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**SENATE BILL 5183**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Nobles, Lovick, Harris, Wellman, Dhingra, Trudeau, Valdez, Liiias, Stanford, Orwall, Robinson, Frame, Pedersen, Riccelli, Salomon, Shewmake, and C. Wilson

Prefiled 01/08/25. Read first time 01/13/25. Referred to Committee on Health & Long-Term Care.

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.

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