

---

**SUBSTITUTE SENATE BILL 6407**

---

**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** Senate Committee on Health & Human Services (originally sponsored by Senators Talmadge, Oke and Pelz)

Read first time 02/04/94.

1 AN ACT Relating to health and safety; amending RCW 70.155.010 and  
2 70.155.100; adding a new section to chapter 70.54 RCW; adding a new  
3 section to chapter 70.160 RCW; adding a new chapter to Title 70 RCW;  
4 creating a new section; repealing RCW 70.155.050, 70.155.060, and  
5 70.155.070; prescribing penalties; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW  
8 to read as follows:

9 (1) Except as provided in subsection (3) of this section, tobacco  
10 products may not be sold or distributed in those portions of buildings  
11 or vessels that are publicly owned or leased.

12 (2) A violation of this section is grounds for the termination or  
13 nonrenewal of a contract for occupancy or rental of any area of any  
14 publicly owned or leased building or vessel.

15 (3) This section does not apply to correctional institutions.  
16 However, the secretary of corrections or a local correctional  
17 institution authority may prohibit sales and distributions of tobacco  
18 products if the prohibition applies equally to employees and inmates.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 70.160 RCW  
2 to read as follows:

3        This chapter does not preempt local regulation of indoor smoking  
4 that is as restrictive or more restrictive than this chapter.

5        NEW SECTION.    **Sec. 3.**    Section 1 of this act shall take effect  
6 January 1, 1995.

7        NEW SECTION.    **Sec. 4.**    The legislature finds:

8        (1) The leading cause of preventable death is tobacco use.  
9 Further, the legislature recognizes the high rate of tobacco use by  
10 youth in our state.

11        (2) The giving of free samples and the use of coupons for the  
12 provision of cigarettes and tobacco products at no cost constitute  
13 methods of distribution of such products, rather than advertisement or  
14 promotion of such products, and are the proper subject of prohibition  
15 or regulation.

16        (3) Cigarettes and other tobacco products are being distributed to  
17 minors by means of free samples and no-cost coupons, and prohibition of  
18 such means of distribution is required in the interest of public  
19 health.

20        (4) Enforcement of an age-related restriction on the distribution  
21 of cigarettes and tobacco product samples and redemption of no-cost  
22 coupons is impractical and ineffective.

23        NEW SECTION.    **Sec. 5.**    (1) The following acts are prohibited:

24        (a) Giving away cigarettes or tobacco products to any person  
25 whether in person or through the mail; and

26        (b) Providing cigarettes or tobacco products to any person by a  
27 coupon at no cost.

28        (2) For the purposes of this chapter, "cigarettes" has the meaning  
29 given in RCW 82.24.010 and "tobacco products" has the meaning given in  
30 RCW 82.26.010.

31        NEW SECTION.    **Sec. 6.**    (1) The local health officer may take any or  
32 all of the following actions to enforce section 5 of this act if the  
33 health officer finds that there has been a violation of section 5 of  
34 this act:

1 (a) Suspend or revoke a retailer's license held by a business at a  
2 location within the health officer's geographical jurisdiction.

3 (b) Impose a civil penalty of three hundred dollars for each  
4 violation upon any person other than a licensed cigarette retailer.

5 (c) Issue a cease and desist order to any person who is found by  
6 the local health officer to have violated or intended to violate  
7 section 5 of this act which requires such person to cease specified  
8 conduct that is in violation. The issuance of a cease and desist order  
9 shall not preclude the imposition of other sanctions authorized by this  
10 chapter or any other provision of law.

11 (d) Seek injunctive relief to enforce section 5 of this act. The  
12 health officer may initiate legal action to collect civil penalties  
13 imposed under this chapter if the penalties have not been paid within  
14 thirty days after they are imposed. In any action filed by the local  
15 health officer under the provisions of this chapter, the court may, in  
16 addition to any other relief, award the health officer reasonable  
17 attorneys' fees and costs.

18 (2) Any order issued by the local health officer under this section  
19 may be appealed to the local board of health. The appeal shall be  
20 conducted de novo, and the health officer shall have the burden of  
21 proving the violation or violations set forth in the order by a  
22 preponderance of the evidence.

23 (3) Funds collected by local health departments or districts from  
24 imposition of civil penalties shall be retained by them and used for  
25 implementing programs intended to prevent the use of cigarettes and  
26 tobacco products or promote the cessation of their use.

27 NEW SECTION. **Sec. 7.** The provisions of this chapter are not  
28 exclusive, and any political subdivision of the state of Washington may  
29 adopt additional provisions which are not less restrictive than the  
30 provisions of this chapter.

31 **Sec. 8.** RCW 70.155.010 and 1993 c 507 s 2 are each amended to read  
32 as follows:

33 The definitions set forth in RCW 82.24.010 shall apply to RCW  
34 70.155.020 through 70.155.130. In addition, for the purposes of this  
35 chapter, unless otherwise required by the context:

36 (1) "Board" means the Washington state liquor control board.

1 (2) "Minor" refers to an individual who is less than eighteen years  
2 old.

3 (3) "Public place" means a public street, sidewalk, or park, or any  
4 area open to the public in a publicly owned and operated building.

5 (4) (~~"Sample" means a tobacco product distributed to members of~~  
6 ~~the general public at no cost or at nominal cost for product promotion~~  
7 ~~purposes.~~

8 (5) ~~"Sampler" means a person engaged in the business of sampling~~  
9 ~~other than a retailer.~~

10 (6) ~~"Sampling" means the distribution of samples to members of the~~  
11 ~~general public in a public place.~~

12 (7)) "Tobacco product" means a product that contains tobacco and  
13 is intended for human consumption.

