE BILL 5183

State of Washington

69th Legislature

2025 Regular Session

By Senators Nobles, Lovick, Harris, Wellman, Dhingra, Trudeau, Valdez, Liias, Stanford, Orwall, and Robinson

Prefiled 01/08/25.

1 AN ACT Relating to protecting the health of all Washingtonians by
2 ending the sale of certain tobacco and nicotine products, including
3 products with flavors and video games; amending RCW 70.155.020,
4 70.155.100, 70.345.070, 70.345.180, 82.25.005, and 82.26.010; adding
5 a new chapter to Title 70 RCW; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds the following:

8 (a) Tobacco use remains a significant public health problem and
9 impediment to health equity in Washington and across the country. It
10 remains the leading cause of preventable death in the United States,
11 killing more than 480,000 Americans each year, including 8,300
12 Washingtonians. Of cancer deaths in Washington, 27 percent are
13 attributable to smoking.

14 (b) The growing market for flavored tobacco and nicotine products
15 is undermining the nation's progress in reducing overall youth
16 tobacco use. Flavored tobacco and nicotine products, including
17 menthol cigarettes, have been shown to be starter products for youth
18 who begin using tobacco, establishing tobacco habits that can lead to
19 long-term addiction. Of youth who have ever used a tobacco product,
20 eight out of 10 initiated with a flavored product.

1 (c) The United States surgeon general declared youth vapor
2 product use an "epidemic" in 2018. More than 1,600,000 middle and
3 high school students across the United States currently use vapor
4 products, including almost eight percent of 10th graders and 14
5 percent of 12th graders in Washington. Of high school students who
6 vape, 42 percent are addicted enough to use frequently or daily.

7 (d) Youth vape because they come in appealing, kid-friendly
8 flavors like cotton candy, gummy bear, and pink lemonade. About 88
9 percent of youth who vape use a flavored product.

10 (e) The tobacco industry continues to redesign products to become
11 even more appealing to youth, with some of the newest products
12 featuring light-up video games like pac-man and tetris.

13 (f) Vaping is not harmless. Youth vapor product use is associated
14 with an increased risk for cigarette smoking, and according to the
15 surgeon general, nicotine can harm the parts of the adolescent brain
16 responsible for attention, learning, mood, and impulse control, and
17 can prime the brain for addiction to other drugs.

18 (g) Like vapor products, cigars are also sold in hundreds of
19 flavors, including tropical twist, chocolate brownie, and cherry
20 dynamite, which mask the harsh taste of tobacco. Black and Hispanic
21 youth smoke cigars at higher rates than white youth. Regular cigar
22 use can cause cancer of the oral cavity, larynx, esophagus, and lung,
23 and it kills approximately 9,000 Americans each year.

24 (h) Each year, more than 9,100 kids in Washington try their first
25 cigarette, with half initiating with menthol cigarettes. Menthol
26 appeals to youth who are initiating tobacco use because it cools and
27 numbs the throat and reduces irritation. The food and drug
28 administration has concluded that menthol cigarettes lead to
29 increased smoking initiation among youth and young adults, greater
30 addiction, and decreased success in quitting smoking.

31 (i) The centers for disease control estimates that prohibiting
32 menthol cigarettes in Washington state would lead to 7,400 adults to
33 quit smoking.

34 (j) The tobacco industry has targeted African American
35 communities for decades with marketing for menthol cigarettes through
36 sponsorship of community and music events, targeted magazine
37 advertising, and retail promotions. The result today is that 85
38 percent of Black smokers and 50 percent of Hispanic smokers smoke
39 menthol cigarettes, compared to 29 percent of white smokers. Each
40 year approximately 45,000 African Americans die from a smoking-caused

1 illness. Ending the sale of flavored tobacco and nicotine products
2 will improve the health and save lives of groups who historically
3 have been targeted by the tobacco industry and disproportionately
4 burdened by tobacco-related disease.

5 (k) The number of youth using nicotine pouches has more than
6 doubled since 2021, with nearly half a million youth reporting
7 current nicotine pouch use in 2024.

8 (l) Hookah smoking is linked to many of the same adverse health
9 effects as cigarette smoking, such as heart disease and lung,
10 bladder, and oral cancers. Hookah is available in more than 1,800
11 varieties, including kid-friendly flavors like bubble gum, cola, and
12 watermelon, and 84 percent of youth hookah users use flavored hookah.

