
ENGROSSED SUBSTITUTE SENATE BILL 6129

State of Washington

69th Legislature

2026 Regular Session

By Senate Ways & Means (originally sponsored by Senators Robinson, Dhingra, Nobles, Saldaña, Trudeau, and Valdez)

READ FIRST TIME 02/23/26.

1 AN ACT Relating to the taxation of cigarettes, vapor products,
2 and other products containing tobacco or nicotine; amending RCW
3 82.26.010, 82.26.020, 82.26.030, 82.26.040, 82.26.060, 82.26.070,
4 82.26.080, 82.26.090, 82.26.105, 82.26.110, 82.26.130, 82.26.140,
5 82.26.150, 82.26.160, 82.26.190, 82.26.200, 82.26.210, 82.26.220,
6 82.26.230, 82.26.240, 82.26.250, 70.345.010, 70.345.090, 70.345.160,
7 43.348.080, 82.32.870, 66.44.010, 82.24.550, and 82.19.020; adding
8 new sections to chapter 82.26 RCW; adding a new section to chapter
9 82.24 RCW; adding a new section to chapter 43.06 RCW; creating new
10 sections; recodifying RCW 82.25.015; repealing RCW 82.25.005,
11 82.25.010, 82.25.020, 82.25.025, 82.25.030, 82.25.035, 82.25.040,
12 82.25.050, 82.25.055, 82.25.060, 82.25.065, 82.25.070, 82.25.075,
13 82.25.080, 82.25.085, 82.25.090, 82.25.095, 82.25.100, 82.25.105,
14 82.25.110, 82.25.900, and 82.25.901; providing effective dates;
15 providing an expiration date; and declaring an emergency.

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

PART I

CONCERNING THE TAXATION OF NICOTINE PRODUCTS

19 **Sec. 101.** RCW 82.26.010 and 2025 c 422 s 301 are each amended to
20 read as follows:

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

3 (1) "Actual price" means the total amount of consideration for
4 which ~~((tobacco))~~ nicotine products are sold, valued in money,
5 whether received in money or otherwise, including any charges by the
6 seller necessary to complete the sale such as charges for delivery,
7 freight, transportation, or handling.

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

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

11 (4) "Business" means any trade, occupation, activity, or
12 enterprise engaged in for the purpose of selling or distributing
13 ~~((tobacco))~~ nicotine products in this state.

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

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

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

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

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

35 (10) ~~(("Little cigar" means a cigar that has a cellulose acetate
36 integrated filter.~~

37 ~~((11))~~ "Manufacturer" means a person who manufactures and sells
38 ~~((tobacco))~~ nicotine products.

39 ~~((12))~~ (11) "Manufacturer's representative" means a person
40 hired by a manufacturer to sell or distribute the manufacturer's

1 (~~tobacco~~) nicotine products, and includes employees and independent
2 contractors.

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

6 (12) "Nicotine analogue" means a substance:

7 (a) (i) The chemical structure of which is substantially similar
8 to the chemical structure of nicotine; or

9 (ii) Which has, purports to have, or is represented to have, an
10 effect on the central nervous system that is similar to or greater
11 than the effect on the central nervous system of nicotine.

12 (b) Factors relevant to determining whether a substance is a
13 nicotine analogue include, but are not limited to, the marketing,
14 advertising, and labeling of the substance.

15 (13) "Nicotine product" means any product, regardless of form,
16 that contains nicotine or a nicotine analogue, whether derived from
17 tobacco or created synthetically, 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. The term does not include
20 cigarettes as defined in RCW 82.24.010 or therapeutic nicotine
21 cessation products that are approved by the United States food and
22 drug administration as a drug, device, or combination product, as of
23 December 31, 2025, as those terms are defined in the federal food,
24 drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) as it exists on
25 January 1, 2027.

26 (14) "Person" means any individual, receiver, administrator,
27 executor, assignee, trustee in bankruptcy, trust, estate, firm,
28 copartnership, joint venture, club, company, joint stock company,
29 business trust, municipal corporation, the state and its departments
30 and institutions, political subdivision of the state of Washington,
31 corporation, limited liability company, association, society, any
32 group of individuals acting as a unit, whether mutual, cooperative,
33 fraternal, nonprofit, or otherwise. The term excludes any person
34 immune from state taxation, including the United States or its
35 instrumentalities, and federally recognized Indian tribes and
36 enrolled tribal members, conducting business within Indian country.

37 (15) "Place of business" means any place where (~~tobacco~~)
38 nicotine products are sold or where (~~tobacco~~) nicotine products are
39 manufactured, stored, or kept for the purpose of sale, including any
40 vessel, vehicle, airplane, train, or vending machine.

1 (16) "Retail outlet" means each place of business from which
2 (~~tobacco~~) nicotine products are sold to consumers.

3 (17) "Retailer" means any person engaged in the business of
4 selling (~~tobacco~~) nicotine products to ultimate consumers.

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

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

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

12 (i) In the case of a taxpayer that is not affiliated with the
13 manufacturer, distributor, or other person from whom the taxpayer
14 purchased (~~tobacco~~) nicotine products, the actual price for which
15 the taxpayer purchased the (~~tobacco~~) nicotine products;

16 (ii) In the case of a taxpayer that purchases (~~tobacco~~)
17 nicotine products from an affiliated manufacturer, affiliated
18 distributor, or other affiliated person, and that sells those
19 (~~tobacco~~) nicotine products to unaffiliated distributors,
20 unaffiliated retailers, or ultimate consumers, the actual price for
21 which that taxpayer sells those (~~tobacco~~) nicotine products to
22 unaffiliated distributors, unaffiliated retailers, or ultimate
23 consumers;

24 (iii) In the case of a taxpayer that sells (~~tobacco~~) nicotine
25 products only to affiliated distributors or affiliated retailers, the
26 price, determined as nearly as possible according to the actual
27 price, that other distributors sell similar (~~tobacco~~) nicotine
28 products of like quality and character to unaffiliated distributors,
29 unaffiliated retailers, or ultimate consumers;

30 (iv) In the case of a taxpayer that is a manufacturer selling
31 (~~tobacco~~) nicotine products directly to ultimate consumers, the
32 actual price for which the taxpayer sells those (~~tobacco~~) nicotine
33 products to ultimate consumers;

34 (v) In the case of a taxpayer that has acquired (~~tobacco~~)
35 nicotine products under a sale as defined in subsection (18)(b) of
36 this section, the price, determined as nearly as possible according
37 to the actual price, that the taxpayer or other distributors sell the
38 same (~~tobacco~~) nicotine products or similar (~~tobacco~~) nicotine
39 products of like quality and character to unaffiliated distributors,
40 unaffiliated retailers, or ultimate consumers; or

1 (vi) In any case where (a)(i) through (v) of this subsection do
2 not apply, the price, determined as nearly as possible according to
3 the actual price, that the taxpayer or other distributors sell the
4 same (~~tobacco~~) nicotine products or similar (~~tobacco~~) nicotine
5 products of like quality and character to unaffiliated distributors,
6 unaffiliated retailers, or ultimate consumers.

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

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

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

17 (21) "Tobacco products" means cigars, cheroots, stogies,
18 periques, granulated, plug cut, crimp cut, ready rubbed, and other
19 smoking tobacco, snuff, snuff flour, cavendish, plug and twist
20 tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps,
21 clippings, cuttings and sweepings of tobacco, and other kinds and
22 forms of tobacco, prepared in such manner as to be suitable for
23 chewing or smoking in a pipe or otherwise, or both for chewing and
24 smoking, and any other product, regardless of form, that contains
25 tobacco (~~or nicotine, whether derived from tobacco or created~~
26 ~~synthetically, and is intended for human consumption or placement in~~
27 ~~the oral or nasal cavity or absorption into the human body by any~~
28 ~~other means, but does not include cigarettes as defined in RCW~~
29 ~~82.24.010 or a drug, device, or combination product approved, as of~~
30 ~~December 31, 2024, for sale by the United States food and drug~~
31 ~~administration, as those terms are defined in the federal food, drug,~~
32 ~~and cosmetic act (21 U.S.C. Sec. 301 et seq.) as it exists on January~~
33 ~~1, 2026)). "Tobacco products" does not include cigarettes as defined
34 in RCW 82.24.010.~~

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

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

1 (24) (a) "Vapor product" means any noncombustible product
2 containing a solution or other consumable substance that contains
3 nicotine, which employs a mechanical heating element, battery, or
4 electronic circuit regardless of shape or size that can be used to
5 produce vapor from the solution or other substance, including an
6 electronic cigarette, electronic cigar, electronic cigarillo,
7 electronic pipe, or similar product or device. Vapor product also
8 includes any cartridge or other container of liquid nicotine,
9 solution, or other consumable substance containing nicotine, that is
10 intended to be used with or in a device that can be used to deliver
11 aerosolized or vaporized nicotine to a person inhaling from the
12 device and is sold for such purpose.

