



**Washington State
Liquor and Cannabis Board**

**Preventing Use of Vapor and Tobacco
Products by Minors**

**Legislative-Directed Annual Report
December 2023**

Preventing Use of Vapor and Tobacco Products by Minors

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I. Executive Summary

The 2023 session of the Washington State legislature adopted a proviso (See Appendix A) in the operating budget directing the Washington State Liquor and Cannabis Board (LCB) to conduct an agency analysis of commercial tobacco and vaping enforcement actions from fiscal year 2018 through fiscal year 2022 involving youth under the age of 18.

The LCB did not identify any disparities in the demographics of the youth stopped by enforcement officers.

The 2023 session of the Washington State legislature passed Engrossed Substitute Senate Bill No. 5365 (ESSB 5365), requiring LCB enforcement officers to begin receiving training from the US Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) prior to July 1, 2024, (See Appendix B).

The LCB Enforcement and Education division of LCB is working with OJJDP to identify training to fulfill the requirement.

II. Introduction

Background

Engrossed House Bill 1074 (EHB 1074) went into effect on Jan. 1, 2020, raising the minimum sales age of all tobacco and vapor products to 21 years of age. It is a civil infraction for people under the age of 18 to be in possession of or to attempt to buy tobacco or vapor products. The penalty for a class 3 civil infraction is a fine of up to \$50 and may also include court-ordered community service and/or referral to a smoking cessation program. There is no law preventing people between the ages of 18 and 20 from possessing or buying tobacco or vapor products.

Prior to implementation of ESSB 5365, general authority law enforcement officers and LCB enforcement officers with reasonable grounds to believe a person buying, attempting to buy, or in possession of tobacco or vapor products was under age 18 were authorized to detain such persons to determine their identity and date of birth, and seize the products if the persons were under age.

If an LCB enforcement officer observes a youthful appearing person attempting to buy, in possession of an age-restricted product, or in an age-restricted area, they may check IDs to verify age. If the officer detained an individual, they would get the following data to add to the WLCB case management system:

- Date and time of contact
- Location of contact
- Reason for contact
- People contacted and their roles with identifying information
- Answer a checklist question noting if they checked ID's and how many were checked
- Violations identified
- Citations or infractions

In 2023, the passage of ESSB 5365 removed the monetary fine and the requirement to participate in a smoking cessation program.

The RCW still allows for a person under 18 who commits a class 3 civil infraction for buying or possessing cigarette, tobacco, or vapor products to be referred to an optional smoking cessation program at no cost to the youth, and to be subject to up to four hours of community service.

Effective July 23, 2023, general authority law enforcement officers are no longer able to detain persons under 18 who are in possession or attempting to buy tobacco or vapor products. LCB enforcement officers may still detain suspected underage buyers but are only permitted to do so “in proximity to such retailer.” Proximity is defined as 100 feet or less.

Any LCB enforcement officer who detains suspected underage purchasers must collect and report certain data. The LCB is required to report on the data for each fiscal year since 2018 and must compile the collected information along with associated demographic data and to conduct a comparative analysis of all interactions of enforcement officers with persons detained while enforcing liquor and cannabis laws. The LCB must also provide the appropriate legislative committees with an annual report beginning on December 1, 2023.

III. Implementation

Data Collection

The 2023 Legislature passed ESSB 5365, modifying the provisions related to LCB enforcement officers detaining persons under 21. The LCB enforcement officers are required to collect information regarding these interactions and compile the collected information along with any associated demographic data in its possession for each fiscal year since 2018. The required data collection includes:

- the total number of interactions where an enforcement officer detained a person;
- information on the nature of each interaction, including justification and duration of the interaction;
- the number of such persons who were under 18 years of age, the number of such persons who were over 18 but under 21 years of age, and whether any citation or warning was issued;
- how many interactions converted to administrative violation notices for retail licensees; and
- how many of the interactions and administrative violation notices converted to retailer education and violations.