13 (2) The legislature therefore intends to prohibit the sale of all
14 flavored tobacco and nicotine products and entertainment vapor
15 products to reduce youth usage and protect the next generation from a
16 lifetime of addiction and premature death.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires
19 otherwise.

20 (1) "Entertainment vapor product" means any vapor product that
21 has interactive gaming or entertainment features including, but not
22 limited to, allowing a user to play music or audio, display photos or
23 video, play virtual games, or display other animations on the device.

24 (2) "Flavored tobacco or nicotine product" means any tobacco or
25 nicotine product that imparts:

26 (a) A taste or smell, other than the taste or smell of tobacco,
27 distinguishable by an ordinary consumer either before or during the
28 consumption of such tobacco product including, but not limited to,
29 the taste or smell of fruit, chocolate, vanilla, honey, candy, cocoa,
30 dessert, alcoholic beverage, mint, wintergreen, menthol, herb, or
31 spice; or

32 (b) A cooling or numbing sensation distinguishable by an ordinary
33 consumer either before or during the consumption of such tobacco
34 product.

35 (3) "Nicotine" means any form of the chemical nicotine, including
36 any salt or complex, regardless of whether the chemical is naturally
37 or synthetically derived, and includes nicotinic alkaloids and
38 nicotine analogs.

1 (4) "Retailer" means any person engaged in the business of
2 selling tobacco or nicotine products or vapor products to ultimate
3 consumers.

4 (5) (a) "Tobacco or nicotine product" means any:

5 (i) Product containing, made of, or derived from tobacco or
6 nicotine that is intended for human consumption or is likely to be
7 consumed, whether inhaled, absorbed, or ingested by any other means,
8 including, but not limited to, a cigarette, a cigar, pipe tobacco,
9 chewing tobacco, snuff, or snus;

10 (ii) Vapor product and any substance that may be aerosolized or
11 vaporized by such product, whether or not the substance contains
12 nicotine; or

13 (iii) Component, part, or accessory of a product described in
14 this subsection (5), regardless of whether such component, part, or
15 accessory contains tobacco or nicotine including, but not limited to,
16 filters, rolling papers, blunt or hemp wraps, hookahs, flavor
17 enhancers, mouthpieces, or pipes.

18 (b) "Tobacco or nicotine product" does not mean:

19 (i) Drugs, devices, or combination products authorized for sale
20 by the United States food and drug administration, as those terms are
21 defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec.
22 301 et seq.) as it exists on the effective date of this section; or

23 (ii) Any product regulated under chapter 69.50 RCW that meets the
24 definition of cannabis, useable cannabis, cannabis concentrates, or
25 cannabis-infused products as those terms are defined in RCW
26 69.50.101.

27 (6) "Vapor product" has the same meaning as in RCW 70.345.010.

28 NEW SECTION. **Sec. 3.** (1) Beginning January 1, 2026, no retailer
29 may sell, offer for sale, display, market, or advertise for sale in
30 this state, any flavored tobacco or nicotine product or entertainment
31 vapor product.

32 (2) (a) There is a rebuttable presumption that a tobacco or
33 nicotine product is a flavored tobacco or nicotine product if any
34 communication by or on behalf of the manufacturer or retailer
35 indicates that the product imparts a:

36 (i) Taste or smell other than the taste or smell of tobacco; or

37 (ii) Cooling or numbing sensation.

1 (b) Evidence of such communication may include but is not limited
2 to the use of terms such as "cool," "chill," "ice," "fresh,"
3 "arctic," or "frost" to describe the product.

4 NEW SECTION. **Sec. 4.** The department of health shall develop,
5 implement, and maintain a statewide flavored tobacco and nicotine
6 products and entertainment vapor products prevention and awareness
7 campaign to address the use of such products. The campaign must
8 educate the public about the health risks and addictive nature of
9 flavored tobacco and nicotine products, include outreach to both
10 youth and adults aimed at preventing use, and be consistent with best
11 practices identified by the centers for disease control and
12 prevention. The department, in consultation with the health care
13 authority, may also include messaging focused on tobacco and nicotine
14 addiction and prevention and resources for addiction treatment and
15 services. The department shall report to the appropriate committees
16 of the legislature regarding the status of such education program by
17 January 1, 2026.