14 **Sec. 9.** RCW 70.155.100 and 1993 c 507 s 11 are each amended to  
15 read as follows:

16 (1) The liquor control board may suspend or revoke a retailer's  
17 license held by a business at any location, or may impose a monetary  
18 penalty as set forth in subsection (2) of this section, if the liquor  
19 control board finds that the licensee has violated RCW 26.28.080(4), or  
20 70.155.020, 70.155.030, 70.155.040, (~~70.155.050, 70.155.060,~~  
21 ~~70.155.070, or~~) 70.155.090, or section 5 of this act.

22 (2) The sanctions that the liquor control board may impose against  
23 a person licensed under RCW 82.24.530 (~~and 70.155.050 and 70.155.060~~)  
24 based upon one or more findings under subsection (1) of this section  
25 may not exceed the following:

26 (a) For violation of RCW 26.28.080(4) or 70.155.020:

27 (i) A monetary penalty of one hundred dollars for the first  
28 violation within any two-year period;

29 (ii) A monetary penalty of three hundred dollars for the second  
30 violation within any two-year period;

31 (iii) A monetary penalty of one thousand dollars and suspension of  
32 the license for a period of six months for the third violation within  
33 any two-year period;

34 (iv) A monetary penalty of one thousand five hundred dollars and  
35 suspension of the license for a period of twelve months for the fourth  
36 violation within any two-year period;

1 (v) Revocation of the license with no possibility of reinstatement  
2 for a period of five years for the fifth or more violation within any  
3 two-year period;

4 (b) For violations of RCW 70.155.030, a monetary penalty in the  
5 amount of one hundred dollars for each day upon which such violation  
6 occurred;

7 (c) For violations of RCW 70.155.040 occurring on the licensed  
8 premises:

9 (i) A monetary penalty of one hundred dollars for the first  
10 violation within any two-year period;

11 (ii) A monetary penalty of three hundred dollars for the second  
12 violation within any two-year period;

13 (iii) A monetary penalty of one thousand dollars and suspension of  
14 the license for a period of six months for the third violation within  
15 any two-year period;

16 (iv) A monetary penalty of one thousand five hundred dollars and  
17 suspension of the license for a period of twelve months for the fourth  
18 violation within any two-year period;

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

22 (d) For violations of (~~RCW 70.155.050 and 70.155.060~~) section 5  
23 of this act, a monetary penalty in the amount of three hundred dollars  
24 for each violation(

25 ~~(e) For violations of RCW 70.155.070, a monetary penalty in the~~  
26 ~~amount of one thousand dollars for each violation)).~~

27 (3) The liquor control board may impose a monetary penalty upon any  
28 person other than a licensed cigarette retailer (~~or licensed sampler~~)  
29 if the liquor control board finds that the person has violated RCW  
30 26.28.080(4), or 70.155.020, 70.155.030, 70.155.040, (~~70.155.050,~~  
31 ~~70.155.060, 70.155.070, or~~) 70.155.090, or section 5 of this act.

32 (4) The monetary penalty that the liquor control board may impose  
33 based upon one or more findings under subsection (3) of this section  
34 may not exceed the following:

35 (a) For violation of RCW 26.28.080(4) or 70.155.020, fifty dollars  
36 for the first violation and one hundred dollars for each subsequent  
37 violation;

38 (b) For violations of RCW 70.155.030, one hundred dollars for each  
39 day upon which such violation occurred;

1 (c) For violations of RCW 70.155.040, one hundred dollars for each  
2 violation;

3 (d) For violations of ((RCW 70.155.050 and 70.155.060)) section 5  
4 of this act, three hundred dollars for each violation((+)

5 (~~e) For violations of RCW 70.155.070, one thousand dollars for each~~  
6 ~~violation~~)).

7 (5) The liquor control board may develop and offer a class for  
8 retail clerks and use this class in lieu of a monetary penalty for the  
9 clerk's first violation.

10 (6) The liquor control board may issue a cease and desist order to  
11 any person who is found by the liquor control board to have violated or  
12 intending to violate the provisions of this chapter, RCW 26.28.080(4)  
13 or 82.24.500, requiring such person to cease specified conduct that is  
14 in violation. The issuance of a cease and desist order shall not  
15 preclude the imposition of other sanctions authorized by this statute  
16 or any other provision of law.

17 (7) The liquor control board may seek injunctive relief to enforce  
18 the provisions of RCW 26.28.080(4) or 82.24.500 or this chapter. The  
19 liquor control board may initiate legal action to collect civil  
20 penalties imposed under this chapter if the same have not been paid  
21 within thirty days after imposition of such penalties. In any action  
22 filed by the liquor control board under this chapter, the court may, in  
23 addition to any other relief, award the liquor control board reasonable  
24 attorneys' fees and costs.

25 (8) All proceedings under subsections (1) through (6) of this  
26 section shall be conducted in accordance with chapter 34.05 RCW.

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

29 (1) RCW 70.155.050 and 1993 c 507 s 6;

30 (2) RCW 70.155.060 and 1993 c 507 s 7; and

31 (3) RCW 70.155.070 and 1993 c 507 s 8.

32 NEW SECTION. **Sec. 11.** Sections 5 through 7 of this act shall  
33 constitute a new chapter in Title 70 RCW.

--- END ---