The LCB Enforcement and Education division updated its Procedure Manual to include a new procedure outlining the required data to collect when detaining a minor in possession of an age-restricted product and how to accurately enter the information into the division’s case management system. Procedure 306 Preventing Use of Vapor and Tobacco Products by Minors was issued on Sept. 14, 2023, and all current LCB enforcement officers have reviewed and acknowledged the procedure (See Appendix C).

Training

LCB Enforcement and Education officers must begin receiving training from the OJJDP prior to July 1, 2024. The OJJDP did not offer a recommendation from its currently available trainings. An Enforcement and Education Training Lieutenant is working with OJJDP to identify training that would fulfill this requirement by the July 1, 2024 deadline.

In addition, a partnership with the Attorney General's office will provide officers with a new resource for youth they interact with: the YES helpline through the Attorney General's HearMeWa initiative. This work will provide a tip line for youth and families for a wide variety of health and wellbeing risks to youth.

IV. Analysis

The following data details all information collected by LCB in the detainment of persons under 21 for all age-restricted products from fiscal year 2018 through Nov. 28, 2023 (See Appendix D).

From July 1, 2017, through Nov. 28, 2023, LCB enforcement officers detained a total of 6,522 individuals to check their ID for all age-restricted product types. A total of 43 were for tobacco/vapor products.

Since July 1, 2017, a total of two civil citations were issued to individuals for being in possession of tobacco/vapor products. These citations were:

- On Nov. 18, 2017, a citation was issued to a 17-year-old retail clerk in Pierce County. The individual was the only person on site of a vapor shop and sold vapor products to an LCB investigative aid.
- On Feb. 27, 2018, a citation was issued to a 17-year-old in Thurston County. A school resource officer contacted LCB enforcement officers regarding students frequenting a vapor shop near a high school. LCB enforcement officers observed youthful appearing individuals exiting the vapor retail premises in possession of vapor products. They detained the individuals and verified they were underage and released the students to school officials. One of the individuals was observed in possession of vapor products within an hour of the first contact and was issued a citation for minor in possession.

Since Feb. 27, 2018, there have been no civil citations issued to an individual for being in possession of or attempting to buy tobacco/vapor products.

Since July 1, 2017, 29 violations were issued to tobacco/vapor licensees when an LCB enforcement officer observed the sale of a tobacco/vapor product to an underage individual. There have been 9 violations issued to tobacco/vapor licensees when an underage individual was in possession of a tobacco/vapor product.

After a review of LCB data, the agency did not identify any disparities in the demographics of the youth stopped by enforcement officers.

V. Appendices

Appendix A

Engrossed Substitute Senate Bill 5187 (2023)

Section 146

(7) \$35,000 of the general fund—state appropriation for fiscal year 2024 is provided solely for the Liquor and Cannabis Board to conduct an agency analysis of commercial tobacco and vaping enforcement actions from fiscal year 2018 through fiscal year 2022 involving youth under the age of 18. This analysis shall be submitted to the appropriate committees of the legislature by December 1, 2023, and must include:

- (a) The total number of such interactions by fiscal year;
- (b) Information on the nature of those interactions;
- (c) How many interactions convert to administrative violation notices (AVNs);
- (d) How many of those interactions and AVNs convert to retailer education and violations; and
- (e) Descriptions of training for Liquor and Cannabis Board officers, and the number of officers trained on interacting with youth, particularly LGBTQ youth and youth of color.

(8) \$4,000 of the general fund—state appropriation for fiscal year 2024 is provided solely for implementation of Engrossed Substitute Senate Bill No. 5365 (vapor and tobacco/minors). If the bill is not enacted by June 30, 2023, the amount provided in this subsection shall lapse.