18 NEW SECTION. **Sec. 5.** The liquor and cannabis board must adopt
19 rules to implement the requirements of this chapter and for
20 compliance education for licensed retailers, distributors, and
21 manufacturers and their employees relating to abating violations of
22 this chapter and rules adopted under this chapter.

23 NEW SECTION. **Sec. 6.** It is an unfair or deceptive practice
24 under RCW 19.86.020 for any retailer to sell, offer for sale,
25 display, market, or advertise for sale any flavored tobacco or
26 nicotine product or any entertainment vapor product in this state.
27 The legislature finds that the practices covered by this chapter are
28 matters vitally affecting the public interest for the purpose of
29 applying the consumer protection act, chapter 19.86 RCW. A violation
30 of this chapter is not reasonable in relation to the development and
31 preservation of business and is an unfair or deceptive act in trade
32 or commerce and an unfair method of competition for the purpose of
33 applying the consumer protection act, chapter 19.86 RCW.

34 NEW SECTION. **Sec. 7.** In recognition of the sovereign authority
35 of tribal governments, the governor may seek government-to-government
36 consultations with federally recognized Indian tribes regarding

1 prohibiting the sale or offer for sale of any flavored tobacco or
2 nicotine product or entertainment vapor product, and the display,
3 marketing, or advertising for sale of such products, in compacts
4 entered into under RCW 43.06.455, 43.06.465, 43.06.466, and 43.06.505
5 through 43.06.515.

6 **Sec. 8.** RCW 70.155.020 and 2019 c 15 s 5 are each amended to
7 read as follows:

8 A person who holds a license issued under RCW 82.24.520 or
9 82.24.530 shall:

10 (1) Display the license or a copy in a prominent location at the
11 outlet for which the license is issued; (~~and~~)

12 (2) Display a sign concerning the prohibition of tobacco sales to
13 persons under the age of (~~twenty-one~~) 21.

14 Such sign shall:

15 (a) Be posted so that it is clearly visible to anyone purchasing
16 tobacco products from the licensee;

17 (b) Be designed and produced by the department of health to read:
18 "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE 21 IS STRICTLY
19 PROHIBITED BY STATE LAW. PHOTO ID REQUIRED UPON REQUEST"; and

20 (c) Be provided free of charge by the liquor and cannabis board;
21 and

22 (3) Display a sign concerning the prohibition of the sale of
23 flavored tobacco and nicotine products in this state. The sign must:

24 (a) Be posted so that it is clearly visible to anyone purchasing
25 tobacco products from the licensee;

26 (b) Be designed and produced by the department of health to read:
27 "THE SALE OF FLAVORED TOBACCO AND NICOTINE PRODUCTS IN THIS STATE IS
28 STRICTLY PROHIBITED BY STATE LAW."; and

29 (c) Be provided free of charge by the liquor and cannabis board.

30 **Sec. 9.** RCW 70.155.100 and 2023 c 398 s 4 are each amended to
31 read as follows:

32 (1) The liquor and cannabis board may suspend or revoke a
33 retailer's license issued under RCW 82.24.510(1)(b) or
34 82.26.150(1)(b) held by a business at any location, or may impose a
35 monetary penalty as set forth in subsection (3) of this section, if
36 the liquor and cannabis board finds that the licensee has violated
37 RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040, 70.155.050,
38 70.155.070, (~~or~~) 70.155.090, or section 3 of this act.

1 (2) Any retailer's licenses issued under RCW 70.345.020 to a
2 person whose license or licenses under chapter 82.24 or 82.26 RCW
3 have been suspended or revoked for violating RCW 26.28.080 or section
4 3 of this act must also be suspended or revoked during the period of
5 suspension or revocation under this section.

