



Legislation Text

File #: BOH18-02, **Version:** 2

A RULE AND REGULATION relating to prohibiting use of smokeless tobacco at event sites for professional sporting events; adding a new chapter to Title 19 to the BOH Code and prescribing penalties; enacted pursuant to RCW 70.05.060, including the latest amendments or revisions thereto.

BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

SECTION 1. Sections 2 through 8 of this rule and regulation should constitute a new chapter in Title 19 to the BOH Code.

NEW SECTION. SECTION 2. **Citation and reference to chapter.** This chapter may be cited and referred to as the "Regulation of Smokeless Tobacco at Event Sites for Professional Sporting Events."

NEW SECTION. SECTION 3. **Adoption as exercise of powers - purposes.**

A. This chapter is adopted as an exercise of the board of health powers of King County to protect and preserve the public peace, health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

B. It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by this chapter.

NEW SECTION. SECTION 4. **Findings.**

A. The King County Board of Health finds that evidence exists for the development of stronger smokeless tobacco control and prevention measures targeting children and youth and athletic activities with regards to the health risks associated with smokeless tobacco use. More specifically, such control and

prevention measures should be focused on professional sporting events where children and youth frequently attend.

B. In 2016, according to the Centers for Disease Control and Prevention ("the CDC"), 5.8 percent of all high-school students used smokeless tobacco with a greater proportion of male students using smokeless tobacco at 8.3 percent. The CDC also reports that each day, more than one-thousand youths, from twelve through seventeen years of age, use smokeless tobacco for the first time.

C. The CDC's Morbidity and Mortality Weekly Report entitled "Combustible and Smokeless Tobacco Use Among High School Athletes - United States, 2001-2013" reported that use of tobacco, either combustible or smokeless, significantly declined from 33.9 percent in 2001 to 22.4 percent in 2013; however, smokeless tobacco use significantly increased from 10.0 percent to 11.1 percent among athletes. Furthermore, the report found that high school athletes used smokeless tobacco at nearly twice the rate of nonathletes, which is 11.1 percent versus 5.9 percent, in 2013, and among male high school athletes, smokeless tobacco use was particularly alarming at 17.4 percent. The report also found that higher level of sports team participation during high school was associated with higher rates of smokeless tobacco use. Lastly, the report found that smokeless tobacco use for high school athletes and non-athletes showed similar trends across White, Black and Hispanic races and ethnicities.

D. The Surgeon General and the National Cancer Institute, have found that smokeless tobacco use is hazardous to health and can lead to nicotine addiction.

E. The National Cancer Institute states that chewing tobacco and snuff contain twenty-eight cancer-causing agents and the U.S. National Toxicology Program has established smokeless tobacco as a "known human carcinogen." The National Cancer Institute and the International Agency for Research on Cancer report that use of smokeless tobacco causes oral, pancreatic and esophageal cancer.

F. The American Cancer Society associates smokeless tobacco with gum and tooth disease, and various

National Institute of Health studies have found that smokeless tobacco is also associated with increased risk of peptic ulcers and coronary artery disease.

G. Smokeless tobacco products are heavily advertised and promoted where the top five smokeless tobacco companies in the United States more than quadrupled their total advertising and marketing expenditures from 1998 to 2015. Moreover, the Federal Trade Commission reports that in 2015, the top five smokeless tobacco companies spent \$684.9 million to advertise and promote their products.

H. In April 2010, Terry F. Pechacek, Ph.D., Associate Director for the Science Office on Smoking and Health for the CDC testified before the U.S House of Representatives Subcommittee on Energy and Commerce and stated that, "Athletes serve as role models for youth, and smokeless tobacco manufacturers have used advertising, images, and testimonials featuring athletes and sports to make smokeless tobacco products appear attractive to youth," and also stated that "Children and teens closely observe athletes' actions, including their use of tobacco products, and are influenced by what they see. Adolescents tend to mimic the behaviors of those they look up to and identify with, including baseball players and other athletes."

I. In a letter to baseball commissioner Bud Selig on June 2014, following the death of Major League Baseball player Tony Gwynn, who died of salivary gland cancer from addiction to smokeless tobacco, nine leading health care organizations, including the American Medical Association and the American Dental Association, stated that "Use of smokeless tobacco endangers the health of major league ballplayers. It also sets a terrible example for the millions of young people who watch baseball at the ballpark or on TV and often see players and managers using tobacco."

J. The use of smokeless tobacco has become part of the culture of baseball, not only at the professional level, but at every level of the sport. The strong association of baseball and smokeless tobacco is reinforced by the use of smokeless tobacco by players, coaches and fans, both professional and amateur. However, progressive steps have been taken by Major League Baseball to change this culture. The 2016 collective bargaining agreement between players and owners prohibits new Major League Baseball players from using

smokeless tobacco. The agreement also makes violations of local tobacco-free stadium laws also violations of the agreements. "

K. The use of smokeless tobacco has also become part of the culture of other professional sports including football, hockey, lacrosse and even wrestling. According to the 2014 National Collegiate Athletic Association Substance Use Report, approximately 49.4 percent of male hockey players, 47.2 percent of male baseball players, 40.0 percent of male lacrosse players, 36.9 percent of male wrestlers and 23.8 percent of male football players use smokeless tobacco.

NEW SECTION. SECTION 5. Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Event site" means the entire physical area in which professional sporting events occur, including all open, semi-open and enclosed spaces and structures, playing fields, dugouts, bullpens, training rooms, locker rooms, team bench areas, spectator seating areas, pedestrian walkways, bathrooms, dining areas, vendor areas, offices, press boxes, television and radio broadcast booths, recreational areas and parking lots.

B. "Smokeless tobacco" means any product that contains cut, ground, powdered or leaf tobacco and is intended to be placed in the oral or nasal cavity, including, but not limited to, snuff, chewing tobacco, dipping tobacco, dissolvable tobacco products and snus.

NEW SECTION. SECTION 6. Prohibition. Notwithstanding any other provision of law, no person shall use smokeless tobacco at any event site.

NEW SECTION. SECTION 7. Signage. Notwithstanding any other provision of law, each event site shall have conspicuous signs clearly communicating that the use of smokeless tobacco is prohibited.

NEW SECTION. SECTION 8. Enforcement - penalties.

A. The director of Public Health - Seattle & King County is authorized to enforce section 7 of this rule in accordance with BOH chapter 1.08 and consistent with subsection B. and C. of this section.

B. When violations of section 7 of this rule occur, a warning shall first be given to the event site. Any

subsequent violation is subject to a civil penalty of up to one hundred dollars, except as provided in subsection C. of this section. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

C. Civil penalties for violations of section 7 of this rule at any event site with more than one thousand persons lawfully permitted to assemble at the venue, shall be assessed at a rate of one hundred dollars for every one thousand persons lawfully permitted to assemble at the venue, for each violation. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

SECTION 9. Severability. If any provision of this rule or its application to any person or circumstance is held invalid, the remainder of the rule or the application of the provision to other persons or circumstances is not affected.