Appendix B

Engrossed Substitute Senate Bill 5365 (2023)

Section 7

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

Appendix C

Data Collection for Purchase and Possession of Age Restricted Products

306.1 PURPOSE AND SCOPE

The Washington State Liquor and Cannabis Board is required to submit an annual report to the Washington State Legislature, and is required to obtain the following data when enforcing the provisions of RCW 26.28.080, 82.24.500, 70.155.110, and 70.345.160:

- (a) The total number of interactions where an Enforcement Officer detained a person;
- (b) Information on the nature of each interaction, including the duration of the interaction, the justification for the interaction, the number of such persons who were under 18 years of age, the number of such persons who were over 18 but under 21 years of age, and whether any citation or warning was issued;
- (c) How many interactions converted to administrative violation notices; and
- (d) How many of the interactions and administrative violation notices converted to retailer education and violations.

The board must compile the information collected, along with any associated demographic data in the possession of the board and conduct a comparative analysis of all interactions of Enforcement Officers with persons detained for the purpose of enforcing Title 66 RCW and chapter 69.50 RCW.

The purpose of this procedure is to provide instruction to Enforcement Officers on how to collect the required data in the Electronic Notebook (EN) during the detainment of persons under twenty-one years of age attempting to purchase or in possession of age restricted products.

In any circumstance where an Officer detains an individual under the age of 18 they will act in accordance to Division Policy 313 Temporary Custody of Juveniles and 418 Contacts and Temporary Detentions.

306.2 OFFICER RESPONSIBILITIES

- (a) If an Officer observes a youthful appearing individual purchasing or in possession of an age restricted product and detains that individual the Officer will:
 1. Verify the individual's age by either requesting identification or obtaining their name and date of birth to verify through dispatch.
- (b) If the individual is under the age of 21 the Officer will collect the following data utilizing the EN checklist screen providing justification for the interaction:
 - (a) Date of birth
 - (b) Start and end time of detainment
 - (c) Justification for the interaction
 - (a) Select code for justification from the EN checklist:
 1. Youthful appearing person with age restricted product

Washington State Liquor and Cannabis
Board Enforcement and Education Division

Procedure Manual

Data Collection for Purchase and Possession of Age Restricted Products

2. Youthful appearing person attempting to purchase
 3. Youthful appearing person in an age restricted area
 4. Youthful appearing person in shoulder tap circumstance
- (d) If a warning was issued:
- (a) Select Y from EN checklist if warning was issued
 - (b) Select N from EN checklist if warning was not issued
- (e) If education was provided to the retailer, document the education provided under the education screen in the EN
- (f) Document interactions resulting in an Administrative Violation Notice (AVN) or Citation under the violation screen