13 (b) "Vapor product" does not include:

14 (i) Any product that will become an ingredient or component in a
15 vapor product manufactured by a distributor;

16 (ii) Any product that meets the definition of cannabis, useable
17 cannabis, cannabis concentrates, cannabis-infused products,
18 cigarette, or tobacco products; or

19 (iii) Therapeutic nicotine cessation products that are approved
20 by the United States food and drug administration as a drug, device,
21 or combination product, as of December 31, 2025, as those terms are
22 defined in the federal food, drug, and cosmetic act, 21 U.S.C. Sec.
23 301 et seq., as it exists on January 1, 2027.

24 (c) For purposes of this subsection (24), "cannabis," "useable
25 cannabis," "cannabis concentrates," and "cannabis-infused products"
26 have the same meaning as provided in RCW 69.50.101.

27 **Sec. 102.** 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~~) nicotine products in this state at
31 (~~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, ninety-five percent of the taxable~~
37 ~~sales price. The tax imposed on a product under this subsection must~~
38 ~~be reduced by fifty percent if that same product is issued a modified~~
39 ~~risk tobacco product order by the secretary of the United States~~

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

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

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

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

18 ~~(d) For little cigars, an amount per cigar equal to the cigarette~~
19 ~~tax under chapter 82.24 RCW)) a rate of 95 percent of the taxable~~
20 ~~sales price.~~

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~~)) nicotine products for sale, (b) makes,
24 manufactures, fabricates, or stores ((~~tobacco~~)) nicotine products in
25 this state for sale in this state, (c) ships or transports
26 ((~~tobacco~~)) nicotine products to retailers in this state, to be sold
27 by those retailers, or (d) handles for sale any ((~~tobacco~~)) nicotine
28 products that are within this state but upon which tax has not been
29 imposed.

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

32 NEW SECTION. Sec. 103. A new section is added to chapter 82.26
33 RCW to read as follows:

34 (1) Except as provided in subsection (2) of this section, moneys
35 collected under this chapter must be deposited into the state general
36 fund.

37 (2)(a) The moneys collected under this chapter on vapor products
38 must be deposited as follows:

1 (i) 50 percent into the Andy Hill cancer research endowment fund
2 match transfer account created in RCW 43.348.080 and 50 percent into
3 the foundational public health services account created in RCW
4 82.25.015 (as recodified by this act) until such time as
5 distributions to the Andy Hill cancer research endowment fund match
6 transfer account reach \$10,000,000 each fiscal year;

7 (ii) Any moneys collected in excess of (a)(i) of this subsection
8 (2) must be deposited into the foundational public health services
9 account created in RCW 82.25.015 (as recodified by this act) until
10 such time as the total amount of distributions to the account reach
11 \$20,000,000 each fiscal year;

12 (iii) Any moneys collected from the tax on vapor products not
13 otherwise distributed under (a)(i) or (ii) of this subsection (2)
14 each fiscal year must be deposited into the state general fund.

15 (b) Beginning January 1, 2029, and each year thereafter, the
16 department shall adjust the distribution amounts in (a)(i) and (ii)
17 of this subsection (2) by multiplying the current amount by one plus
18 the percentage by which the most current consumer price index
19 available on October 1st of the current year exceeds the consumer
20 price index for the prior 12-month period. If an adjustment under
21 this subsection (2) would reduce the applicable amounts, the
22 department may not adjust the applicable amounts for use in the
23 following year. The department must notify the state treasurer of the
24 adjusted applicable amounts by December 31st. The adjusted
25 distribution amounts calculated under this subsection (2)(b) for the
26 distribution amount described in (a)(i) and (ii) of this subsection
27 (2) apply to distributions made in the following fiscal year.

28 (3) For purposes of this section, "consumer price index" means
29 the consumer price index for all urban consumers, all items, for the
30 Seattle area as calculated by the United States bureau of labor
31 statistics or its successor agency.

32 **Sec. 104.** RCW 82.26.030 and 2010 1st sp.s. c 22 s 7 are each
33 amended to read as follows:

34 It is the intent and purpose of this chapter to levy a tax on all
35 (~~to be added~~) nicotine products sold, used, consumed, handled, or
36 distributed within this state and to collect the tax from the
37 distributor as defined in RCW 82.26.010. It is the further intent and
38 purpose of this chapter to impose the tax once, and only once, on all
39 (~~to be added~~) nicotine products for sale in this state, but nothing in

1 this chapter may be construed to exempt any person taxable under any
2 other law or under any other tax imposed under (~~Title 82 RCW~~) this
3 title. It is the further intent and purpose of this chapter that the
4 distributor who first possesses the (~~tobacco~~) nicotine product in
5 this state is the distributor liable for the tax and (~~that (1) for~~
6 ~~moist snuff the tax will be based on the net weight listed by the~~
7 ~~manufacturer and (2) in most other instances~~) the tax will be based
8 on the actual price that the distributor paid for the (~~tobacco~~)
9 nicotine product, unless the distributor is affiliated with the
10 seller.

11 **Sec. 105.** RCW 82.26.040 and 1961 c 15 s 82.26.040 are each
12 amended to read as follows:

13 The tax imposed by RCW 82.26.020 shall not apply with respect to
14 any (~~tobacco~~) nicotine products which under the Constitution and
15 laws of the United States may not be made the subject of taxation by
16 this state.

17 **Sec. 106.** RCW 82.26.060 and 2019 c 445 s 205 are each amended to
18 read as follows:

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

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

32 (3) At any time during usual business hours the department,
33 board, or its duly authorized agents or employees, may enter any
34 place of business of a distributor, without a search warrant, and
35 inspect the premises, the records required to be kept under this
36 chapter, and the (~~tobacco~~) nicotine products contained therein, to
37 determine whether or not all the provisions of this chapter are being
38 fully complied with. If the department, board, or any of its agents

1 or employees, are denied free access or are hindered or interfered
2 with in making such examination, the registration certificate issued
3 under RCW 82.32.030 of the distributor at such premises is subject to
4 revocation, and any licenses issued under this chapter or chapter
5 82.24 or 70.345 RCW are subject to suspension or revocation, by the
6 department or board.

7 **Sec. 107.** RCW 82.26.070 and 2005 c 180 s 7 are each amended to
8 read as follows:

9 Every person required to be licensed under this chapter or
10 chapter 70.345 RCW who sells (~~(tobacco)~~) nicotine products to persons
11 other than the ultimate consumer shall render with each sale itemized
12 invoices showing the seller's name and address, the purchaser's name
13 and address, the date of sale, and all prices. The person shall
14 preserve legible copies of all such invoices for five years from the
15 date of sale.

16 **Sec. 108.** RCW 82.26.080 and 2019 c 445 s 206 are each amended to
17 read as follows:

18 (1) Every retailer must procure itemized invoices of all
19 (~~(tobacco)~~) nicotine products purchased. The invoices must show the
20 seller's name and address, the date of purchase, and all prices and
21 discounts.

22 (2) The retailer must keep at each retail outlet copies of
23 complete, accurate, and legible invoices for that retail outlet or
24 place of business. All invoices required to be kept under this
25 section must be preserved for five years from the date of purchase.

26 (3) At any time during usual business hours the department,
27 board, or its duly authorized agents or employees may enter any
28 retail outlet without a search warrant, and inspect the premises for
29 invoices required to be kept under this section and the (~~(tobacco)~~)
30 nicotine products contained in the retail outlet, to determine
31 whether or not all the provisions of this chapter are being fully
32 complied with. If the department, board, or any of its agents or
33 employees, are denied free access or are hindered or interfered with
34 in making the inspection, the registration certificate issued under
35 RCW 82.32.030 of the retailer at the premises is subject to
36 revocation, and any licenses issued under this chapter or chapter
37 82.24 or 70.345 RCW are subject to suspension or revocation by the
38 department.

