



Washington State
Liquor and Cannabis Board

CR 105 Memorandum

Regarding Implementation of Engrossed Substitute Senate Bill 5365 – Increased penalties for licensed retailers selling tobacco to persons under 21 years.

Date: January 17, 2024
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Background

During the 2023 Legislative Session, the Washington State Legislature passed Engrossed Substitute Senate Bill (ESSB) 5365 (chapter 398, Laws of 2023), and was signed by Governor Inslee on May 9, 2023. In passing this bill, the legislature increased existing monetary penalties the Washington State Liquor and Cannabis Board (Board) can impose on licensed retailers for violations pertaining to selling or giving cigarette, tobacco or vapor products to persons under 21 years of age (under [RCW 70.155.100](#)). These increased penalties are aimed at ensuring better retailer compliance with tobacco and vapor product possession laws. Penalties are increased to the following:

- A monetary penalty of \$1,000 for the 1st violation within any three-year period (up from \$200)
- A monetary penalty of \$2,500 for the 2nd violation within any three-year period (up from \$600)
- A monetary penalty of \$5,000 and suspension of the license for a period of six months for the 3rd violation within any three-year period (up from \$2000)
- A monetary penalty of \$10,000 and suspension of the license for a period of 12 months for the 4th violation within any three-year period (up from \$3,000)
- Revocation of the license with no possibility of reinstatement for a period of five years for the 5th or more violation within any three-year period (no change)

These increased monetary penalties are explicitly and specifically dictated by Washington state statute [RCW 70.155.100](#).

WSLCB Stakeholder Engagement

Implementation of ESSB 5365 increases penalties the Board imposes on licensed retailers that requires amendments to WAC 314-35-075 through rulemaking.

Because these amendments incorporate penalty changes explicitly and specifically dictated by Washington state statute under RCW 70.155.100, the Board is not required to hold a public hearing or engage in stakeholder engagement.

Rule Necessity

Amendments are needed to incorporate Section 4 of Engrossed Substitute Senate Bill 5365, effective July 23, 2023.

Description of Rule Changes

WAC 314-35-075 – Category I - Violations that create a direct or immediate threat to public health, safety, or both.

For violations of RCW 26.28.100, there is a row added to the penalty table as follows:

Violation Type	1st Violation in a three-year period	2nd Violation in a three-year period	3rd Violation in a three-year window	4th Violation in a three-year window	5th Violation in a three-year window
Sales to persons under twenty-one. RCW 26-28-080	\$1,000 monetary penalty	\$2,500 monetary penalty	\$5,000 monetary penalty and a 6-month license suspension	\$10,000 monetary payment and a 12-month license suspension	Cancellation of license with no possibility of reinstatement for 5 years