306.3 RELEVANT LAWS AND RESOURCES

Title 66 RCW

Chapter 69.50 RCW

RCW 26.28.080

RCW 70.155.100

RCW 70.155.110

RCW 70.345.160

RCW 82.24.500

Division Policy 313 Temporary Custody of Juveniles

Division Policy 418 Contacts and Temporary Detentions

Appendix D

Total IDs checked by county (all products)							
2017	1589	2018	1771	2019	1524	2020	176
KING	455	SPOKANE	520	SPOKANE	641	KING	58
YAKIMA	299	KING	468	KING	302	SNOHOMISH	25
SPOKANE	250	PIERCE	138	GRANT	112	YAKIMA	16
PIERCE	202	YAKIMA	137	PIERCE	80	PIERCE	13
GRANT	72	GRANT	114	WHITMAN	47	WHATCOM	10
SNOHOMISH	50	WHATCOM	66	WHATCOM	42	SPOKANE	8
WHATCOM	36	WHITMAN	54	SNOHOMISH	35	SKAGIT	8
CLALLAM	29	CLARK	44	STEVENS	32	KITSAP	7
KITSAP	22	SNOHOMISH	39	KITSAP	29	CLARK	6
CHELAN	19	CLALLAM	29	CLARK	26	CLALLAM	6
WHITMAN	16	PEND OREILLE	28	PEND OREILLE	21	JEFFERSON	5
KITTITAS	16	KITSAP	25	YAKIMA	21	THURSTON	2
THURSTON	14	JEFFERSON	17	CHELAN	14	KITTITAS	2
SKAGIT	12	SKAGIT	13	BENTON	14	CHELAN	2
CLARK	11	THURSTON	13	CLALLAM	12	ADAMS	2
JEFFERSON	9	CHELAN	9	KITTITAS	11	ISLAND	1
BENTON	9	COWLITZ	9	THURSTON	9	LEWIS	1
MASON	9	LEWIS	7	SKAGIT	9	GRANT	1
WALLA WALLA	8	KITTITAS	6	COWLITZ	9	COWLITZ	1
STEVENS	8	ISLAND	6	LINCOLN	8	STEVENS	1
COWLITZ	8	GRAYS HARBOR	5	GRAYS HARBOR	6	BENTON	1
ISLAND	6	COLUMBIA	4	COLUMBIA	6		
GRAYS HARBOR	6	MASON	4	JEFFERSON	6		
LEWIS	5	OKANOGAN	4	OKANOGAN	5		
OKANOGAN	4	BENTON	3	LEWIS	4		
FRANKLIN	3	ASOTIN	2	ADAMS	3		
PEND OREILLE	3	LINCOLN	2	PACIFIC	3		
DOUGLAS	2	SNOHOMISH NON-RTA	1	ISLAND	2		
KLICKITAT	2	PACIFIC	1	FRANKLIN	2		
ADAMS	2	SAN JUAN	1	MASON	2		
FERRY	1	STEVENS	1	GARFIELD	2		
ASOTIN	1	FERRY	1	ASOTIN	2		
				DOUGLAS	2		
				FERRY	2		
				KLICKITAT	1		
				WALLA WALLA	1		
				SKAMANIA	1		

Total IDs checked by county (all products)

2021	307	2022	592	2023	563
KING	101	KING	221	KING	161
YAKIMA	38	SPOKANE	53	SPOKANE	113
PIERCE	30	YAKIMA	43	PIERCE	53
WHATCOM	27	WHATCOM	33	SNOHOMISH	31
THURSTON	25	SNOHOMISH	32	YAKIMA	29
SPOKANE	16	PIERCE	31	WHATCOM	27
KITTITAS	11	GRANT	23	KITTITAS	19
GRANT	9	OKANOGAN	22	BENTON	16
SNOHOMISH	8	BENTON	22	THURSTON	15
SKAGIT	8	WHITMAN	15	SKAGIT	14
CLALLAM	6	WALLA WALLA	14	CLARK	11
WHITMAN	5	CHELAN	12	GRANT	9
GRAYS HARBOR	4	KITTITAS	12	COWLITZ	8
STEVENS	3	ASOTIN	11	LEWIS	8
OKANOGAN	3	CLARK	9	OKANOGAN	8
ASOTIN	3	KITSAP	8	LINCOLN	6
CHELAN	3	THURSTON	7	WHITMAN	5
ADAMS	2	GRAYS HARBOR	5	GRAYS HARBOR	5
MASON	1	SKAGIT	4	DOUGLAS	5
CLARK	1	CLALLAM	3	KITSAP	3
KITSAP	1	LINCOLN	2	CHELAN	3
ISLAND	1	DOUGLAS	2	SAN JUAN	2
BENTON	1	STEVENS	2	FRANKLIN	2
		COLUMBIA	1	PACIFIC	2
		COWLITZ	1	STEVENS	2
		ADAMS	1	JEFFERSON	2
		SAN JUAN	1	ISLAND	1
		FERRY	1	MASON	1
		JEFFERSON	1	CLALLAM	1
				ASOTIN	1

Total IDs Checked (Tobacco/Vapor)	
2017	18
2018	6
2019	6
2020	8
2021	2
2022	2
2023	1
Grand Total	43

Licensee Tobacco/Vapor violations for observed sales to minors	
2018	1
2020	14
2021	10
2022	2
2023	2
Grand Total	29

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