1 **Sec. 109.** RCW 82.26.090 and 1975 1st ex.s. c 278 s 75 are each
2 amended to read as follows:

3 Records of all deliveries or shipments of (~~to~~) nicotine
4 products from any public warehouse of first destination in this state
5 shall be kept by the warehouse and be available to the department of
6 revenue for inspection. They shall show the name and address of the
7 consignee, the date, the quantity of (~~to~~) nicotine products
8 delivered, and such other information as the department may require.
9 These records shall be preserved for five years from the date of
10 delivery of the (~~to~~) nicotine products.

11 **Sec. 110.** RCW 82.26.105 and 2007 c 221 s 3 are each amended to
12 read as follows:

13 (1) For the purposes of obtaining information concerning any
14 matter relating to the administration or enforcement of this chapter,
15 the department, the board, or any of its agents may inspect the
16 books, documents, or records of any person transporting (~~to~~)
17 nicotine products for sale to any person or entity in the state, and
18 books, documents, or records containing any information relating to
19 the transportation or possession of (~~to~~) nicotine products for
20 sale in the possession of a specific common carrier as defined in RCW
21 81.80.010 doing business in this state, or books, documents, and
22 records of vehicle rental agencies whose vehicles are being rented
23 for the purpose of transporting contraband (~~to~~) nicotine
24 products.

25 (2) If a person neglects or refuses to produce and submit for
26 inspection any book, record, or document as required by this section
27 when requested to do so by the department, the board, or its agent,
28 then the department or the board may seek an order in superior court
29 compelling production of the books, records, or documents.

30 **Sec. 111.** RCW 82.26.110 and 2007 c 221 s 4 are each amended to
31 read as follows:

32 (1)(a) Where (~~to~~) nicotine products upon which the tax
33 imposed by this chapter has been reported and paid are shipped or
34 transported outside this state by the distributor to a person engaged
35 in the business of selling (~~to~~) nicotine products, to be sold
36 by that person, or are returned to the manufacturer by the
37 distributor or destroyed by the distributor, or are sold by the
38 distributor to the United States or any of its agencies or

1 instrumentalities, or are sold by the distributor to any Indian
2 tribal organization, credit of such tax may be made to the
3 distributor in accordance with rules prescribed by the department.

4 (b) For purposes of this subsection, the following definitions
5 apply:

6 (i) "Indian distributor" means a federally recognized Indian
7 tribe or tribal entity that would otherwise meet the definition of
8 distributor under RCW 82.26.010, if federally recognized Indian
9 tribes and tribal entities were not excluded from the definition of
10 person in RCW 82.26.010.

11 (ii) "Indian retailer" means a federally recognized Indian tribe
12 or tribal entity that would otherwise meet the definition of retailer
13 under RCW 82.26.010, if federally recognized Indian tribes and tribal
14 entities were not excluded from the definition of person in RCW
15 82.26.010.

16 (iii) "Indian tribal organization" means a federally recognized
17 Indian tribe, or tribal entity, and includes an Indian distributor or
18 retailer that is owned by an Indian who is an enrolled tribal member
19 conducting business under tribal license or similar tribal approval
20 within Indian country.

21 (2) Credit allowed under this section shall be determined based
22 on the tax rate in effect for the period for which the tax imposed by
23 this chapter, for which a credit is sought, was paid.

24 **Sec. 112.** RCW 82.26.130 and 2020 c 139 s 33 are each amended to
25 read as follows:

26 (1) The department must by rule establish the invoice detail
27 required under RCW 82.26.060 for a distributor under RCW
28 82.26.010(8)(d) or 70.345.010(7)(d) and for those invoices required
29 to be provided to retailers under RCW 82.26.070.

30 (2) If a retailer fails to keep invoices as required under
31 chapter 82.32 RCW, the retailer is liable for the tax owed on any
32 uninvoiced (~~to be assessed~~) nicotine products but not penalties and
33 interest, except as provided in subsection (3) of this section.

34 (3) If the department finds that the nonpayment of tax by the
35 retailer was willful or if in the case of a second or plural
36 nonpayment of tax by the retailer, penalties and interest must be
37 assessed in accordance with chapter 82.32 RCW.

1 **Sec. 113.** RCW 82.26.140 and 2005 c 180 s 10 are each amended to
2 read as follows:

3 (1) No person other than (a) a licensed distributor in the
4 distributor's own vehicle, a manufacturer's representative authorized
5 to sell or distribute (~~((tobacco))~~) nicotine products in this state
6 under RCW 82.26.210, or a licensed retailer in the retailer's own
7 vehicle, or (b) a person who has given notice to the board in advance
8 of the commencement of transportation shall transport or cause to be
9 transported in this state (~~((tobacco))~~) nicotine products for sale.

10 (2) When transporting (~~((tobacco))~~) nicotine products for sale, the
11 person shall have in (~~((his or her))~~) the person's actual possession,
12 or cause to have in the actual possession of those persons
13 transporting such (~~((tobacco))~~) nicotine products on (~~((his or her))~~) the
14 person's behalf, invoices or delivery tickets for the (~~((tobacco))~~)
15 nicotine products, which shall show the true name and address of the
16 consignor or seller, the true name and address of the consignee or
17 purchaser, and the quantity and brands of the (~~((tobacco))~~) nicotine
18 products being transported.

19 (3) In any case where the department or the board, or any peace
20 officer of the state, has knowledge or reasonable grounds to believe
21 that any vehicle is transporting (~~((tobacco))~~) nicotine products in
22 violation of this section, the department, the board, or peace
23 officer, is authorized to stop the vehicle and to inspect it for
24 contraband (~~((tobacco))~~) nicotine products.

25 **Sec. 114.** RCW 82.26.150 and 2019 c 445 s 207 are each amended to
26 read as follows:

27 (1) The licenses issuable by the board under this chapter are as
28 follows:

29 (a) A distributor's license; and

30 (b) A retailer's license.

31 (2) Application for the licenses must be made through the
32 business licensing system under chapter 19.02 RCW. The board may
33 adopt rules regarding the regulation of the licenses. The board may
34 refuse to issue any license under this chapter if the board has
35 reasonable cause to believe that the applicant has willfully withheld
36 information requested for the purpose of determining the eligibility
37 of the applicant to receive a license, or if the board has reasonable
38 cause to believe that information submitted in the application is
39 false or misleading or is not made in good faith. In addition, for

1 the purpose of reviewing an application for a distributor's license
2 or retailer's license and for considering the denial, suspension, or
3 revocation of any such license, the board may consider criminal
4 conduct of the applicant, including an administrative violation
5 history record with the board and a criminal history record
6 information check within the previous five years, in any state,
7 tribal, or federal jurisdiction in the United States, its
8 territories, or possessions, and the provisions of RCW 9.95.240 and
9 chapter 9.96A RCW do not apply to such cases. The board may, in its
10 discretion, issue or refuse to issue the distributor's license or
11 retailer's license, subject to the provisions of RCW 82.26.220.

12 (3) No person may qualify for a distributor's license or a
13 retailer's license under this section without first undergoing a
14 criminal background check. The background check must be performed by
15 the board and must disclose any criminal conduct within the previous
16 five years in any state, tribal, or federal jurisdiction in the
17 United States, its territories, or possessions. If the applicant or
18 licensee also has a license issued under chapter 66.24, 82.24, or
19 70.345 RCW, the background check done under the authority of chapter
20 66.24, 70.345, or 82.24 RCW satisfies the requirements of this
21 section.

22 (4) Each license issued under this chapter expires on the
23 business license expiration date. The license must be continued
24 annually if the licensee has paid the required fee and complied with
25 all the provisions of this chapter and the rules of the board adopted
26 pursuant to this chapter.

27 (5) Each license and any other evidence of the license required
28 under this chapter must be exhibited in each place of business for
29 which it is issued and in the manner required for the display of a
30 business license.

31 (6) The licenses issuable by the board under this section do not
32 apply to the sale or distribution of any vapor product subject to the
33 licensing requirements in chapter 70.345 RCW.

34 **Sec. 115.** RCW 82.26.160 and 2005 c 180 s 12 are each amended to
35 read as follows:

36 (1) A fee of (~~six hundred fifty dollars~~) \$650 shall accompany
37 each distributor's license application or license renewal
38 application. If a distributor sells or intends to sell (~~tobacco~~)
39 nicotine products at two or more places of business, whether

1 established or temporary, a separate license with a license fee of
2 (~~one hundred fifteen dollars~~) \$115 shall be required for each
3 additional place of business.

