

SB0032



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB0032

Introduced 1/15/2015, 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.

LRB099 02713 RLC 22720 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 he or
9 she is guilty of a petty offense and the court may impose a
10 sentence of 15 hours of community service or a fine of \$25 for
11 a first violation.

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

16 (d) A third or subsequent violation by a minor of
17 subsection (a-7) of Section 1 that occurs within 12 months
18 after the first violation is punishable by a \$100 fine and 30
19 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, the court may, in
25 its discretion, and upon recommendation by the State's
26 Attorney, order that minor and his or her parents or legal

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

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

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

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

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

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

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

2 Sec. 2. Penalties.

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

22 (a-5) Any person who violates subsection (a) or (a-5) of
23 Section 1 or Section 1.5 of this Act is guilty of a petty
24 offense. For the first offense, the retailer shall be fined
25 \$200 if it does not have a training program that facilitates

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

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

26 (b) If a minor violates subsection (a-7) of Section 1 or

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

6 (c) A second violation by a minor of subsection (a-7) of
7 Section 1 or subsection (d) of Section 1.5 that occurs within
8 12 months after the first violation is punishable by a fine of
9 \$75 and 50 hours of community service.

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

14 (e) Any second or subsequent violation not within the
15 12-month time period after the first violation is punishable as
16 provided for a first violation.

17 (f) If a minor is convicted of or placed on supervision for
18 a violation of subsection (a-6) or (a-7) of Section 1 or
19 subsection (d) of Section 1.5, the court may, in its
20 discretion, and upon recommendation by the State's Attorney,
21 order that minor and his or her parents or legal guardian to
22 attend a smoker's education or youth diversion program if that
23 program is available in the jurisdiction where the offender
24 resides. Attendance at a smoker's education or youth diversion
25 program shall be time-credited against any community service
26 time imposed for any first violation of subsection (a-7) of

1 Section 1. In addition to any other penalty that the court may
2 impose for a violation of subsection (a-7) of Section 1 or
3 subsection (d) of Section 1.5, the court, upon request by the
4 State's Attorney, may in its discretion require the offender to
5 remit a fee for his or her attendance at a smoker's education
6 or youth diversion program.

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

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

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

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

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

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

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