
HOUSE BILL 1497

State of Washington

68th Legislature

2023 Regular Session

By Representatives Harris and Bateman

1 AN ACT Relating to preventing use of vapor, vapor products,
2 tobacco, and tobacco products by minors by increasing penalties
3 against those who sell to minors and removing civil liability and the
4 ability to detain a minor for suspected possession of products;
5 amending RCW 70.155.100, 70.155.110, and 70.345.160; reenacting and
6 amending RCW 70.155.120; creating new sections; and repealing RCW
7 70.155.080 and 70.345.140.

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

9 NEW SECTION. **Sec. 1.** The legislature recognizes that prevention
10 is the most effective tool to reduce vapor and tobacco usage by
11 persons under the age of 21. The legislature finds that protection of
12 adolescents' health and well-being requires enforcement and
13 intervention efforts to focus upon effective vapor and tobacco
14 control and access strategies. The legislature recognizes that
15 retailers play a key role in ensuring that state law regarding access
16 to vapor or tobacco is followed. The legislature recognizes vapor and
17 tobacco purchase, possession, and use by persons under the age of 21
18 as a public health issue. The legislature further recognizes that,
19 with passage of chapter 15, Laws of 2019, individuals between the
20 ages of 18 and 21 do not face criminal or civil liability for
21 purchase or possession of vapor or tobacco products but that

1 individuals under the age of 18 continue to face civil liability for
2 purchase or possession of vapor or tobacco products. The legislature
3 therefore finds that all persons under the age of 21 who engage in
4 vapor or tobacco purchasing, possession, or use should not be treated
5 as violators or status offenders but should be offered community-
6 based interventions that are more effective at addressing the use of
7 vapor products and tobacco. The legislature further resolves to
8 increase enforcement strategies to ensure retail compliance with
9 tobacco and vapor possession laws.

10 **Sec. 2.** RCW 70.155.100 and 2016 sp.s. c 38 s 23 are each amended
11 to read as follows:

12 (1) The liquor and cannabis board may suspend or revoke a
13 retailer's license issued under RCW 82.24.510(1)(b) or
14 82.26.150(1)(b) held by a business at any location, or may impose a
15 monetary penalty as set forth in subsection (3) of this section, if
16 the liquor and cannabis board finds that the licensee has violated
17 RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040, 70.155.050,
18 70.155.070, or 70.155.090.

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

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

28 (a) For violations of RCW (~~(26.28.080,)~~) 70.155.020(~~(,)~~) or 21
29 C.F.R. Sec. 1140.14, and for violations of RCW 70.155.040 occurring
30 on the licensed premises:

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

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

35 (iii) A monetary penalty of (~~(two thousand dollars)~~) \$2,000 and
36 suspension of the license for a period of six months for the third
37 violation within any three-year period;

1 (iv) A monetary penalty of (~~three thousand dollars~~) \$3,000 and
2 suspension of the license for a period of (~~twelve~~) 12 months for
3 the fourth violation within any three-year period;

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

7 (b) For violations of RCW 26.28.080:

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

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

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

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

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

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

25 (~~(e)~~) (d) For violations of RCW 70.155.030, a monetary penalty
26 in the amount of (~~one hundred dollars~~) \$100 for each day upon which
27 such violation occurred;

28 (~~(d)~~) (e) For violations of RCW 70.155.050, a monetary penalty
29 in the amount of (~~six hundred dollars~~) \$600 for each violation;

30 (~~(e)~~) (f) For violations of RCW 70.155.070, a monetary penalty
31 in the amount of (~~two thousand dollars~~) \$2,000 for each violation.

32 (4) The liquor and cannabis board may impose a monetary penalty
33 upon any person other than a licensed cigarette or tobacco product
34 retailer if the liquor and cannabis board finds that the person has
35 violated RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040,
36 70.155.050, 70.155.070, or 70.155.090.

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

1 (a) For violation of RCW 26.28.080 or 70.155.020, (~~one hundred~~
2 ~~dollars~~) \$100 for the first violation and (~~two hundred dollars~~)
3 \$200 for each subsequent violation;

4 (b) For violations of RCW 70.155.030, (~~two hundred dollars~~)
5 \$200 for each day upon which such violation occurred;

6 (c) For violations of RCW 70.155.040, (~~two hundred dollars~~)
7 \$200 for each violation;

8 (d) For violations of RCW 70.155.050, (~~six hundred dollars~~)
9 \$600 for each violation;

10 (e) For violations of RCW 70.155.070, (~~two thousand dollars~~)
11 \$2,000 for each violation.

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

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

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

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

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

1 **Sec. 3.** RCW 70.155.110 and 1993 c 507 s 12 are each amended to
2 read as follows:

3 (1) The ~~((liquor control))~~ board shall, in addition to the
4 board's other powers and authorities, have the authority to enforce
5 the provisions of this chapter and RCW 26.28.080~~((4))~~ and
6 82.24.500. The ~~((liquor control))~~ board shall have full power to
7 revoke or suspend the license of any retailer or wholesaler in
8 accordance with the provisions of RCW 70.155.100.

9 (2) The ~~((liquor control))~~ board and the board's authorized
10 agents or employees shall have full power and authority to enter any
11 place of business where tobacco products are sold for the purpose of
12 enforcing the provisions of this chapter.