4 (2) The fees imposed under subsection (1) of this section do not
5 apply to any person applying for a distributor's license or for
6 renewal of a distributor's license if the person has a valid
7 wholesaler's license under RCW 82.24.510 for the place of business
8 associated with the distributor's license application or license
9 renewal application.

10 **Sec. 116.** RCW 82.26.190 and 2020 c 139 s 34 are each amended to
11 read as follows:

12 (1)(a) No person may engage in or conduct business as a
13 distributor or retailer in this state after September 30, 2005,
14 without a valid license issued under this chapter or chapter 70.345
15 RCW. Any person who sells (~~tobacco~~) nicotine products to persons
16 other than ultimate consumers or who meets the definition of
17 distributor under RCW 82.26.010(8)(d) or 70.345.010(7)(d) must obtain
18 a distributor's license under this chapter or chapter 70.345 RCW. Any
19 person who sells (~~tobacco~~) nicotine products to ultimate consumers
20 must obtain a retailer's license under this chapter or chapter 70.345
21 RCW.

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

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

26 (i) Refuse to allow the department or the board, on demand, to
27 make a full inspection of any place of business where any of the
28 (~~tobacco~~) nicotine products taxed under this chapter are sold,
29 stored, or handled, or otherwise hinder or prevent such inspection;

30 (ii) Make, use, or present or exhibit to the department or the
31 board any invoice for any of the (~~tobacco~~) nicotine products taxed
32 under this chapter that bears an untrue date or falsely states the
33 nature or quantity of the goods invoiced; or

34 (iii) Fail to produce on demand of the department or the board
35 all invoices of all the (~~tobacco~~) nicotine products taxed under
36 this chapter within five years prior to such demand unless the person
37 can show by satisfactory proof that the nonproduction of the invoices
38 was due to causes beyond the person's control.

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

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

6 (ii) The person transporting the ((~~tobacco~~)) nicotine products
7 actually possesses invoices or delivery tickets showing the true name
8 and address of the consignor or seller, the true name and address of
9 the consignee or purchaser, and the quantity and brands of
10 ((~~tobacco~~)) nicotine products being transported; and

11 (iii) The ((~~tobacco~~)) nicotine products are consigned to or
12 purchased by a person in this state who is licensed under this
13 chapter.

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

15 (3) Any person licensed under this chapter or chapter 70.345 RCW
16 as a distributor, and any person licensed under this chapter or
17 chapter 70.345 RCW as a retailer, may not operate in any other
18 capacity unless the additional appropriate license is first secured.
19 A violation of this subsection (3) is a misdemeanor.

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

23 **Sec. 117.** RCW 82.26.200 and 2020 c 139 s 35 are each amended to
24 read as follows:

25 (1) A retailer that obtains ((~~tobacco~~)) nicotine products from an
26 unlicensed distributor or any other person that is not licensed under
27 this chapter must be licensed both as a retailer and a distributor
28 under this chapter or chapter 70.345 RCW and is liable for the tax
29 imposed under RCW 82.26.020 with respect to the ((~~tobacco~~)) nicotine
30 products acquired from the unlicensed person that are held for sale,
31 handling, or distribution in this state. For the purposes of this
32 subsection, "person" includes both persons defined in RCW
33 82.26.010((~~(14)~~)) and any person immune from state taxation, such as
34 the United States or its instrumentalities, and federally recognized
35 Indian tribes and enrolled tribal members, conducting business within
36 Indian country.

37 (2) Every distributor licensed under this chapter or chapter
38 70.345 RCW must sell ((~~tobacco~~)) nicotine products to retailers

1 located in Washington only if the retailer has a current retailer's
2 license under this chapter.

3 **Sec. 118.** RCW 82.26.210 and 2009 c 154 s 7 are each amended to
4 read as follows:

5 A manufacturer that has manufacturer's representatives who sell
6 or distribute the manufacturer's (~~(tobacco)~~) nicotine products in
7 this state must provide the board a list of the names and addresses
8 of all such representatives and must ensure that the list provided to
9 the board is kept current. A manufacturer's representative is not
10 authorized to distribute or sell (~~(tobacco)~~) nicotine products in
11 this state unless the manufacturer that hired the representative has
12 a valid distributor's license under this chapter or chapter 70.345
13 RCW and that manufacturer provides the board a current list of all of
14 its manufacturer's representatives as required by this section. A
15 manufacturer's representative must carry a copy of the distributor's
16 license of the manufacturer that hired the representative at all
17 times when selling or distributing the manufacturer's (~~(tobacco)~~)
18 nicotine products.

19 **Sec. 119.** RCW 82.26.220 and 2019 c 445 s 208 are each amended to
20 read as follows:

21 (1) The board must enforce this chapter. The board may adopt,
22 amend, and repeal rules necessary to enforce this chapter.

23 (2) The department may adopt, amend, and repeal rules necessary
24 to administer this chapter. The board may revoke or suspend the
25 distributor's or retailer's license issued under this chapter or
26 chapter 70.345 RCW of any distributor or retailer of (~~(tobacco)~~)
27 nicotine products in the state upon sufficient cause showing a
28 violation of this chapter or upon the failure of the licensee to
29 comply with any of the rules adopted under it.

30 (3) A license may not be suspended or revoked except upon notice
31 to the licensee and after a hearing as prescribed by the board. The
32 board, upon finding that the licensee has failed to comply with any
33 provision of this chapter or of any rule adopted under it, must, in
34 the case of the first offense, suspend the license or licenses of the
35 licensee for a period of not less than (~~(thirty)~~) 30 consecutive
36 business days, and in the case of a second or further offense,
37 suspend the license or licenses for a period of not less than
38 (~~(ninety)~~) 90 consecutive business days but not more than (~~(twelve)~~)

1 12 months, and in the event the board finds the licensee has been
2 guilty of willful and persistent violations, it may revoke the
3 license or licenses.

4 (4) Any licenses issued under chapter 82.24 or 70.345 RCW to a
5 person whose license or licenses have been suspended or revoked under
6 this section must also be suspended or revoked during the period of
7 suspension or revocation under this section.

8 (5) Any person whose license or licenses have been revoked under
9 this section may reapply to the board at the expiration of one year
10 of the license or licenses. The license or licenses may be approved
11 by the board if it appears to the satisfaction of the board that the
12 licensee will comply with the provisions of this chapter and the
13 rules adopted under it.

14 (6) A person whose license has been suspended or revoked may not
15 sell (~~(tobacco)~~) nicotine products(~~(, vapor products,)~~) or cigarettes
16 or permit (~~(tobacco)~~) nicotine products(~~(, vapor products,)~~) or
17 cigarettes to be sold during the period of suspension or revocation
18 on the premises occupied by the person or upon other premises
19 controlled by the person or others or in any other manner or form.

20 (7) Any determination and order by the board, and any order of
21 suspension or revocation by the board of the license or licenses
22 issued under this chapter or chapter 70.345 RCW, or refusal to
23 reinstate a license or licenses after revocation is reviewable by an
24 appeal to the superior court of Thurston county. The superior court
25 must review the order or ruling of the board and may hear the matter
26 de novo, having due regard to the provisions of this chapter and the
27 duties imposed upon the board.

28 (8) If the board makes an initial decision to deny a license or
29 renewal, or suspend or revoke a license, the applicant may request a
30 hearing subject to the applicable provisions under Title 34 RCW.

31 **Sec. 120.** RCW 82.26.230 and 2005 c 180 s 20 are each amended to
32 read as follows:

33 (1) Any (~~(tobacco)~~) nicotine products in the possession of a
34 person selling (~~(tobacco)~~) nicotine products in this state acting as
35 a distributor or retailer and who is not licensed as required under
36 RCW 82.26.190, or a person who is selling (~~(tobacco)~~) nicotine
37 products in violation of RCW 82.26.220(6), may be seized without a
38 warrant by any agent of the department, agent of the board, or law

1 enforcement officer of this state. Any ((~~tobacco~~)) nicotine products
2 seized under this subsection shall be deemed forfeited.

3 (2) Any ((~~tobacco~~)) nicotine products in the possession of a
4 person who is not a licensed distributor or retailer and who
5 transports ((~~tobacco~~)) nicotine products for sale without having
6 provided notice to the board required under RCW 82.26.140, or without
7 invoices or delivery tickets showing the true name and address of the
8 consignor or seller, the true name and address of the consignee or
9 purchaser, and the quantity and brands of ((~~tobacco~~)) nicotine
10 products being transported may be seized and are subject to
11 forfeiture.

