

FILED
SUPREME COURT
STATE OF WASHINGTON
3/28/2025 11:18 AM
BY SARAH R. PENDLETON
CLERK

SUPREME COURT
OF THE STATE OF WASHINGTON

RUTH SCOTT, individually, and
as personal representative of the
ESTATE OF MIKAEL SCOTT,
a deceased individual; JEFF
MUHLEMAN, individually, and
as personal representative of the
ESTATE OF TYLER
MUHLEMAN, a deceased
individual; and CINDY CRUZ,
individually,

Petitioners,

v.

AMAZON.COM, INC., a
Delaware corporation,

Respondent.

MARY-ELLEN VIGLIS,
individually, and as personal
representative of the ESTATE OF
DEMETRIOS VIGLIS, a
deceased individual; JAMES
PASSANNANTI, individually,
and as personal representative of
the ESTATE OF AVA
PASSANNANTI, a deceased
individual; and ANNETTE
GALLEGO, individually,

No. 103730-9

STATEMENT OF
ADDITIONAL
AUTHORITIES

	Petitioners,
v.	
AMAZON.COM, INC., a Delaware corporation,	
	Respondent.

The Washington Legislature passed SHB 1209, Tyler’s Law, on March 26, 2025, and it is awaiting the Governor’s signature. *See* attached.

The Legislature specifically recognized the lethality of sodium nitrite (sec. 1(1-2)), means restriction as an important and effective strategy for preventing suicide by sodium nitrite ingestion, (sec. 1(4)), and the alarming rise in the incidence of suicidality in youth. (sec. 1(3)). The Legislature severely restricted the poison’s sale (sec. 3-4), and provided for added civil remedies (sec. 7(2)(b), 8), while preserving existing remedies, like the WPLA. (sec. 7(2)(a)).

The passage of this legislation does not mean that Amazon

had a “free pass” for its WPLA negligence in failing to regulate or curb its sale of invariably lethal sodium nitrite when it knew the poison was being used for suicides. The Legislature commonly chooses to generally address liability in the WPLA for the sale of harmful products, and then more specifically regulate sales of a particular product. *See, e.g.*, 2011 regulation of sales of jams, candies, and baked goods made at home, as cottage food sales, Laws of 2011, ch. 281, while preserving remedies. RCW 69.22.110; 2016 regulation of vaping products, Laws of 2016, spec. sess., ch. 38, preserving existing remedies. RCW 70.345.090(14); 2020 regulation of disposable wipes, Laws of 2020 ch. 121, while preserving remedies. RCW 70A.525.040(3).

This document contains 218 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 28th day of March, 2025.

Respectfully submitted,

/s/ Philip A. Talmadge

Philip A. Talmadge, WSBA #6973

Gary W. Manca, WSBA #42798

Talmadge/Fitzpatrick

2775 Harbor Avenue SW

Third Floor, Suite C

Seattle, WA 98126

(206) 574-6661

Corrie Yackulic, WSBA #16063

Corrie Yackulic Law Firm PLLC

110 Prefontaine Place S., #304

Seattle, WA 98104

(206) 787-1915

Carrie Goldberg

Naomi Leeds

C.A. Goldberg, PLLC

16 Court Street, 33rd Floor

Brooklyn, NY 11241

(646) 666-8908

Attorneys for Petitioners

SUBSTITUTE HOUSE BILL 1209

State of Washington

69th Legislature

2025 Regular Session

By House Consumer Protection & Business (originally sponsored by Representatives Mena, Walen, Reed, Ryu, Berry, Alvarado, Macri, Farivar, Doglio, Pollet, Ormsby, Salahuddin, and Hill)

READ FIRST TIME 01/31/25.

1 AN ACT Relating to protecting public health and safety by
2 regulating the transfer of sodium nitrite; adding a new chapter to
3 Title 69 RCW; prescribing penalties; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The sale of sodium nitrite is a matter
6 of statewide and national concern as there are increasing reports
7 about the extreme health risks of ingestion of sodium nitrite,
8 particularly by people attempting suicide. Sodium nitrite has been
9 promoted online as an effective method to complete suicide as it is
10 readily available and fast acting, and there is a false perception
11 that it provides a painless asymptomatic course prior to death.

12 (2) Sodium nitrite is commercially available for use as a food
13 preservative, as a curing agent, and for certain limited industrial
14 and medical uses. It can be purchased easily and without restriction
15 from multiple online and brick-and-mortar retail vendors. The
16 national poison data system showed an annual increase in the number
17 of reported exposures to sodium nitrite from 2017 to 2020. In 2021,
18 the national poison data system annual report revealed 16 fatalities
19 across all age cohorts related to sodium nitrite, data that likely
20 underreports actual occurrences. Nationally, 222 deaths were linked
21 to sodium nitrite in 2022 by a single private laboratory. Victims of

sodium nitrite ingestion become cyanotic and short of breath within minutes due to methemoglobinemia, which is a blood disorder resulting from an abnormal increase in the hemoglobin methemoglobin. The reversing agent of methylene blue can be ineffective and difficult to administer in an acutely ill patient and is not widely available, even in emergency departments.