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

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

13 (i) A monetary penalty of \$200 for the first violation within any
14 three-year period;

15 (ii) A monetary penalty of \$600 for the second violation within
16 any three-year period;

17 (iii) A monetary penalty of \$2,000 and suspension of the license
18 for a period of six months for the third violation within any three-
19 year period;

20 (iv) A monetary penalty of \$3,000 and suspension of the license
21 for a period of 12 months for the fourth violation within any three-
22 year period;

23 (v) Revocation of the license with no possibility of
24 reinstatement for a period of five years for the fifth or more
25 violation within any three-year period;

26 (b) For violations of RCW 26.28.080 or section 3 of this act:

27 (i) A monetary penalty of \$1,000 for the first violation within
28 any three-year period;

29 (ii) A monetary penalty of \$2,500 for the second violation within
30 any three-year period;

31 (iii) A monetary penalty of \$5,000 and suspension of the license
32 for a period of six months for the third violation within any three-
33 year period;

34 (iv) A monetary penalty of \$10,000 and suspension of the license
35 for a period of 12 months for the fourth violation within any three-
36 year period;

37 (v) Revocation of the license with no possibility of
38 reinstatement for a period of five years for the fifth or more
39 violation within any three-year period;

1 (c) If the board finds that a person licensed under chapter 82.24
2 or 82.26 RCW and RCW 70.345.020 has violated RCW 26.28.080 or section
3 3 of this act, each subsequent violation of either of the person's
4 licenses counts as an additional violation within that three-year
5 period;

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

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

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

12 (4) The liquor and cannabis board may impose a monetary penalty
13 upon any person other than a licensed cigarette or tobacco product
14 retailer if the liquor and cannabis board finds that the person has
15 violated RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040,
16 70.155.050, 70.155.070, (~~or~~) 70.155.090, or section 3 of this act.

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

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

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

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

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

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

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

30 (7) The liquor and cannabis board may issue a cease and desist
31 order to any person who is found by the liquor and cannabis board to
32 have violated or intending to violate the provisions of this chapter,
33 RCW 26.28.080, 82.24.500, or 82.26.190 requiring such person to cease
34 specified conduct that is in violation. The issuance of a cease and
35 desist order does not preclude the imposition of other sanctions
36 authorized by this statute or any other provision of law.

37 (8) The liquor and cannabis board may seek injunctive relief to
38 enforce the provisions of RCW 26.28.080, 82.24.500, 82.26.190 or this
39 chapter. The liquor and cannabis board may initiate legal action to
40 collect civil penalties imposed under this chapter if the same have

1 not been paid within thirty days after imposition of such penalties.
2 In any action filed by the liquor and cannabis board under this
3 chapter, the court may, in addition to any other relief, award the
4 liquor and cannabis board reasonable attorneys' fees and costs.

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

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

14 **Sec. 10.** RCW 70.345.070 and 2019 c 15 s 6 are each amended to
15 read as follows:

16 (1) Except as provided in subsection (2) of this section, a
17 person who holds a retailer's license issued under this chapter must
18 display a sign concerning the prohibition of vapor product sales to
19 persons under the age of (~~twenty-one~~) 21. Such sign must:

20 (a) Be posted so that it is clearly visible to anyone purchasing
21 vapor products from the licensee;

22 (b) Be designed and produced by the department of health to read:
23 "The sale of vapor products to persons under age twenty-one is
24 strictly prohibited by state law. Photo id required upon request;"
25 and

26 (c) Be provided free of charge by the department of health.

27 (2) For persons also licensed under RCW 82.24.510 or 82.26.150,
28 the board may issue a sign to read: "The sale of tobacco or vapor
29 products to persons under age twenty-one is strictly prohibited by
30 state law. Photo id required upon request." The sign must be provided
31 free of charge by the board.

32 (3) A person who holds a retailer's license issued under this
33 chapter must display a sign concerning the prohibition of the sale of
34 flavored tobacco and nicotine products and entertainment vapor
35 products in this state. Such sign shall:

36 (a) Be posted so that it is clearly visible to anyone purchasing
37 vapor products or entertainment vapor products from the licensee;

38 (b) Be designed and produced by the department of health to read:
39 "THE SALE OF FLAVORED TOBACCO AND NICOTINE PRODUCTS AND ENTERTAINMENT

1 VAPOR PRODUCTS IN THIS STATE IS STRICTLY PROHIBITED BY STATE LAW.";

2 and

3 (c) Be provided free of charge by the liquor and cannabis board.

4 (4) A person who holds a license issued under this chapter must
5 display the license or a copy in a prominent location at the outlet
6 for which the license is issued.

7 **Sec. 11.** RCW 70.345.180 and 2016 sp.s. c 38 s 22 are each
8 amended to read as follows:

9 (1) The board may impose a monetary penalty as set forth in
10 subsection (2) of this section, if the board finds that the licensee
11 has violated RCW 26.28.080, section 3 of this act, or any other
12 provision of this chapter.