12 (3) All conveyances, including aircraft, vehicles, or vessels
13 that are used, or intended for use to transport, or in any manner to
14 facilitate the transportation, for the purpose of sale or receipt of
15 ((~~tobacco~~)) nicotine products under subsection (2) of this section,
16 may be seized and are subject to forfeiture except:

17 (a) A conveyance used by any person as a common or contract
18 carrier having in actual possession invoices or delivery tickets
19 showing the true name and address of the consignor or seller, the
20 true name of the consignee or purchaser, and the quantity and brands
21 of the ((~~tobacco~~)) nicotine products transported, unless it appears
22 that the owner or other person in charge of the conveyance is a
23 consenting party or privy to a violation of this chapter;

24 (b) A conveyance subject to forfeiture under this section by
25 reason of any act or omission of which the owner establishes to have
26 been committed or omitted without his or her knowledge or consent; or

27 (c) A conveyance encumbered by a bona fide security interest if
28 the secured party neither had knowledge of nor consented to the act
29 or omission.

30 (4) Property subject to forfeiture under subsections (2) and (3)
31 of this section may be seized by any agent of the department, the
32 board, or law enforcement officer of this state upon process issued
33 by any superior court or district court having jurisdiction over the
34 property. Seizure without process may be made if:

35 (a) The seizure is incident to an arrest or a search warrant or
36 an inspection under an administrative inspection warrant; or

37 (b) The department, board, or law enforcement officer has
38 probable cause to believe that the property was used or is intended
39 to be used in violation of this chapter and exigent circumstances
40 exist making procurement of a search warrant impracticable.

1 (5) This section shall not be construed to require the seizure of
2 (~~tobacco~~) nicotine products if the department's agent, board's
3 agent, or law enforcement officer reasonably believes that the
4 (~~tobacco~~) nicotine products are possessed for personal consumption
5 by the person in possession of the (~~tobacco~~) nicotine products.

6 (6) Any (~~tobacco~~) nicotine products seized by a law enforcement
7 officer shall be turned over to the board as soon as practicable.

8 **Sec. 121.** RCW 82.26.240 and 2005 c 180 s 21 are each amended to
9 read as follows:

10 (1) In all cases of seizure of any (~~tobacco~~) nicotine products
11 made subject to forfeiture under this chapter, the department or
12 board shall proceed as provided in RCW 82.24.135.

13 (2) When (~~tobacco~~) nicotine products are forfeited under this
14 chapter, the department or board may:

15 (a) Retain the property for official use or upon application by
16 any law enforcement agency of this state, another state, or the
17 District of Columbia, or of the United States for the exclusive use
18 of enforcing this chapter or the laws of any other state or the
19 District of Columbia or of the United States; or

20 (b) Sell the (~~tobacco~~) nicotine products at public auction to
21 the highest bidder after due advertisement. Before delivering any of
22 the goods to the successful bidder, the department or board shall
23 require the purchaser to pay the proper amount of any tax due. The
24 proceeds of the sale shall be first applied to the payment of all
25 proper expenses of any investigation leading to the seizure and of
26 the proceedings for forfeiture and sale, including expenses of
27 seizure, maintenance of custody, advertising, and court costs. The
28 balance of the proceeds and all money shall be deposited in the
29 general fund of the state. Proper expenses of investigation include
30 costs incurred by any law enforcement agency or any federal, state,
31 or local agency.

32 (3) The department or the board may return any property seized
33 under the provisions of this chapter when it is shown that there was
34 no intention to violate the provisions of this chapter. When any
35 property is returned under this section, the department or the board
36 may return the property to the parties from whom they were seized if
37 and when such parties have paid the proper amount of tax due under
38 this chapter.

1 **Sec. 122.** RCW 82.26.250 and 2005 c 180 s 22 are each amended to
2 read as follows:

3 When the department or the board has good reason to believe that
4 any of the ((~~to~~)) nicotine products taxed under this chapter are
5 being kept, sold, offered for sale, or given away in violation of the
6 provisions of this chapter, it may make affidavit of facts describing
7 the place or thing to be searched, before any judge of any court in
8 this state, and the judge shall issue a search warrant directed to
9 the sheriff, any deputy, police officer, or duly authorized agent of
10 the department or the board commanding him or her diligently to
11 search any building, room in a building, place, or vehicle as may be
12 designated in the affidavit and search warrant, and to seize the
13 ((~~to~~)) nicotine products and hold them until disposed of by law.

14 NEW SECTION. **Sec. 123.** A new section is added to chapter 82.26
15 RCW to read as follows:

16 The tax under this chapter does not apply to preexisting
17 inventories of nicotine products for which tax was paid by the
18 distributor under RCW 82.26.020 before the effective date of this
19 section. For purposes of this section, "preexisting inventory" means
20 an inventory of nicotine products located in this state as of the
21 moment this section takes effect and is held by a distributor or
22 retailer for sale, handling, or distribution in this state.

23 **Sec. 124.** RCW 70.345.010 and 2022 c 16 s 135 are each amended to
24 read as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

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

28 (2) "Business" means any trade, occupation, activity, or
29 enterprise engaged in for the purpose of selling or distributing
30 vapor products in this state.

31 (3) "Child care facility" has the same meaning as provided in RCW
32 70A.320.020.

33 (4) "Closed system nicotine container" means a sealed, prefilled,
34 and disposable container of nicotine in a solution or other form in
35 which such container is inserted directly into an electronic
36 cigarette, electronic nicotine delivery system, or other similar
37 product, if the nicotine in the container is inaccessible through

1 customary or reasonably foreseeable handling or use, including
2 reasonably foreseeable ingestion or other contact by children.

3 (5) "Delivery sale" means any sale of a vapor product to a
4 purchaser in this state where either:

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

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

13 (6) "Delivery seller" means a person who makes delivery sales.

14 (7) "Distributor" (~~has the same meaning as in RCW 82.25.005~~)
15 means any person:

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

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

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

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

27 (8) "Liquid nicotine container" means a package from which
28 nicotine in a solution or other form is accessible through normal and
29 foreseeable use by a consumer and that is used to hold soluble
30 nicotine in any concentration. "Liquid nicotine container" does not
31 include closed system nicotine containers.

32 (9) "Manufacturer" means a person who manufactures and sells
33 vapor products.

34 (10) "Person" means any individual, receiver, administrator,
35 executor, assignee, trustee in bankruptcy, trust, estate, firm,
36 copartnership, joint venture, club, company, joint stock company,
37 business trust, municipal corporation, the state and its departments
38 and institutions, political subdivision of the state of Washington,
39 corporation, limited liability company, association, society, any

1 group of individuals acting as a unit, whether mutual, cooperative,
2 fraternal, nonprofit, or otherwise.

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

6 (12) "Playground" means any public improved area designed,
7 equipped, and set aside for play of six or more children which is not
8 intended for use as an athletic playing field or athletic court,
9 including but not limited to any play equipment, surfacing, fencing,
10 signs, internal pathways, internal land forms, vegetation, and
11 related structures.

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

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

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

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

22 (16) "School" has the same meaning as provided in RCW
23 70A.320.020.

24 (17) "Self-service display" means a display that contains vapor
25 products and is located in an area that is openly accessible to
26 customers and from which customers can readily access such products
27 without the assistance of a salesperson. A display case that holds
28 vapor products behind locked doors does not constitute a self-service
29 display.

30 (18) "Vapor product" means any noncombustible product that may
31 contain nicotine and that employs a heating element, power source,
32 electronic circuit, or other electronic, chemical, or mechanical
33 means, regardless of shape or size, that can be used to produce vapor
34 or aerosol from a solution or other substance.

35 (a) "Vapor product" includes any electronic cigarette, electronic
36 cigar, electronic cigarillo, electronic pipe, or similar product or
37 device and any vapor cartridge or other container that may contain
38 nicotine in a solution or other form that is intended to be used with
39 or in an electronic cigarette, electronic cigar, electronic
40 cigarillo, electronic pipe, or similar product or device.

1 (b) "Vapor product" does not include any product that meets the
2 definition of cannabis, useable cannabis, cannabis concentrates,
3 cannabis-infused products, cigarette, or tobacco products.

