

Overview of the WA State Vapor Products Law



Am Act relating to Youth Vapor Product Substance Use Prevention and Vapor Product Regulation

[Chapter 70.345 RCW](#) and [WAC 314-35](#)

Authorized the Washington State Department of Health (WA DOH) and Washington State Liquor & Cannabis Board (WSLCB) to regulate vapor products, with licensing and enforcement.

April 2016 – [ESSB 6328](#) enacted.

June 28, 2016 – Most provisions in effect.

November 1, 2016 - WSLCB licensing requirements in effect.

December 17, 2016 – [WAC 314-35 Rule](#) finalized; licensee requirements in effect.

PROHIBITS Vaping in these Public Places

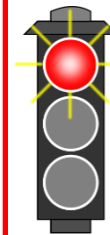
- **Inside and Around Child Care Facilities:** Indoor areas and outdoor property of child or family day-care facility. For home-based child care facilities, vaping is allowed when enrolled children are not present.
- **Inside and Around Schools:** Indoor school areas and indoors within 500 feet of schools. Outdoor property under the control of the school and upon which the school is located.
- **In Outdoor Playgrounds with Children:** From sunrise to sunset, when one or more children under 12 years old are present. As defined, playgrounds do not include athletic playing fields.
- **Inside School Buses.**
- **Inside Elevators.** [RCW 70.345.150]

Unlike WA Smoking in Public Places Law: No signage requirement and no civil fine for violations.

ALLOWS Tastings Inside Licensed Retail Outlets

with these restrictions:

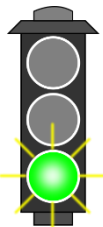
- Entry to store restricted to 18 years or older. *Becomes 21 years or older on 1/1/2020 under [EHB 1074](#).*
- Tasting sample must contain zero nicotine or the customer must consent to tasting a product containing nicotine. *Since 8/8/2016, [FDA Deeming Rule prohibits free nicotine product samples](#).*
- Retailers must provide a disposable mouthpiece tip or disposable device.
- Tasting samples cannot be removed from premises by customer. [RCW 70.345.100 & 70.345.150(1)(b)]



Local jurisdictions cannot:

- **X** Prohibit tastings inside licensed retail outlets; or
- **X** Regulate vaping in outdoor public places, except in areas where children congregate; or
- **X** Allow vaping in indoor public places where it is prohibited under state law. [RCW 70.345.210]

Local Regulations that are Explicitly Allowed (Not Preempted)



Regulating the Use of Vapor Products in Indoor Public Places.

“Subject to RCW 70.345.150 of this act, political subdivisions may regulate the use of vapor products in indoor public places.” [RCW 70.345.210(3)]

Regulating the Use of Vapor Products in Outdoor Public Places Where Children Congregate.

“No political subdivision may regulate the use of vapor products in outdoor public places, unless the public place is an area where children congregate, such as schools, playgrounds, and parks.” [RCW 70.345.210(2)]



Overview of WA Vapor Products Law

Vapor Products Sales Restrictions

- WSLCB license required for retailers, distributors, and delivery sales. Background checks. Annual fees. [RCW 70.345.020-70.345.060]
- Vapor product sellers cannot also sell products containing cannabinoids, i.e. THC. [RCW 70.345.030]
- Possession or purchasing by minors under 18 is a civil infraction. [RCW 70.345.140] *Sales to minors prohibited under RCW 26.28.080 since 2013. **Becomes 21 years or older on 1/1/2020 under EHB 1074.***
- Photo ID check required at point of sale. WSLCB requires check under age 27. [RCW 70.345.120]
- Retailers must display a sign stating no sales to minors under 18. Signs may be combined with sign for no tobacco sales. [RCW 70.345.070]
- No sales from open or self-service displays, unless minors not allowed in store. [RCW 70.345.080]
- Internet and mail retailers must use age verification measures. Criminal and civil penalties for violations. [RCW 70.345.090]
- Coupons only allowed for in-person sales and coupons for free products not allowed unless a purchase is required. [RCW 70.345.110]
- WA DOH, local county health departments, and local law enforcement can conduct inspections, analyze or seize products, and shut down stores when human health is at risk. [RCW 70.345.160]



Vapor Products Labelling & Packaging Requirements

- Nicotine e-liquid containers must have warning label stating nicotine harmful, keep away from children, vaping illegal under 18. [RCW 70.345.075]
- Nicotine e-liquid container label must state nicotine concentration and amount. Non-refillable e-cigarettes must annually disclose nicotine content to WA DOH. [RCW 70.345.075]
- Labelling requirements expire when FDA warning label requirements take effect. [RCW 70.345.075] *FDA labelling requirements took effect in May 2018 for nicotine-containing products.*
- Child-resistant packaging required for nicotine e-liquids, per federal standards. [RCW 70.345.130]

License Fees & Penalties to the Youth Prevention Account

- Increased tobacco license fees, increased fines, and established a license for vapor products. Vapor Products License Fees: Retailer \$175. Retailer of both Vapor Products & Tobacco - \$250. Distributor \$150. Delivery Seller \$250. [RCW 70.345.020 – 70.345.060]
- 90% of fees for licenses and penalties are deposited into the Youth Tobacco and Vapor Products Prevention Account. 10% goes to state general fund. [RCW 70.345.190 and 70.155.120]
- Up to 70% of Account funds may be used for grants to local health departments for youth prevention. Same as tobacco. [RCW 70.345.190 and 70.155.120]
- WSLCB may impose enforcement penalties and revoke licenses. [RCW 70.345.160 – 70.345.180]

Definition: Vapor Product means any noncombustible product that may contain nicotine and that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from a solution or other substance. (a) "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. (b) "Vapor product" does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products.