

**SB3678**



**98TH GENERAL ASSEMBLY**

**State of Illinois**

**2013 and 2014**

**SB3678**

Introduced 1/6/2015, by Sen. Julie A. Morrison

**SYNOPSIS AS INTRODUCED:**

720 ILCS 675/1.5

720 ILCS 675/2

from Ch. 23, par. 2358

Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act. Provides that a person under 18 years of age shall not possess an alternative nicotine product. Establishes penalties.

LRB098 23271 RLC 62321 b

**A BILL FOR**

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Prevention of Tobacco Use by Minors and Sale  
5 and Distribution of Tobacco Products Act is amended by changing  
6 Sections 1.5 and 2 as follows:

7 (720 ILCS 675/1.5)

8 Sec. 1.5. Distribution of alternative nicotine products to  
9 persons under 18 years of age prohibited.

10 (a) For the purposes of this Section, "alternative nicotine  
11 product" means a product or device not consisting of or  
12 containing tobacco that provides for the ingestion into the  
13 body of nicotine, whether by chewing, smoking, absorbing,  
14 dissolving, inhaling, snorting, sniffing, or by any other  
15 means. "Alternative nicotine product" excludes cigarettes,  
16 smokeless tobacco, or other tobacco products as these terms are  
17 defined in Section 1 of this Act and any product approved by  
18 the United States Food and Drug Administration as a non-tobacco  
19 product for sale as a tobacco cessation product, as a tobacco  
20 dependence product, or for other medical purposes, and is being  
21 marketed and sold solely for that approved purpose.

22 (b) A person, either directly or indirectly by an agent or  
23 employee, or by a vending machine owned by the person or

1 located in the person's establishment, may not sell, offer for  
2 sale, give, or furnish any alternative nicotine product, or any  
3 cartridge or component of an alternative nicotine product, to a  
4 person under 18 years of age.

5 (c) Before selling, offering for sale, giving, or  
6 furnishing an alternative nicotine product, or any cartridge or  
7 component of an alternative nicotine product, to another  
8 person, the person selling, offering for sale, giving, or  
9 furnishing the alternative nicotine product shall verify that  
10 the person is at least 18 years of age by:

11 (1) examining from any person that appears to be under  
12 27 years of age a government-issued photographic  
13 identification that establishes the person is at least 18  
14 years of age or

15 (2) for sales made though the Internet or other remote  
16 sales methods, performing an age verification through an  
17 independent, third-party age verification service that  
18 compares information available from public records to the  
19 personal information entered by the person during the  
20 ordering process that establishes the person is 18 years of  
21 age or older.

22 (d) A person under 18 years of age shall not possess an  
23 alternative nicotine product.

24 (Source: P.A. 98-350, eff. 1-1-14.)

25 (720 ILCS 675/2) (from Ch. 23, par. 2358)

1 (Text of Section before amendment by P.A. 98-1055)

2 Sec. 2. Penalties.

3 (a) Any person who violates subsection (a), (a-5), or (a-6)  
4 of Section 1 or Section 1.5 of this Act is guilty of a petty  
5 offense and for the first offense shall be fined \$200, \$400 for  
6 the second offense in a 12-month period, and \$600 for the third  
7 or any subsequent offense in a 12-month period.

8 (b) If a minor violates subsection (a-7) of Section 1 or  
9 subsection (d) of Section 1.5 he or she is guilty of a petty  
10 offense and the court may impose a sentence of 15 hours of  
11 community service or a fine of \$25 for a first violation.

12 (c) A second violation by a minor of subsection (a-7) of  
13 Section 1 or subsection (d) of Section 1.5 that occurs within  
14 12 months after the first violation is punishable by a fine of  
15 \$50 and 25 hours of community service.

16 (d) A third or subsequent violation by a minor of  
17 subsection (a-7) of Section 1 or subsection (d) of Section 1.5  
18 that occurs within 12 months after the first violation is  
19 punishable by a \$100 fine and 30 hours of community service.