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

7 **Sec. 125.** RCW 70.345.090 and 2019 c 445 s 212 are each amended
8 to read as follows:

9 (1) No person may conduct a delivery sale or otherwise ship or
10 transport, or cause to be shipped or transported, any vapor product
11 ordered or purchased by mail or through the internet to any person
12 unless such seller has a valid delivery sale license as required
13 under this chapter.

14 (2) No person may conduct a delivery sale or otherwise ship or
15 transport, or cause to be shipped or transported, any vapor product
16 ordered or purchased by mail or through the internet to any person
17 under the minimum age required for the legal sale of vapor products
18 as provided under RCW 70.345.140.

19 (3) A delivery sale licensee must provide notice on its mail
20 order or internet sales forms of the minimum age required for the
21 legal sale of vapor products in Washington state as provided by RCW
22 70.345.140.

23 (4) A delivery sale licensee must not accept a purchase or order
24 from any person without first obtaining the full name, birthdate, and
25 residential address of that person and verifying this information
26 through an independently operated third-party database or aggregate
27 of databases, which includes data from government sources, that are
28 regularly used by government and businesses for the purpose of age
29 and identity verification and authentication.

30 (5) A delivery sale licensee must accept payment only through a
31 credit or debit card issued in the purchaser's own name. The licensee
32 must verify that the card is issued to the same person identified
33 through identity and age verification procedures in subsection (4) of
34 this section.

35 (6) Before a delivery sale licensee delivers an initial purchase
36 to any person, the licensee must verify the identity and delivery
37 address of the purchaser by mailing or shipping to the purchaser a
38 notice of sale and certification form confirming that the addressee
39 is in fact the person placing the order. The purchaser must return

1 the signed certification form to the licensee before the initial
2 shipment of product. Certification forms are not required for repeat
3 customers. In the alternative, before a seller delivers an initial
4 purchase to any person, the seller must first obtain from the
5 prospective customer an electronic certification, such as by email,
6 that includes a declaration that, at a minimum, the prospective
7 customer is over the minimum age required for the legal sale of a
8 vapor product, and the credit or debit card used for payment has been
9 issued in the purchaser's name.

10 (7) A delivery sale licensee must include on shipping documents a
11 clear and conspicuous statement which includes, at a minimum, that
12 the package contains vapor products, Washington law prohibits sales
13 to those under the minimum age established by this chapter, and
14 violations may result in sanctions to both the licensee and the
15 purchaser.

16 (8) For purposes of this (~~subsection (8) [this section]~~)
17 section, "vapor products" has the same meaning as provided in RCW
18 (~~(82.25.005)~~) 82.26.010.

19 (9) A person who knowingly violates this section is guilty of a
20 class C felony, except that the maximum fine that may be imposed is
21 five thousand dollars.

22 (10) In addition to or in lieu of any other civil or criminal
23 remedy provided by law, a person who has violated this section is
24 subject to a civil penalty of up to five thousand dollars for each
25 violation. The attorney general, acting in the name of the state, may
26 seek recovery of the penalty in a civil action in superior court.

27 (11) The attorney general may seek an injunction in superior
28 court to restrain a threatened or actual violation of this section
29 and to compel compliance with this section.

30 (12) Any violation of this section is not reasonable in relation
31 to the development and preservation of business and is an unfair and
32 deceptive act or practice and an unfair method of competition in the
33 conduct of trade or commerce in violation of RCW 19.86.020. Standing
34 to bring an action to enforce RCW 19.86.020 for violation of this
35 section lies solely with the attorney general. Remedies provided by
36 chapter 19.86 RCW are cumulative and not exclusive.

37 (13)(a) In any action brought under this section, the state is
38 entitled to recover, in addition to other relief, the costs of
39 investigation, expert witness fees, costs of the action, and
40 reasonable attorneys' fees.

1 (b) If a court determines that a person has violated this
2 section, the court shall order any profits, gain, gross receipts, or
3 other benefit from the violation to be disgorged and paid to the
4 state treasurer for deposit in the general fund.

5 (14) Unless otherwise expressly provided, the penalties or
6 remedies, or both, under this section are in addition to any other
7 penalties and remedies available under any other law of this state.

8 (15) A licensee who violates this section is subject to license
9 suspension or revocation by the board.

10 (16) The board may adopt by rule additional requirements for mail
11 or internet sales.

12 (17) The board must not adopt rules prohibiting internet sales.

13 **Sec. 126.** RCW 70.345.160 and 2023 c 398 s 7 are each amended to
14 read as follows:

15 (1) The board must have, in addition to the board's other powers
16 and authorities, the authority to enforce the provisions of this
17 chapter.

18 (2) The board and the board's authorized agents or employees have
19 full power and authority to enter any place of business where vapor
20 products are sold for the purpose of enforcing the provisions of this
21 chapter.

22 (3)(a) For the purpose of enforcing the provisions of this
23 chapter, an enforcement officer of the board who has reasonable
24 grounds to believe a person observed by the officer in proximity to a
25 retailer licensee under this chapter and chapter (~~82.25~~) 82.26 RCW
26 who is purchasing, attempting to purchase, or in possession of vapor
27 products is under eighteen years of age, may detain such person in
28 proximity to such retailer for a reasonable period of time and in
29 such a reasonable manner as is necessary to determine the person's
30 true identity and date of birth. Further, vapor products possessed by
31 persons under eighteen years of age are considered contraband and may
32 be seized by an enforcement officer of the board.

33 (b) Any enforcement officer who detains a person for the purpose
34 of enforcing the provisions of this chapter and RCW 26.28.080 and
35 82.24.500 must collect the following information for each fiscal year
36 since 2018:

37 (i) The total number of interactions where an enforcement officer
38 detained a person;

1 (ii) Information on the nature of each interaction, including the
2 duration of the interaction, the justification for the interaction,
3 the number of such persons who were under 18 years of age, the number
4 of such persons who were over 18 but under 21 years of age, and
5 whether any citation or warning was issued;

6 (iii) How many interactions converted to administrative violation
7 notices; and

8 (iv) How many of the interactions and administrative violation
9 notices converted to retailer education and violations.

10 (c) The board must compile the information collected pursuant to
11 (b) of this subsection, along with any associated demographic data in
12 the possession of the board, and conduct a comparative analysis of
13 all interactions of enforcement officers with persons detained for
14 the purpose of enforcing Title 66 RCW and chapter 69.50 RCW into a
15 statewide report and provide the report to the appropriate committees
16 of the legislature by December 1, 2023, and annually thereafter.

17 (d) All enforcement officers of the board who enforce the
18 provisions of this section and will have interactions with persons
19 under the age of 18 years old must begin receiving training from the
20 United States department of justice office of juvenile justice and
21 delinquency prevention prior to July 1, 2024.

22 (e) For the purposes of this subsection, "proximity" means 100
23 feet or less.

24 (4) The board may work with local county health departments or
25 districts and local law enforcement agencies to conduct random,
26 unannounced, inspections to assure compliance.

27 (5) The board, law enforcement, or a local health department may,
28 with parental authorization, include persons under the age of 18 in
29 compliance activities.

30 (6) Upon a determination by the secretary of health or a local
31 health jurisdiction that a vapor product may be injurious to human
32 health or poses a significant risk to public health:

33 (a) The board, in consultation with the department of health and
34 local county health jurisdictions, may cause a vapor product
35 substance or solution sample, purchased or obtained from any vapor
36 product retailer, distributor, or delivery sale licensee, to be
37 analyzed by an analyst appointed or designated by the board;

38 (b) If the analyzed vapor product contains an ingredient,
39 substance, or solution present in quantities injurious to human
40 health or posing a significant risk to public health, as determined

1 by the secretary of health or a local health jurisdiction, the board
2 may suspend the license of the retailer or delivery sale licensee
3 unless the retailer or delivery sale licensee agrees to remove the
4 product from sales; and

5 (c) If upon a finding from the secretary of health or local
6 health jurisdiction that the vapor product poses an injurious risk to
7 public health or significant public health risk, the retailer or
8 delivery sale licensee does not remove the product from sale, the
9 secretary of health or local health officer may file for an
10 injunction in superior court prohibiting the sale or distribution of
11 that specific vapor product substance or solution.

12 (7) Nothing in subsection (6) of this section permits a total ban
13 on the sale or use of vapor products.

