

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 143
Judiciary Committee Substitute Adopted 3/10/97
Third Edition Engrossed 3/12/97

Short Title: Ban Tobacco Sales to Minors.

(Public)

Sponsors:

Referred to:

February 17, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS PROHIBITING THE SALE OR PURCHASE OF
3 TOBACCO PRODUCTS TO PERSONS LESS THAN EIGHTEEN YEARS OF
4 AGE AND TO REQUIRE THAT CERTAIN PERSONS BE TRAINED
5 REGARDING THESE LAWS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 14-313(a) reads as rewritten:

8 "(a) Definitions. – The following definitions apply in this section:

9 (1) Distribute. – To sell, furnish, give, or provide tobacco products,
10 including tobacco product samples, or cigarette wrapping papers to the
11 ultimate consumer.

12 (2) Proof of age. – A drivers license or other ~~documentary or written evidence~~
13 photographic identification that includes the bearer's date of birth that
14 purports to establish that the person is 18 years of age or older.

15 (3) Sample. – A tobacco product distributed to members of the general
16 public at no cost for the purpose of promoting the product.

17 (4) Tobacco product. – Any product that contains tobacco and is intended
18 for human consumption."

1 Section 2. G.S. 14-313(b) reads as rewritten:

2 "(b) Sale or distribution to persons under the age of 18 years. – If any person shall
3 ~~knowingly~~ distribute, or ~~knowingly~~ aid, assist, or abet any other person in distributing
4 tobacco products or cigarette wrapping papers to any person under the age of 18 years, or
5 if any person shall ~~knowingly~~ purchase tobacco products or cigarette wrapping papers on
6 behalf of a person, less than 18 years, the person shall be guilty of a Class 2
7 misdemeanor; provided, however, that it shall not be unlawful to distribute tobacco
8 products or cigarette wrapping papers to an employee when required in the performance
9 of the employee's duties. Retail distributors of tobacco products shall prominently
10 display near the point of sale a sign in letters at least five-eighths of an inch high which
11 states the following:

12 **N.C. LAW STRICTLY PROHIBITS**
13 **THE PURCHASE OF TOBACCO PRODUCTS**
14 **BY PERSONS UNDER THE AGE OF 18.**
15 **PROOF OF AGE REQUIRED.**

16 Failure to post the required sign shall be an infraction punishable by a fine of twenty-five
17 dollars (\$25.00) for the first offense and seventy-five dollars (\$75.00) for each
18 succeeding offense.

19 A person engaged in the sale of tobacco products shall demand proof of age from a
20 prospective purchaser if the person has reasonable grounds to believe that the prospective
21 purchaser is under 18 years of age. Failure to demand proof of age as required by this
22 subsection is a Class 2 ~~misdemeanor~~. misdemeanor if in fact the prospective purchaser is
23 under 18 years of age. Proof that the defendant demanded, was shown, and reasonably
24 relied upon proof of age in the case of a retailer, or any other documentary or written
25 evidence of age in the case of a nonretailer, shall be a defense to any action brought under
26 this subsection. Retail distributors of tobacco products shall train their sales employees
27 in the requirements of this law."

28 Section 3. G.S. 14-313(c) reads as rewritten:

29 "(c) Purchase by persons under the age of 18 years. – If any person under the age of
30 18 years purchases or accepts receipt, or attempts to purchase or accept receipt, of
31 tobacco products or cigarette wrapping papers, ~~or presents or offers to any person any~~
32 ~~purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose~~
33 ~~of purchasing or receiving any tobacco product,~~ the person shall be guilty of an infraction as
34 provided in G.S. 14-3.1. If any person under the age of 18 years presents or offers to any
35 person any purported proof of age which is false, fraudulent, or not actually his or her
36 own, for the purpose of purchasing or receiving any tobacco product or cigarette
37 wrapping papers, the person shall be guilty of a Class 2 misdemeanor."

38 Section 4. G.S. 14-313(d) reads as rewritten:

39 "(d) Send or assist person less than 18 years to purchase or receive tobacco product.
40 – If any person shall ~~knowingly~~ send ~~or assist~~ a person less than 18 years of age to
41 purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or
42 cigarette wrapping papers, or if any person shall aid or abet a person who is less than 18
43 years of age in purchasing, acquiring, or receiving or attempting to purchase, acquire or

1 receive tobacco products or cigarette wrapping papers, the person shall be guilty of a
2 Class 2 misdemeanor; provided, however, persons under the age of 18 may be enlisted by
3 police or local sheriffs' departments to test compliance if the testing is under the direct
4 supervision of that law enforcement department and written parental consent is provided;
5 provided further, that the Department of Human Resources shall have the authority,
6 pursuant to a written plan prepared by the Secretary of Human Resources, to use persons
7 under 18 years of age in annual, random, unannounced inspections, provided that prior
8 written parental consent is given for the involvement of these persons and that the
9 inspections are conducted for the sole purpose of preparing a scientifically and
10 methodologically valid statistical study of the extent of success the State has achieved in
11 reducing the availability of tobacco products to persons under the age of 18, and
12 preparing any report to the extent required by section 1926 of the federal Public Health
13 Service Act (42 USC § 300x-26)."

14 Section 5. G.S. 14-313 is amended by adding a new subsection to read:

15 "(b1) Vending machines. – Tobacco products shall not be distributed in vending
16 machines; provided, however, vending machines distributing tobacco products are
17 permitted (i) in any establishment which is open only to persons 18 years of age and
18 older; or (ii) in any establishment if the vending machine is under the continuous control
19 of the owner or licensee of the premises or an employee thereof and can be operated only
20 upon activation by the owner, licensee, or employee prior to each purchase and the
21 vending machine is not accessible to the public when the establishment is closed. The
22 owner, licensee, or employee shall demand proof of age from a prospective purchaser if
23 the person has reasonable grounds to believe that the prospective purchaser is under 18
24 years of age. Failure to demand proof of age as required by this subsection is a Class 2
25 misdemeanor if in fact the prospective purchaser is under 18 years of age. Proof that the
26 defendant demanded, was shown, and reasonably relied upon proof of age shall be a
27 defense to any action brought under this subsection. Vending machines distributing
28 tobacco products in establishments not meeting the above conditions shall be removed by
29 July 31, 1997. Any person distributing tobacco products through vending machines in
30 violation of this subsection shall be guilty of a Class 2 misdemeanor."

31 Section 6. G.S. 14-313 is amended by adding a new subsection to read:

32 "(b2) Out-of-package sales. – If any person engaged in the sale of cigarettes shall sell
33 cigarettes other than in unopened packages originating with the manufacturer, the person
34 shall be guilty of a Class 2 misdemeanor."

35 Section 7. This act becomes effective August 1, 1997, and applies to offenses
36 committed on or after that date.