(3) The federal centers for disease control and prevention reported that in 2021, 22 percent of high school students seriously considered attempting suicide during the past year, trending significantly upward since 2011, particularly among female students. One in 10 high school students attempted suicide in 2021.

(4) Limiting access to lethal suicide methods, known as "means restriction," is an important strategy for suicide prevention. Although some individuals might seek other methods, many do not and, when they do, the means chosen are less lethal and are associated with fewer deaths than when more dangerous methods are available. Restricting access to sodium nitrite will save lives, particularly among vulnerable and developing adolescents and young adults, and prevent the deleterious impact of suicide upon families, communities, and the public health system.

(5) The federal government and other states are currently enacting or considering legislation to restrict access to sodium nitrite and to properly label it by warnings. The enactment of such legislation, to be known and cited in Washington as "Tyler's law," will result in reduced numbers of suicides and suicide attempts and increase the likelihood that caretakers and health care providers will be able to intervene and interrupt suicide attempts.

NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial business" means a business or institution, including a research institution, requiring the use of covered products as that term is defined in this section.

(2) "Covered entity" means a person selling, transferring, or offering to sell or transfer a covered product, which includes but is not limited to a manufacturer, wholesaler, distributor, third-party seller, online retailer, and all others involved in the distribution of a covered product. The term also includes a party who is in the business of leasing or bailing covered products.

1 (3) "Covered product" means a product containing sodium nitrite
2 in a concentration greater than 10 percent of the mass or volume of
3 the product.

4 (4) "Label" means a representation made by statement, word,
5 picture, design, or emblem on a covered product package, whether
6 affixed to or written directly on the package.

7 (5) "Principal display panel" means:

8 (a) For a cylindrical or nearly cylindrical package, 40 percent
9 of the product package as measured by multiplying the height of the
10 container by the circumference;

11 (b) For noncylindrical or nearly noncylindrical packaging, such
12 as a rectangular prism or nearly rectangular prism, 40 percent of the
13 product package as measured by multiplying the length by the width of
14 the side of the package when it is pressed flat against on all sides
15 of the packaging; and

16 (c) For electronic media, the side of a product package that is
17 most likely to be displayed, presented, or shown under customary
18 conditions of display for retail sale.

19 NEW SECTION. Sec. 3. RESTRICTION ON SALE OF COVERED PRODUCTS
20 AND LABELING REQUIREMENTS. A covered entity shall not:

21 (1) Sell or transfer a covered product except to a commercial
22 business in accordance with section 4 of this act; or

23 (2) Sell or offer to sell, directly or indirectly, a covered
24 product without a label notice that meets the requirements of section
25 5 of this act.

26 NEW SECTION. Sec. 4. SALE OR TRANSFER OF COVERED PRODUCTS TO
27 COMMERCIAL BUSINESSES. (1) A covered entity may sell or transfer a
28 covered product to a verified commercial business if, prior to the
29 sale or transfer of the covered product:

30 (a) The commercial business affirms that the commercial business
31 requires covered products, which must include the commercial business
32 providing its employer identification number to the covered entity;
33 and

34 (b) The covered entity has a system that verifies that the
35 commercial business requires a covered product, including verifying
36 the employer identification number.

(2) The following systems, whether relied on solely or in combination, do not satisfy the verification obligation of the covered entity specified in subsection (1) of this section:

(a) A sale verification system relying on the commercial business simply providing a statement of commercial need and intended usage without additional verification;

(b) A sale verification system relying on the commercial business using tick boxes to confirm they are a commercial business and require covered products; or

(c) A sale verification system relying on the commercial business using an "accept" statement for the commercial business to confirm that they have read the terms and conditions.

NEW SECTION. **Sec. 5.** LABELING AND SHIPPING REQUIREMENTS. (1) A covered entity shall label or ensure that a label satisfying the requirements of this section is already affixed to a covered product with the phrase "WARNING DANGER: Deadly if ingested. If ingested, seek immediate medical attention for intravenous administration of methylene blue. Ingestion of sodium nitrite, even in small quantities, causes severe methemoglobinemia, extreme pain, and imminent death. Keep out of reach of children." This label must be in a size equal to at least two percent of the surface area of the principal display panel, accompanied by a skull and crossbones symbol.

(2) Where the covered product is displayed in advertising or in electronic media, a label notice must accompany the display in no smaller a size than is equivalent to the primary description of the sodium nitrite.

(3) If a covered product is shipped or delivered in packaging that obscures or hides the principal display panel, or is sold in bulk or within the same packaging as another product, the packaging must include a skull and crossbones symbol in a prominent location likely to be seen and read by an ordinary individual under customary conditions of transportation and delivery.

(4) If a federal agency or state department does not approve a product label that otherwise complies with the labeling requirements of this section, the covered entity shall use a label that complies with as many of the requirements of this section as the relevant agency has approved.