14 NEW SECTION. **Sec. 127.** The following acts or parts of acts are
15 each repealed:

16 (1) RCW 82.25.005 (Definitions) and 2022 c 16 s 163 & 2019 c 445
17 s 101;

18 (2) RCW 82.25.010 (Tax imposed—Time of collection—Deposits) and
19 2019 c 445 s 102;

20 (3) RCW 82.25.020 (Intent—Purpose) and 2019 c 445 s 104;

21 (4) RCW 82.25.025 (Federal law preemption) and 2019 c 445 s 105;

22 (5) RCW 82.25.030 (Recordkeeping requirements) and 2019 c 445 s
23 106;

24 (6) RCW 82.25.035 (Itemized invoice requirement when sold to
25 person other than ultimate consumer) and 2019 c 445 s 107;

26 (7) RCW 82.25.040 (Itemized invoice requirement—Retailers) and
27 2019 c 445 s 108;

28 (8) RCW 82.25.050 (Chapter 82.32 RCW application) and 2019 c 445
29 s 110;

30 (9) RCW 82.25.055 (Enforcement officers) and 2019 c 445 s 111;

31 (10) RCW 82.25.060 (Invoice requirements—Rules—Liability) and
32 2019 c 445 s 112;

33 (11) RCW 82.25.065 (Transporting vapor products for sale—Notice)
34 and 2019 c 445 s 113;

35 (12) RCW 82.25.070 (Recordkeeping by the board) and 2019 c 445 s
36 114;

37 (13) RCW 82.25.075 (Distributors and retailers—Invoices—
38 Transportation—Additional licenses) and 2019 c 445 s 115;

- 1 (14) RCW 82.25.080 (Distributor and retailer license
2 requirements) and 2019 c 445 s 116;
- 3 (15) RCW 82.25.085 (Manufacturer's representatives) and 2019 c
4 445 s 117;
- 5 (16) RCW 82.25.090 (License and notice requirement violations—
6 Seizure and forfeiture) and 2019 c 445 s 118;
- 7 (17) RCW 82.25.095 (Seizure and forfeiture procedures) and 2019 c
8 445 s 119;
- 9 (18) RCW 82.25.100 (Violations of chapter—Affidavit—Search
10 warrants) and 2019 c 445 s 120;
- 11 (19) RCW 82.25.105 (Tax credit—Sold outside state—Returned,
12 destroyed products—Sold to United States or an Indian tribal
13 organization) and 2019 c 445 s 121;
- 14 (20) RCW 82.25.110 (Preexisting inventories) and 2019 c 445 s
15 122;
- 16 (21) RCW 82.25.900 (Conflict with federal requirements—2019 c
17 445) and 2019 c 445 s 407; and
- 18 (22) RCW 82.25.901 (Effective date—2019 c 445) and 2019 c 445 s
19 409.

20 **PART II**
21 **CIGARETTE TAX**

22 NEW SECTION. **Sec. 201.** A new section is added to chapter 82.24
23 RCW to read as follows:

24 (1) In addition to the tax imposed upon the sale, use,
25 consumption, handling, possession, or distribution of cigarettes in
26 RCW 82.24.020 and 82.24.026, there is imposed a tax in an amount
27 equal to \$0.09875 per cigarette.

28 (2) Beginning January 1, 2032, and every four years thereafter,
29 the department shall adjust the amount of the tax under this section
30 by multiplying the current amount by one plus the percentage by which
31 the most current consumer price index available on October 1st of the
32 current year exceeds the consumer price index for the prior 48-month
33 period. If an adjustment under this subsection (2) would reduce the
34 applicable amounts, the department may not adjust the applicable
35 amounts for use in the following year. The department shall publish
36 the adjusted applicable amounts on its public website by December
37 31st. The adjusted applicable amounts calculated under this

1 subsection (2) take effect for taxes due in January of the calendar
2 year that is two years after the year of the calculation.

3 (3) The first \$10,000,000 collected under this section each
4 fiscal year must be deposited in the youth tobacco and vapor products
5 prevention account created in RCW 70.155.120. Any additional revenue
6 collected under this section must be deposited into the state general
7 fund.

8 (4) For purposes of this section, "consumer price index" means
9 the consumer price index for all urban consumers, all items, for the
10 Seattle area as calculated by the United States bureau of labor
11 statistics or its successor agency.

12 **PART III**

13 **TRIBAL COMPACTING**

14 NEW SECTION. **Sec. 301.** A new section is added to chapter 43.06
15 RCW to read as follows:

16 (1) The governor may seek government-to-government consultations
17 with federally recognized Indian tribes for the purpose of amending
18 existing and future cigarette tax contracts and vapor product tax
19 contracts, as authorized in RCW 43.06.455, 43.06.465, 43.06.466,
20 43.06.505, 43.06.510, and 43.06.515, in accordance with the state
21 taxes on cigarettes, nicotine products, and vapor products, as
22 modified by this act.

23 (2) The governor may delegate the authority to renegotiate
24 cigarette and vapor product tax contracts with federally recognized
25 Indian tribes to the department of revenue.

26 **PART IV**

27 **SECTION 301, CHAPTER 422, LAWS OF 2025**

28
29 NEW SECTION. **Sec. 401.** A new section is added to chapter 82.26
30 RCW to read as follows:

31 (1) The tax under this chapter does not apply to preexisting
32 inventories of vapor products for which tax was paid under RCW
33 82.25.010 prior to January 1, 2026.

34 (2) For the purposes of this section:

35 (a) "Preexisting inventory" means an inventory of vapor products
36 located in this state as of the effective date of this section and

1 held by a distributor or retailer for sale, handling, or distribution
2 in this state.

3 (b) "Vapor product" has the same meaning as defined in RCW
4 82.25.005.

5 (3) This section expires July 1, 2027.

6 **PART V**
7 **MISCELLANEOUS**

8 **Sec. 501.** RCW 43.348.080 and 2025 c 199 s 5 are each amended to
9 read as follows:

10 (1) The Andy Hill cancer research endowment fund match transfer
11 account is created in the custody of the state treasury to be used
12 solely and exclusively for the program created in RCW 43.348.040.
13 Moneys in the account may be spent only after appropriation. The
14 purpose of the account is to provide state matching funds and other
15 state appropriations for the fund and administrative costs.
16 Expenditures to fund or reimburse the program administrator are not
17 subject to the requirements of subsection (5) of this section.

18 (2) The legislature must appropriate a state match (~~(, up to a~~
19 ~~maximum of ten million dollars annually, beginning July 1, 2016, and~~
20 ~~each July 1st following the end of the fiscal year)) not to exceed
21 \$10,000,000 each fiscal year from tax collections (~~(and penalties~~
22 ~~generated from enforcement of state taxes on cigarettes and other~~
23 ~~tobacco products by the state liquor and cannabis board or other~~
24 ~~federal, state or local law or tax enforcement agency, as determined~~
25 ~~by the department of revenue)) on vapor products under RCW 82.26.020.
26 (~~(Tax collections include any cigarette tax, other tobacco product~~
27 ~~tax, and retail sales and use tax. Any amounts deposited into this~~
28 ~~account from the tax imposed under RCW 82.25.010 in excess of the cap~~
29 ~~provided in this subsection must be deposited into the foundational~~
30 ~~public health services account created in RCW 82.25.015.)) The
31 maximum appropriation amount under this subsection must be adjusted
32 for inflation beginning January 1, 2029, and each year thereafter, as
33 required in section 103 of this act.~~~~~~

34 (3) Revenues to the account must consist of deposits into the
35 account, taxes imposed on vapor products under RCW (~~(82.25.010))~~
36 82.26.020, legislative appropriations, and any gifts, grants, or
37 donations received by the department for this purpose.

1 (4) Each fiscal biennium, the legislature must appropriate to the
2 department of commerce such amounts as estimated to be the balance of
3 the match transfer account to provide state matching funds.

4 (5) Expenditures from the account may be made only upon receipt
5 of proof from the program administrator of committed nonstate or
6 private contributions for cancer research, prevention, or care
7 supported by the match transfer account or advancement of the
8 program. Expenditures from the match transfer account, in the form of
9 matching funds, may not exceed the total amount of committed nonstate
10 or private contributions.

11 (6) The department and board must enter into an appropriate
12 agreement with the program administrator to demonstrate exchange of
13 consideration for the expenditures from the match transfer account
14 that are subject to subsection (5) of this section.

15 (7) Moneys expended into the account in fiscal year 2023 pursuant
16 to section 706, chapter 297, Laws of 2022 are not subject to the
17 requirements of subsections (5) and (6) of this section.

