
SENATE BILL 5129

State of Washington

67th Legislature

2021 Regular Session

By Senators Saldaña and Darneille

Prefiled 01/08/21.

1 AN ACT Relating to possession of vapor, vapor products, tobacco,
2 and tobacco products by minors; amending RCW 70.155.110 and
3 70.345.160; creating new sections; and repealing RCW 70.155.080 and
4 70.345.140.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that prevention
7 is the most effective tool to reduce vapor and tobacco usage by
8 persons under the age of 21. The legislature finds that protection of
9 adolescents' health and well-being requires enforcement and
10 intervention efforts to focus upon effective vapor and tobacco
11 control and access strategies. The legislature recognizes vapor and
12 tobacco purchase, possession, and use by persons under the age of 21
13 as a public health issue. The legislature further recognizes that,
14 with passage of chapter 15, Laws of 2019, individuals between the
15 ages of 18 and 21 do not face criminal or civil liability for
16 purchase or possession of vapor or tobacco products but that
17 individuals under the age of 18 continue to face civil liability for
18 purchase or possession of vapor or tobacco products. The legislature
19 therefore finds that all persons under the age of 21 who engage in
20 vapor or tobacco purchasing, possession, or use should not be treated
21 as violators or status offenders but should be offered community-

1 based interventions that are more effective at addressing the use of
2 vapor products and tobacco.

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

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

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

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

26 (~~4~~) The (~~liquor control~~) board may work with local county
27 health departments or districts and local law enforcement agencies to
28 conduct random, unannounced, inspections to assure compliance. The
29 board, local law enforcement agencies, or local health departments
30 may coordinate controlled purchases including persons under the age
31 of 18 with parental authorization and persons between the ages of 18
32 and 21, if they are performed in accordance with chapter 49.46 RCW.

33 **Sec. 3.** 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.

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

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

15 (4)) The board may work with local county health departments or
16 districts and local law enforcement agencies to conduct random,
17 unannounced, inspections to assure compliance. The board, local law
18 enforcement agencies, or local health departments may coordinate
19 controlled purchases including persons under the age of 18 with
20 parental authorization and persons between the ages of 18 and 21, if
21 they are performed in accordance with chapter 49.46 RCW.

22 ((+5)) (4) Upon a determination by the secretary of health or a
23 local health jurisdiction that a vapor product may be injurious to
24 human health or poses a significant risk to public health:

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

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

37 (c) If upon a finding from the secretary of health or local
38 health jurisdiction that the vapor product poses an injurious risk to
39 public health or significant public health risk, the retailer or
40 delivery sale licensee does not remove the product from sale, the

1 secretary of health or local health officer may file for an
2 injunction in superior court prohibiting the sale or distribution of
3 that specific vapor product substance or solution.

4 ~~((6))~~ (5) Nothing in subsection ~~((5))~~ (4) of this section
5 permits a total ban on the sale or use of vapor products.

6 NEW SECTION. **Sec. 4.** Nothing in this act shall be interpreted
7 to limit the ability of a peace officer or an enforcement officer of
8 the liquor and cannabis board to enforce the provisions of chapters
9 70.155 and 70.345 RCW and RCW 26.28.080 and 82.24.500.

10 NEW SECTION. **Sec. 5.** The following acts or parts of acts are
11 each repealed:

12 (1) RCW 70.155.080 (Purchasing, possessing by persons under
13 eighteen—Civil infraction—Jurisdiction) and 2002 c 175 s 47, 1998 c
14 133 s 2, & 1993 c 507 s 9; and

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

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