20 (e) Any second or subsequent violation not within the  
21 12-month time period after the first violation is punishable as  
22 provided for a first violation.

23 (f) If a minor is convicted of or placed on supervision for  
24 a violation of subsection (a-7) of Section 1 or subsection (d)  
25 of Section 1.5, the court may, in its discretion, and upon  
26 recommendation by the State's Attorney, order that minor and

1 his or her parents or legal guardian to attend a smoker's  
2 education or youth diversion program if that program is  
3 available in the jurisdiction where the offender resides.  
4 Attendance at a smoker's education or youth diversion program  
5 shall be time-credited against any community service time  
6 imposed for any first violation of subsection (a-7) of Section  
7 1 or subsection (d) of Section 1.5. In addition to any other  
8 penalty that the court may impose for a violation of subsection  
9 (a-7) of Section 1 or subsection (d) of Section 1.5, the court,  
10 upon request by the State's Attorney, may in its discretion  
11 require the offender to remit a fee for his or her attendance  
12 at a smoker's education or youth diversion program.

13 (g) For purposes of this Section, "smoker's education  
14 program" or "youth diversion program" includes, but is not  
15 limited to, a seminar designed to educate a person on the  
16 physical and psychological effects of smoking tobacco products  
17 and alternative nicotine products and the health consequences  
18 of smoking tobacco products and alternative nicotine products  
19 that can be conducted with a locality's youth diversion  
20 program.

21 (h) All moneys collected as fines for violations of  
22 subsection (a), (a-5), (a-6), or (a-7) of Section 1 and  
23 subsection (d) of Section 1.5 shall be distributed in the  
24 following manner:

25 (1) one-half of each fine shall be distributed to the  
26 unit of local government or other entity that successfully

1 prosecuted the offender; and

2 (2) one-half shall be remitted to the State to be used  
3 for enforcing this Act.

4 (Source: P.A. 98-350, eff. 1-1-14.)

5 (Text of Section after amendment by P.A. 98-1055)

6 Sec. 2. Penalties.

7 (a) Any person who violates subsection (a) or (a-5) of  
8 Section 1 or Section 1.5 of this Act is guilty of a petty  
9 offense. For the first offense in a 24-month period, the person  
10 shall be fined \$200 if his or her employer has a training  
11 program that facilitates compliance with minimum-age tobacco  
12 laws. For the second offense in a 24-month period, the person  
13 shall be fined \$400 if his or her employer has a training  
14 program that facilitates compliance with minimum-age tobacco  
15 laws. For the third offense in a 24-month period, the person  
16 shall be fined \$600 if his or her employer has a training  
17 program that facilitates compliance with minimum-age tobacco  
18 laws. For the fourth or subsequent offense in a 24-month  
19 period, the person shall be fined \$800 if his or her employer  
20 has a training program that facilitates compliance with  
21 minimum-age tobacco laws. For the purposes of this subsection,  
22 the 24-month period shall begin with the person's first  
23 violation of the Act. The penalties in this subsection are in  
24 addition to any other penalties prescribed under the Cigarette  
25 Tax Act and the Tobacco Products Tax Act of 1995.

1 (a-5) Any person who violates subsection (a) or (a-5) of  
2 Section 1 or Section 1.5 of this Act is guilty of a petty  
3 offense. For the first offense, the retailer shall be fined  
4 \$200 if it does not have a training program that facilitates  
5 compliance with minimum-age tobacco laws. For the second  
6 offense, the retailer shall be fined \$400 if it does not have a  
7 training program that facilitates compliance with minimum-age  
8 tobacco laws. For the third offense, the retailer shall be  
9 fined \$600 if it does not have a training program that  
10 facilitates compliance with minimum-age tobacco laws. For the  
11 fourth or subsequent offense in a 24-month period, the retailer  
12 shall be fined \$800 if it does not have a training program that  
13 facilitates compliance with minimum-age tobacco laws. For the  
14 purposes of this subsection, the 24-month period shall begin  
15 with the person's first violation of the Act. The penalties in  
16 this subsection are in addition to any other penalties  
17 prescribed under the Cigarette Tax Act and the Tobacco Products  
18 Tax Act of 1995.