13 ~~(3) ((For the purpose of enforcing the provisions of this chapter
14 and RCW 26.28.080(4) and 82.24.500, a peace officer or enforcement
15 officer of the liquor control board who has reasonable grounds to
16 believe a person observed by the officer purchasing, attempting to
17 purchase, or in possession of tobacco products is under the age of
18 eighteen years of age, may detain such person for a reasonable period
19 of time and in such a reasonable manner as is necessary to determine
20 the person's true identity and date of birth. Further, tobacco
21 products possessed by persons under the age of eighteen years of age
22 are considered contraband and may be seized by a peace officer or
23 enforcement officer of the liquor control board.~~

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

27 **Sec. 4.** RCW 70.155.120 and 2019 c 415 s 979 and 2019 c 15 s 10
28 are each reenacted and amended to read as follows:

29 (1) The youth tobacco and vapor products prevention account is
30 created in the state treasury. All fees collected pursuant to RCW
31 70.155.100, 82.24.520, 82.24.530, 82.26.160, and 82.26.170 and funds
32 collected by the ~~((liquor and cannabis))~~ board from the imposition of
33 monetary penalties shall be deposited into this account, except that
34 ~~((ten))~~ 10 percent of all such fees and penalties shall be deposited
35 in the state general fund.

36 (2) Moneys appropriated from the youth tobacco and vapor products
37 prevention account to the department of health shall be used by the
38 department of health for implementation of this chapter, including
39 collection and reporting of data regarding enforcement and the extent

1 to which access to tobacco products and vapor products by youth has
2 been reduced.

3 (3) The department of health shall enter into interagency
4 agreements with the (~~(liquor and cannabis)~~) board to pay the costs
5 incurred, up to (~~(thirty)~~) 30 percent of available funds, in carrying
6 out its enforcement responsibilities under this chapter. Such
7 agreements shall set forth standards of enforcement, consistent with
8 the funding available, so as to reduce the extent to which tobacco
9 products and vapor products are available to individuals under the
10 age of (~~(twenty-one)~~) 21. The agreements shall also set forth
11 requirements for data reporting by the (~~(liquor and cannabis)~~) board
12 regarding its enforcement activities. During the 2019-2021 fiscal
13 biennium, the department of health shall pay the costs incurred, up
14 to (~~(twenty-three)~~) 23 percent of available funds, in carrying out
15 its enforcement responsibilities.

16 (4) The department of health, the (~~(liquor and cannabis)~~) board,
17 and the department of revenue shall enter into an interagency
18 agreement for payment of the cost of administering the tobacco
19 retailer licensing system and for the provision of quarterly
20 documentation of tobacco wholesaler, retailer, and vending machine
21 names and locations.

22 (5) The department of health shall, within up to (~~(seventy)~~) 70
23 percent of available funds, provide grants to local health
24 departments or other local community agencies to develop and
25 implement coordinated tobacco and vapor product intervention
26 strategies to prevent and reduce tobacco and vapor product use by
27 youth. During the 2019-2021 fiscal biennium, the department of health
28 shall, within up to (~~(seventy-seven)~~) 77 percent of available funds,
29 provide grants to local health departments or other local community
30 agencies to develop and implement coordinated tobacco and vapor
31 product intervention strategies to prevent and reduce tobacco and
32 vapor product use by youth.

33 **Sec. 5.** RCW 70.345.160 and 2016 sp.s. c 38 s 24 are each amended
34 to read as follows:

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

38 (2) The board and the board's authorized agents or employees have
39 full power and authority to enter any place of business where vapor

1 products are sold for the purpose of enforcing the provisions of this
2 chapter.

3 ~~(3) ((For the purpose of enforcing the provisions of this
4 chapter, a peace officer or enforcement officer of the board who has
5 reasonable grounds to believe a person observed by the officer
6 purchasing, attempting to purchase, or in possession of vapor
7 products is under eighteen years of age, may detain such person for a
8 reasonable period of time and in such a reasonable manner as is
9 necessary to determine the person's true identity and date of birth.
10 Further, vapor products possessed by persons under eighteen years of
11 age are considered contraband and may be seized by a peace officer or
12 enforcement officer of the board.~~

13 ~~(4))~~ The board may work with local county health departments or
14 districts and local law enforcement agencies to conduct random,
15 unannounced, inspections to assure compliance.

16 (4) The board, law enforcement, or a local health department may,
17 with parental authorization, include persons under the age of 18 in
18 compliance and enforcement activities.

19 (5) Upon a determination by the secretary of health or a local
20 health jurisdiction that a vapor product may be injurious to human
21 health or poses a significant risk to public health:

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

27 (b) If the analyzed vapor product contains an ingredient,
28 substance, or solution present in quantities injurious to human
29 health or posing a significant risk to public health, as determined
30 by the secretary of health or a local health jurisdiction, the board
31 may suspend the license of the retailer or delivery sale licensee
32 unless the retailer or delivery sale licensee agrees to remove the
33 product from sales; and

34 (c) If upon a finding from the secretary of health or local
35 health jurisdiction that the vapor product poses an injurious risk to
36 public health or significant public health risk, the retailer or
37 delivery sale licensee does not remove the product from sale, the
38 secretary of health or local health officer may file for an
39 injunction in superior court prohibiting the sale or distribution of
40 that specific vapor product substance or solution.

1 (6) Nothing in subsection (5) of this section permits a total ban
2 on the sale or use of vapor products.

3 NEW SECTION. **Sec. 6.** Nothing in this act shall be interpreted
4 to limit the ability of a peace officer or an enforcement officer of
5 the liquor and cannabis board to enforce the provisions of chapters
6 70.155 and 70.345 RCW and RCW 26.28.080 and 82.24.500.

7 NEW SECTION. **Sec. 7.** The following acts or parts of acts are
8 each repealed:

9 (1) RCW 70.155.080 (Purchasing, possessing by persons under
10 eighteen—Civil infraction—Jurisdiction) and 2002 c 175 s 47, 1998 c
11 133 s 2, & 1993 c 507 s 9; and

12 (2) RCW 70.345.140 (Purchase or possession by persons under
13 eighteen—Penalty—Jurisdiction) and 2016 sp.s. c 38 s 14.

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