18 (8) Moneys expended into the match transfer account for the
19 purposes of implementing RCW 43.348.090 are not subject to the
20 requirements of subsections (5) and (6) of this section.

21 **Sec. 502.** RCW 82.32.870 and 2019 c 445 s 401 are each amended to
22 read as follows:

23 (1) By October 15, 2020, and by each October 15th thereafter, the
24 department must estimate any increase in state general fund revenue
25 collections for the immediately preceding fiscal year resulting from
26 the taxes imposed in chapter 445, Laws of 2019. The department must
27 promptly notify the state treasurer of these estimated amounts.

28 (2) Beginning November 1, 2020, and by each November 1st
29 thereafter, the state treasurer must transfer from the general fund
30 the estimated amount determined by the department under subsection
31 (1) of this section for the immediately preceding fiscal year as
32 follows:

33 (a) Fifty percent into the Andy Hill cancer research endowment
34 fund match transfer account created in RCW 43.348.080; and

35 (b) Fifty percent into the foundational public health services
36 account created in RCW 82.25.015 (as recodified by this act).

37 (3) The department may not make any adjustments to an estimate
38 under subsection (1) of this section after the state treasurer makes

1 the corresponding distribution under subsection (2) of this section
2 based on the department's estimate.

3 **Sec. 503.** RCW 66.44.010 and 2019 c 445 s 202 are each amended to
4 read as follows:

5 (1) All county and municipal peace officers are hereby charged
6 with the duty of investigating and prosecuting all violations of this
7 title, and the penal laws of this state relating to the manufacture,
8 importation, transportation, possession, distribution and sale of
9 liquor, and all fines imposed for violations of this title and the
10 penal laws of this state relating to the manufacture, importation,
11 transportation, possession, distribution and sale of liquor belong to
12 the county, city or town wherein the court imposing the fine is
13 located, and must be placed in the general fund for payment of the
14 salaries of those engaged in the enforcement of the provisions of
15 this title and the penal laws of this state relating to the
16 manufacture, importation, transportation, possession, distribution
17 and sale of liquor. However, all fees, fines, forfeitures and
18 penalties collected or assessed by a district court because of the
19 violation of a state law must be remitted as provided in chapter 3.62
20 RCW as now exists or is later amended.

21 (2) In addition to any and all other powers granted, the board
22 has the power to enforce the penal provisions of this title and the
23 penal laws of this state relating to the manufacture, importation,
24 transportation, possession, distribution and sale of liquor.

25 (3) In addition to the other duties under this section, the board
26 must enforce chapters 82.24(~~(7)~~) and 82.26(~~(7, and 82.25)~~) RCW.

27 (4) The board may appoint and employ, assign to duty and fix the
28 compensation of, officers to be designated as liquor enforcement
29 officers. Such liquor enforcement officers have the power, under the
30 supervision of the board, to enforce the penal provisions of this
31 title and the penal laws of this state relating to the manufacture,
32 importation, transportation, possession, distribution and sale of
33 liquor. They have the power and authority to serve and execute all
34 warrants and process of law issued by the courts in enforcing the
35 penal provisions of this title or of any penal law of this state
36 relating to the manufacture, importation, transportation, possession,
37 distribution and sale of liquor, and the provisions of chapters
38 82.24(~~(7)~~) and 82.26(~~(7, and 82.25)~~) RCW. They have the power to
39 arrest without a warrant any person or persons found in the act of

1 violating any of the penal provisions of this title or of any penal
2 law of this state relating to the manufacture, importation,
3 transportation, possession, distribution and sale of liquor, and the
4 provisions of chapters 82.24(~~(7)~~) and 82.26(~~(7, and 82.25)~~) RCW.

5 **Sec. 504.** RCW 82.24.550 and 2019 c 445 s 204 are each amended to
6 read as follows:

7 (1) The board must enforce the provisions of this chapter. The
8 board may adopt, amend, and repeal rules necessary to enforce the
9 provisions of this chapter.

10 (2) The department may adopt, amend, and repeal rules necessary
11 to administer the provisions of this chapter. The board may revoke or
12 suspend the license or permit of any wholesale or retail cigarette
13 dealer in the state upon sufficient cause appearing of the violation
14 of this chapter or upon the failure of such licensee to comply with
15 any of the provisions of this chapter.

16 (3) A license may not be suspended or revoked except upon notice
17 to the licensee and after a hearing as prescribed by the board. The
18 board, upon finding that the licensee has failed to comply with any
19 provision of this chapter or any rule adopted under this chapter,
20 must, in the case of the first offense, suspend the license or
21 licenses of the licensee for a period of not less than thirty
22 consecutive business days, and, in the case of a second or further
23 offense, must suspend the license or licenses for a period of not
24 less than ninety consecutive business days nor more than twelve
25 months, and, in the event the board finds the licensee has been
26 guilty of willful and persistent violations, it may revoke the
27 license or licenses.

28 (4) Any licenses issued under chapter 82.26 or 70.345 RCW to a
29 person whose license or licenses have been suspended or revoked under
30 this section must also be suspended or revoked during the period of
31 suspension or revocation under this section.

32 (5) Any person whose license or licenses have been revoked under
33 this section may reapply to the board at the expiration of one year
34 from the date of revocation of the license or licenses. The license
35 or licenses may be approved by the board if it appears to the
36 satisfaction of the board that the licensee will comply with the
37 provisions of this chapter and the rules adopted under this chapter.

38 (6) A person whose license has been suspended or revoked may not
39 sell cigarettes, vapor products, or tobacco products or permit

1 cigarettes, vapor products, or tobacco products to be sold during the
2 period of such suspension or revocation on the premises occupied by
3 the person or upon other premises controlled by the person or others
4 or in any other manner or form whatever.

5 (7) Any determination and order by the board, and any order of
6 suspension or revocation by the board of the license or licenses
7 issued under this chapter, or refusal to reinstate a license or
8 licenses after revocation is reviewable by an appeal to the superior
9 court of Thurston county. The superior court must review the order or
10 ruling of the board and may hear the matter de novo, having due
11 regard to the provisions of this chapter and the duties imposed upon
12 the board.

13 (8) If the board makes an initial decision to deny a license or
14 renewal, or suspend or revoke a license, the applicant may request a
15 hearing subject to the applicable provisions under Title 34 RCW.

16 (9) For purposes of this section:

17 (a) "Tobacco products" has the same meaning as provided in RCW
18 82.26.010; and

19 (b) "Vapor products" has the same meaning as provided in RCW
20 (~~82.25.005~~) 82.26.010.

21 **Sec. 505.** RCW 82.19.020 and 1992 c 175 s 4 are each amended to
22 read as follows:

23 To accomplish effective litter control within the state and to
24 allocate a portion of the cost of administering this chapter to those
25 industries whose products, including the packages, wrappings, and
26 containers thereof, are reasonably related to the litter problem, the
27 tax imposed in this chapter shall only apply to the value of products
28 or the gross proceeds of sales of products falling into the following
29 categories:

- 30 (1) Food for human or pet consumption.
- 31 (2) Groceries.
- 32 (3) Cigarettes and (~~tobacco~~) nicotine products.
- 33 (4) Soft drinks and carbonated waters.
- 34 (5) Beer and other malt beverages.
- 35 (6) Wine.
- 36 (7) Newspapers and magazines.
- 37 (8) Household paper and paper products.
- 38 (9) Glass containers.
- 39 (10) Metal containers.

- 1 (11) Plastic or fiber containers made of synthetic material.
- 2 (12) Cleaning agents and toiletries.
- 3 (13) Nondrug drugstore sundry products.

4 NEW SECTION. **Sec. 506.** RCW 82.25.015 is recodified as a section
5 in chapter 82.26 RCW.

6 NEW SECTION. **Sec. 507.** RCW 82.32.805 and 82.32.808 do not apply
7 to this act.

8 NEW SECTION. **Sec. 508.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 509.** Sections 101 through 126 and 502 through
13 506 of this act take effect January 1, 2027.

14 NEW SECTION. **Sec. 510.** Section 201 of this act takes effect
15 January 1, 2028.

16 NEW SECTION. **Sec. 511.** Section 401 of this act applies
17 retroactively to January 1, 2026, as well as prospectively.

18 NEW SECTION. **Sec. 512.** Section 401 of this act is necessary for
19 the immediate preservation of the public peace, health, or safety, or
20 support of the state government and its existing public institutions,
21 and takes effect immediately.

--- END ---