13 (2) Subject to subsection (3) of this section, the sanctions that
14 the board may impose against a person licensed under this chapter
15 based upon one or more findings under subsection (1) of this section
16 may not exceed the following:

17 (a) A monetary penalty of (~~two hundred dollars~~) \$200 for the
18 first violation within any three-year period;

19 (b) A monetary penalty of (~~six hundred dollars~~) \$600 for the
20 second violation within any three-year period;

21 (c) A monetary penalty of (~~two thousand dollars~~) \$2,000 for the
22 third violation within any three-year period and suspension of the
23 license for a period of six months for the third violation of RCW
24 26.28.080, or section 3 of this act, within any three-year period;

25 (d) A monetary penalty of (~~three thousand dollars~~) \$3,000 for
26 the fourth or subsequent violation within any three-year period and
27 suspension of the license for a period of (~~twelve~~) 12 months for
28 the fourth violation of RCW 26.28.080, or section 3 of this act,
29 within any three-year period;

30 (e) Revocation of the license with no possibility of
31 reinstatement for a period of five years for the fifth or more
32 violation within any three-year period.

33 (3) If the board finds that a person licensed under this chapter
34 and chapter 82.24 or 82.26 RCW has violated RCW 26.28.080, or section
35 3 of this act, each subsequent violation of either of the person's
36 licenses counts as an additional violation within that three-year
37 period.

38 (4) Any retailer's licenses issued under chapter 82.24 or 82.26
39 RCW to a person whose vapor product retailer's license or licenses

1 have been suspended or revoked for violating RCW 26.28.080, or
2 section 3 of this act, must also be suspended or revoked during the
3 period of suspension or revocation under this section.

4 (5) The board may impose a monetary penalty upon any person other
5 than a licensed retailer if the board finds that the person has
6 violated RCW 26.28.080.

7 (6) The monetary penalty that the board may impose based upon one
8 or more findings under subsection (5) of this section may not exceed
9 (~~(fifty dollars)~~) \$50 for the first violation and (~~(one hundred~~
10 ~~dollars)~~) \$100 for each subsequent violation.

11 (7) The board may develop and offer a class for retail clerks and
12 use this class in lieu of a monetary penalty for the clerk's first
13 violation.

14 (8) The board may issue a cease and desist order to any person
15 who is found by the board to have violated or (~~(intending [intends])~~)
16 intends to violate the provisions of this chapter or RCW 26.28.080,
17 requiring such person to cease specified conduct that is in
18 violation. The issuance of a cease and desist order does not preclude
19 the imposition of other sanctions authorized by this statute or any
20 other provision of law.

21 (9) The board may seek injunctive relief to enforce the
22 provisions of RCW 26.28.080, section 3 of this act, or this chapter.
23 The board may initiate legal action to collect civil penalties
24 imposed under this chapter if the same have not been paid within
25 thirty days after imposition of such penalties. In any action filed
26 by the board under this chapter, the court may, in addition to any
27 other relief, award the board reasonable attorneys' fees and costs.

28 (10) All proceedings under subsections (1) through (8) of this
29 section must be conducted in accordance with chapter 34.05 RCW.

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

37 **Sec. 12.** RCW 82.25.005 and 2022 c 16 s 163 are each amended to
38 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Accessible container" means a container that is intended to
4 be opened. The term does not mean a closed cartridge or closed
5 container that is not intended to be opened such as a disposable e-
6 cigarette.

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

9 (3) "Board" means the Washington state liquor and cannabis board.

10 (4) "Business" means any trade, occupation, activity, or
11 enterprise engaged in selling or distributing vapor products in this
12 state.

13 (5) "Distributor" means any person:

14 (a) Engaged in the business of selling vapor products in this
15 state who brings, or causes to be brought, into this state from
16 outside the state any vapor products for sale;

17 (b) Who makes, manufactures, fabricates, or stores vapor products
18 in this state for sale in this state;

19 (c) Engaged in the business of selling vapor products outside
20 this state who ships or transports vapor products to retailers or
21 consumers in this state; or

22 (d) Engaged in the business of selling vapor products in this
23 state who handles for sale any vapor products that are within this
24 state but upon which tax has not been imposed.

25 (6) "Indian country" has the same meaning as provided in RCW
26 82.24.010.