1 NEW SECTION. **Sec. 6.** RECORDS. A covered entity shall retain
2 sale and transfer records and documentation for each purchase or
3 transfer of a covered product for three years from the date of sale
4 or transfer.

5 NEW SECTION. **Sec. 7.** VIOLATIONS. (1) A covered entity that
6 violates this act is subject to a civil penalty of \$10,000 for the
7 first violation, and a civil penalty of no more than \$1,000,000 for a
8 second or subsequent violation.

9 (2)(a) The attorney general, prosecuting attorney within the
10 relevant jurisdiction, or any aggrieved individual may bring an
11 action to impose a civil penalty for a violation of this act. A civil
12 penalty imposed pursuant to this section does not exclude any other
13 public or private cause of action, whether criminal or civil.

14 (b) Any aggrieved individual, other than the attorney general,
15 who prevails in a civil action against a covered entity under this
16 act is entitled to reasonable attorney fees, costs, and the greater
17 of actual economic damages or \$3,000.

18 NEW SECTION. **Sec. 8.** CONSUMER PROTECTION ACT. The legislature
19 finds that the practices covered by this chapter are matters vitally
20 affecting the public interest for the purpose of applying the
21 consumer protection act, chapter 19.86 RCW. A violation of this
22 chapter is not reasonable in relation to the development and
23 preservation of business and is an unfair or deceptive act in trade
24 or commerce and an unfair method of competition for the purpose of
25 applying the consumer protection act, chapter 19.86 RCW.

26 NEW SECTION. **Sec. 9.** SHORT TITLE. This chapter may be known and
27 cited as Tyler's law.

28 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act
29 constitute a new chapter in Title 69 RCW.

30 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of
32 the state government and its existing public institutions, and takes
33 effect immediately.

--- END ---

DECLARATION OF SERVICE

On said day below, I electronically served a true and accurate copy of the *Statement of Additional Authorities* in Supreme Court Cause No. 103730-9 to the following parties:

Gregory F. Miller
W. Brendan Murphy
Michelle L. Maley
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099

Carrie Goldberg
Naomi Leeds
C.A. Goldberg, PLLC
16 Court Street, 33rd Floor
Brooklyn, NY 11241

Corrie J. Yackulic
Corrie Yackulic Law Firm PLLC
110 Prefontaine Place So., # 304
Seattle, WA 98104

Ronald Jaesung Park
Friedman | Rubin, PLLC
1109 First Avenue, Suite 501
Seattle, WA 98101-2988

Megan Iorio
Sara Geoghegan
Tom McBrien
Electronic Privacy Information Center
1519 New Hampshire Avenue NW
Washington, DC 20036

Alison F. Gaffney
Dean Kawamoto
Felicia Craick
Keller Rohrbach, L.L.P.
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3268

Eric M. Fong
Fong Law
569 Division Street, Suite 300
Port Orchard, WA 98366

Jacob B. Wolk
Mark Gottlieb
Public Health Advocacy Institute
360 Huntington Avenue, CU117
Boston, MA 02115

Original electronically filed with:
Supreme Court Clerk's Office

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: March 28, 2025 at Seattle, Washington.

/s/ Brad Roberts
Brad Roberts, Legal Assistant
Talmadge/Fitzpatrick

TALMADGE/FITZPATRICK

March 28, 2025 - 11:18 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 103,730-9
Appellate Court Case Title: Ruth Scott, et al. v. Amazon.com, Inc.

The following documents have been uploaded:

- 1037309_Briefs_20250328111715SC739264_7443.pdf
This File Contains:
Briefs - Petitioners Additional Authorities
The Original File Name was Statement of Additional Authorities.pdf

A copy of the uploaded files will be sent to:

- agaffney@kellerrohrback.com
- bmurphy@perkinscoie.com
- brad@tal-fitzlaw.com
- carrie@cagoldberglaw.com
- cbrewer@kellerrohrback.com
- christine@tal-fitzlaw.com
- corrie@cjylaw.com
- dkawamoto@kellerrohrback.com
- ekoehler@perkinscoie.com
- eric@ericfonglaw.com
- eric@metierlaw.com
- fcraick@kellerrohrback.com
- gary@tal-fitzlaw.com
- geoghegan@epic.org
- gmiller@perkinscoie.com
- info@ericfonglaw.com
- iorio@epic.org
- jacobwolk@phaionline.org
- mark@phaionline.org
- matt@tal-fitzlaw.com
- mcbrien@epic.org
- mmaley@perkinscoie.com
- naomi@cagoldberglaw.com
- patricia@cjylaw.com
- rpark@friedmanrubin.com

Comments:

Statement of Additional Authorities

Sender Name: Brad Roberts - Email: brad@tal-fitzlaw.com

Filing on Behalf of: Philip Albert Talmadge - Email: phil@tal-fitzlaw.com (Alternate Email: matt@tal-fitzlaw.com)

Address:

2775 Harbor Avenue SW

Third Floor Ste C

Seattle, WA, 98126

Phone: (206) 574-6661

Note: The Filing Id is 20250328111715SC739264