



2021 Bill Analysis

<u>Bill Number:</u> Senate Bill 5129	<u>Bill Title:</u> Allowing purchase, possession and use of vapor and tobacco products by any person under age 21 with no consequences.	<u>Assigned To:</u> Capt. L A Reinke / Deputy Chief R Rupke
<u>Division:</u> Enforcement	<u>Date Assigned:</u> 1/11/2021	<u>Date Due:</u> 1/12/2021

Bill Sponsor(s):
Senators Saldaña and Darneille

Bill Digest or brief summary:

Relating to possession, purchase, and use of vapor, vapor products, tobacco, and tobacco products by all persons under the age of twenty-one; should not be treated as a violator or offender and offered community base intervention; amending RCW 70.155.110 and 70.345.160; creating a new section; and repealing RCW 70.155.080 and 70.345.140.
 Officers may not detain a minor or seize the restricted products for evidence.

Describe what the bill requires LCB to do or how it impacts current agency activities. (Consider workload, funding needs, feasibility of implementation)

The LCB already has the authority to conduct compliance checks and unannounced premises checks at businesses and to conduct those checks with local county, city and other state agencies.

This Bill allows for the Board to take a sample of vapor product to be analyzed. The Board has the ability to do this action but has limited testing locations and the cost is high.

The Bill does not allow for an LCB officer who believes a person to be under 21 and was observed by the officer, purchasing, attempting to purchase, or in possession of tobacco and vapor products to be detained for a reasonable period of time to determine the person's true identity and date of birth.

Furthermore, restricted products possessed by persons under the age of twenty-one years of age are considered contraband and may be seized by the officer. Seizure of product may occur if the enforcement officer of the board provides the person under twenty-one years of age documentation describing the seized product, and the person is provided with written information on cessation resources penned by the Dept. of Health.

Without the minor's information (such as the name, date of birth, and the restricted product) which can only be obtained through temporary detention which this bill prohibits, there would be no way to hold the Retailer responsible for the sale to a minor. Ultimately this means that restricted product will not be kept out of the hands of persons under 21.

Does the bill align with the agency's mission, goals and priorities (consider also the three-tier system)?

No, this Bill allows minors to use, possess and purchase vapor and tobacco. One of the LCB's goals is to keep restricted products out of the hand of minors. As the LCB recognizes Retailers must be held accountable; this ties the hands of the LCB to prove that a retailer is selling to a minor as it prohibits the collection of information from the minor by way of temporary detention. Additionally, the Bill releases accountability or consequences from the minor who may be just as responsible as the retailer in violating the law.

How could the bill impact access, availability or pricing of regulated substances? (Consider youth, vulnerable populations, general public and social norms)

It's likely to increase access minors of prohibited product as the LCB could not prove that a retailer was selling to a minor and thus could not hold the retailer accountable.

Would the bill impact advertising and marketing of regulated substances? (Consider exposure for populations listed above)

No

How might the bill impact external stakeholders, including state and local agencies, Tribes, public health and prevention? (Pro/Con):

Law Enforcement Officers are not permitted to obtain information such as a name, date of birth; ID to establish if the person is under 21 years of age, which are elements required to be proved when holding a retailer accountable. This also might affect local law enforcement, but it's doubtful they will be too concerned with that as local law



Washington State Liquor and Cannabis Board

enforcement mostly enforces tobacco/vape laws in a school setting. School authorities may be concerned with this laws impact on their ability to keep tobacco and vape out of schools.

Public Health likely would be concerned if we could no longer make cases against retailers selling to minor due to the inability to detain minors for identification.

Recommended LCB Position on Bill:

- Support
- Concerns
- Oppose
- No position

If recommending concerns or oppose, are there amendments to address problems?

Allow officers to reasonable detain the minor to obtain their name and date of birth and to seize the vapor or tobacco product. This would allow the Retailer to be held accountable. Without identification of the minor, its unlikely retailers who sell to minors can be held accountable as officers will be unable to prove a case against the retailer.

FOR SUBSTITUTE/AMENDED VERSION(S):

Identify Substitute/Amended Version:

Click or tap here to enter text.

Summarize changes to the bill.

Click or tap here to enter text.

Recommended LCB Position on Bill:

- Support
- Concerns
- Oppose
- No position

If recommending concerns or oppose, are there amendments to address problems?

Click or tap here to enter text.

For any questions, please contact [Chris Thompson](#)