27 (7) "Manufacturer" has the same meaning as provided in RCW
28 70.345.010.

29 (8) "Manufacturer's representative" means a person hired by a
30 manufacturer to sell or distribute the manufacturer's vapor products
31 and includes employees and independent contractors.

32 (9) "Person" means: Any individual, receiver, administrator,
33 executor, assignee, trustee in bankruptcy, trust, estate, firm,
34 copartnership, joint venture, club, company, joint stock company,
35 business trust, municipal corporation, corporation, limited liability
36 company, association, or society; the state and its departments and
37 institutions; any political subdivision of the state of Washington;
38 and any group of individuals acting as a unit, whether mutual,
39 cooperative, fraternal, nonprofit, or otherwise. Except as provided
40 otherwise in this chapter, "person" does not include any person

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

4 (10) "Place of business" means any place where vapor products are
5 sold or where vapor products are manufactured, stored, or kept for
6 the purpose of sale, including any vessel, vehicle, airplane, or
7 train.

8 (11) "Retail outlet" has the same meaning as provided in RCW
9 70.345.010.

10 (12) "Retailer" has the same meaning as provided in RCW
11 70.345.010.

12 (13) "Sale" has the same meaning as provided in RCW 70.345.010.

13 (14) "Taxpayer" means a person liable for the tax imposed by this
14 chapter.

15 (15) "Vapor product" means any noncombustible product containing
16 a solution or other consumable substance, regardless of whether it
17 contains nicotine, which employs a mechanical heating element,
18 battery, or electronic circuit regardless of shape or size that can
19 be used to produce vapor from the solution or other substance,
20 including an electronic cigarette, electronic cigar, electronic
21 cigarillo, electronic pipe, entertainment vapor product or flavored
22 tobacco or nicotine product as those terms are defined in section 2
23 of this act, or similar product or device. The term also includes any
24 cartridge or other container of liquid nicotine, solution, or other
25 consumable substance, regardless of whether it contains nicotine,
26 that is intended to be used with or in a device that can be used to
27 deliver aerosolized or vaporized nicotine to a person inhaling from
28 the device and is sold for such purpose.

29 (a) The term does not include:

30 (i) Any product approved by the United States food and drug
31 administration for sale as a tobacco cessation product, medical
32 device, or for other therapeutic purposes when such product is
33 marketed and sold solely for such an approved purpose;

34 (ii) Any product that will become an ingredient or component in a
35 vapor product manufactured by a distributor; or

36 (iii) Any product that meets the definition of cannabis, useable
37 cannabis, cannabis concentrates, cannabis-infused products,
38 cigarette, or tobacco products.

39 (b) For purposes of this subsection (15):

- 1 (i) "Cigarette" has the same meaning as provided in RCW
2 82.24.010; and
3 (ii) "Cannabis," "useable cannabis," "cannabis concentrates," and
4 "cannabis-infused products" have the same meaning as provided in RCW
5 69.50.101.

6 **Sec. 13.** RCW 82.26.010 and 2020 c 139 s 31 are each amended to
7 read as follows:

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

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

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

17 (3) "Board" means the liquor and cannabis board.

18 (4) "Business" means any trade, occupation, activity, or
19 enterprise engaged in for the purpose of selling or distributing
20 tobacco products in this state.

21 (5) "Cigar" means a roll for smoking that is of any size or shape
22 and that is made wholly or in part of tobacco, irrespective of
23 whether the tobacco is pure or flavored, adulterated or mixed with
24 any other ingredient, if the roll has a wrapper made wholly or in
25 greater part of tobacco. "Cigar" does not include a cigarette.

26 (6) "Cigarette" has the same meaning as in RCW 82.24.010.

27 (7) "Department" means the department of revenue.

28 (8) "Distributor" means (a) any person engaged in the business of
29 selling tobacco products in this state who brings, or causes to be
30 brought, into this state from without the state any tobacco products
31 for sale, (b) any person who makes, manufactures, fabricates, or
32 stores tobacco products in this state for sale in this state, (c) any
33 person engaged in the business of selling tobacco products without
34 this state who ships or transports tobacco products to retailers in
35 this state, to be sold by those retailers, (d) any person engaged in
36 the business of selling tobacco products in this state who handles
37 for sale any tobacco products that are within this state but upon
38 which tax has not been imposed.