19 (a-6) For the purpose of this Act, a training program that  
20 facilitates compliance with minimum-age tobacco laws must  
21 include at least the following elements: (i) it must explain  
22 that only individuals displaying valid identification  
23 demonstrating that they are 18 years of age or older shall be  
24 eligible to purchase cigarettes or tobacco products; (ii) it  
25 must explain where a clerk can check identification for a date  
26 of birth; and (iii) it must explain the penalties that a clerk

1 and retailer are subject to for violations of the Prevention of  
2 Tobacco Use by Minors and Sale and Distribution of Tobacco  
3 Products Act.

4 (b) If a minor violates subsection (a-7) of Section 1 or  
5 subsection (d) of Section 1.5 he or she is guilty of a petty  
6 offense and the court may impose a sentence of 25 hours of  
7 community service and a fine of \$50 for a first violation. If a  
8 minor violates subsection (a-6) of Section 1, he or she is  
9 guilty of a Class A misdemeanor.

10 (c) A second violation by a minor of subsection (a-7) of  
11 Section 1 or subsection (d) of Section 1.5 that occurs within  
12 12 months after the first violation is punishable by a fine of  
13 \$75 and 50 hours of community service.

14 (d) A third or subsequent violation by a minor of  
15 subsection (a-7) of Section 1 or subsection (d) of Section 1.5  
16 that occurs within 12 months after the first violation is  
17 punishable by a \$200 fine and 50 hours of community service.

18 (e) Any second or subsequent violation not within the  
19 12-month time period after the first violation is punishable as  
20 provided for a first violation.

21 (f) If a minor is convicted of or placed on supervision for  
22 a violation of subsection (a-6) or (a-7) of Section 1 or  
23 subsection (d) of Section 1.5, the court may, in its  
24 discretion, and upon recommendation by the State's Attorney,  
25 order that minor and his or her parents or legal guardian to  
26 attend a smoker's education or youth diversion program if that



1 program is available in the jurisdiction where the offender  
2 resides. Attendance at a smoker's education or youth diversion  
3 program shall be time-credited against any community service  
4 time imposed for any first violation of subsection (a-7) of  
5 Section 1 or subsection (d) of Section 1.5. In addition to any  
6 other penalty that the court may impose for a violation of  
7 subsection (a-7) of Section 1 or subsection (d) of Section 1.5,  
8 the court, upon request by the State's Attorney, may in its  
9 discretion require the offender to remit a fee for his or her  
10 attendance at a smoker's education or youth diversion program.

11 (g) For purposes of this Section, "smoker's education  
12 program" or "youth diversion program" includes, but is not  
13 limited to, a seminar designed to educate a person on the  
14 physical and psychological effects of smoking tobacco products  
15 and alternative nicotine products and the health consequences  
16 of smoking tobacco products and alternative nicotine products  
17 that can be conducted with a locality's youth diversion  
18 program.

19 (h) All moneys collected as fines for violations of  
20 subsection (a), (a-5), (a-6), or (a-7) of Section 1 and  
21 subsection (d) of Section 1.5 shall be distributed in the  
22 following manner:

23 (1) one-half of each fine shall be distributed to the  
24 unit of local government or other entity that successfully  
25 prosecuted the offender; and

26 (2) one-half shall be remitted to the State to be used

1           for enforcing this Act.

2           Any violation of subsection (a) or (a-5) of Section 1 or  
3 Section 1.5 shall be reported to the Department of Revenue  
4 within 7 business days.

5           (Source: P.A. 98-350, eff. 1-1-14; 98-1055, eff. 1-1-16.)

6           Section 95. No acceleration or delay. Where this Act makes  
7 changes in a statute that is represented in this Act by text  
8 that is not yet or no longer in effect (for example, a Section  
9 represented by multiple versions), the use of that text does  
10 not accelerate or delay the taking effect of (i) the changes  
11 made by this Act or (ii) provisions derived from any other  
12 Public Act.