1 (9) "Indian country" means the same as defined in chapter 82.24
2 RCW.

3 (10) "Little cigar" means a cigar that has a cellulose acetate
4 integrated filter.

5 (11) "Manufacturer" means a person who manufactures and sells
6 tobacco products.

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

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

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

24 (15) "Place of business" means any place where tobacco products
25 are sold or where tobacco products are manufactured, stored, or kept
26 for the purpose of sale, including any vessel, vehicle, airplane,
27 train, or vending machine.

28 (16) "Retail outlet" means each place of business from which
29 tobacco products are sold to consumers.

30 (17) "Retailer" means any person engaged in the business of
31 selling tobacco products to ultimate consumers.

32 (18)(a) "Sale" means any transfer, exchange, or barter, in any
33 manner or by any means whatsoever, for a consideration, and includes
34 and means all sales made by any person.

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

38 (19)(a) "Taxable sales price" means:

39 (i) In the case of a taxpayer that is not affiliated with the
40 manufacturer, distributor, or other person from whom the taxpayer

1 purchased tobacco products, the actual price for which the taxpayer
2 purchased the tobacco products;

3 (ii) In the case of a taxpayer that purchases tobacco products
4 from an affiliated manufacturer, affiliated distributor, or other
5 affiliated person, and that sells those tobacco products to
6 unaffiliated distributors, unaffiliated retailers, or ultimate
7 consumers, the actual price for which that taxpayer sells those
8 tobacco products to unaffiliated distributors, unaffiliated
9 retailers, or ultimate consumers;

10 (iii) In the case of a taxpayer that sells tobacco products only
11 to affiliated distributors or affiliated retailers, the price,
12 determined as nearly as possible according to the actual price, that
13 other distributors sell similar tobacco products of like quality and
14 character to unaffiliated distributors, unaffiliated retailers, or
15 ultimate consumers;

16 (iv) In the case of a taxpayer that is a manufacturer selling
17 tobacco products directly to ultimate consumers, the actual price for
18 which the taxpayer sells those tobacco products to ultimate
19 consumers;

20 (v) In the case of a taxpayer that has acquired tobacco products
21 under a sale as defined in subsection (18)(b) of this section, the
22 price, determined as nearly as possible according to the actual
23 price, that the taxpayer or other distributors sell the same tobacco
24 products or similar tobacco products of like quality and character to
25 unaffiliated distributors, unaffiliated retailers, or ultimate
26 consumers; or

27 (vi) In any case where (a)(i) through (v) of this subsection do
28 not apply, the price, determined as nearly as possible according to
29 the actual price, that the taxpayer or other distributors sell the
30 same tobacco products or similar tobacco products of like quality and
31 character to unaffiliated distributors, unaffiliated retailers, or
32 ultimate consumers.

33 (b) For purposes of (a)(i) and (ii) of this subsection only,
34 "person" includes both persons as defined in subsection (14) of this
35 section and any person immune from state taxation, including the
36 United States or its instrumentalities, and federally recognized
37 Indian tribes and enrolled tribal members, conducting business within
38 Indian country.

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

1 (20) "Taxpayer" means a person liable for the tax imposed by this
2 chapter.

3 (21) "Tobacco products" means cigars, cheroots, stogies,
4 periques, granulated, plug cut, crimp cut, ready rubbed, and other
5 smoking tobacco, snuff, snuff flour, cavendish, plug and twist
6 tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps,
7 clippings, cuttings and sweepings of tobacco, flavored tobacco or
8 nicotine products as defined in section 2 of this act, and other
9 kinds and forms of tobacco, prepared in such manner as to be suitable
10 for chewing or smoking in a pipe or otherwise, or both for chewing
11 and smoking, and any other product, regardless of form, that contains
12 tobacco and is intended for human consumption or placement in the
13 oral or nasal cavity or absorption into the human body by any other
14 means, but does not include cigarettes as defined in RCW 82.24.010.

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

18 (23) "Unaffiliated retailer" means a retailer that is not
19 affiliated with the manufacturer, distributor, or other person from
20 whom the retailer has purchased tobacco products.

21 NEW SECTION. **Sec. 14.** Sections 1 through 7 of this act
22 constitute a new chapter in Title 70 RCW.

23 NEW SECTION. **Sec. 15.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

--- END ---