

IN THE SENATE

SENATE BILL NO. 1362

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PREVENTION OF MINORS' ACCESS TO TOBACCO AND PERMITTING OF
2 TOBACCO PRODUCT RETAILERS; AMENDING SECTION 39-5704, IDAHO CODE, TO
3 PROVIDE FOR RULES, TO PROVIDE FOR A FEE AND TO PROVIDE FOR THE REMITTANCE
4 OF RECEIPTS; AND AMENDING SECTION 39-5716, IDAHO CODE, TO PROVIDE A
5 CORRECT CODE REFERENCE.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 39-5704, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 39-5704. PERMITTING OF TOBACCO PRODUCT RETAILERS. (1) It shall
11 be unlawful to sell or distribute or offer tobacco products for sale or
12 distribution at retail or to possess tobacco products with the intention
13 of selling at retail without having first obtained a tobacco permit from
14 the department which shall be the only retail tobacco permit or license
15 required. Provided however, this section shall not be deemed to require a
16 wholesaler or manufacturer's representative or their employees who, in the
17 course of their employment, stock shelves and replenish tobacco products at
18 a permittee's place of business to obtain a permit.

19 (2) The department shall administer the permitting of tobacco product
20 retailers and shall be authorized to ensure compliance with this chapter.
21 The department may promulgate rules in compliance with chapter 52, title 67,
22 Idaho Code, regarding permitting of tobacco product retailers, inspections,
23 and compliance checks, effective training and employment practices under
24 this chapter.

25 (3) Permits shall be issued annually ~~for no charge~~ for each business
26 location to ensure compliance with the requirements of this chapter. A
27 copy of this chapter, rules adopted by the department, appropriate signage
28 required by this chapter and any materials deemed necessary shall be
29 provided with each permit issued.

30 (4) A separate permit must be obtained for each place of business and is
31 nontransferable to another person, business or location.

32 (5) The department is hereby directed to promulgate rules establishing
33 annual permit fees. The department shall establish fees at a sufficient
34 rate such that the costs associated with implementing and enforcing the
35 permitting and inspection programs provided for in this section and section
36 39-5710, Idaho Code, are recovered on an annual basis. Receipts from such
37 fees shall be remitted, by either the department or the state treasurer,
38 to the prevention of minors' access to tobacco fund established in section
39 39-5711, Idaho Code.

40 (6) Permittees may display the permit in a prominent location.

41 (67) A permittee may display a sign in each location within a place
42 of business where tobacco products are sold or distributed. A sign may be

1 clearly visible to the customer and the seller and shall state: "STATE LAW
2 PROHIBITS THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF EIGHTEEN
3 (18) YEARS. PROOF OF AGE REQUIRED. ANYONE WHO SELLS OR DISTRIBUTES TOBACCO TO
4 A MINOR IS SUBJECT TO STRICT FINES AND PENALTIES. MINORS ARE SUBJECT TO FINES
5 AND PENALTIES."

6 (~~78~~) Permittees are responsible to educate employees as to the
7 requirements of this chapter.

8 (~~89~~) It shall be unlawful for the permittee to allow employees who are
9 minors to sell or distribute tobacco. Exception: Employees who are minors
10 may possess but not sell or distribute tobacco products in the course of
11 employment, for such duties as stocking shelves or carrying purchases to
12 customers' vehicles.

13 SECTION 2. That Section 39-5716, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 39-5716. DISCLOSURE AND NOTICE REQUIREMENTS. For all delivery sales a
16 permittee shall post on any advertisement or website:

17 (1) The cautionary language for signs under section 39-5704 (~~67~~), Idaho
18 Code;

19 (2) A prominent and clearly legible statement that consists of one
20 (1) of the warnings set forth in section 4(a)(1) of the federal cigarette
21 labeling and advertising act (15 U.S.C. section 1333(a)(1)) rotated on a
22 quarterly basis;

23 (3) A prominent and clearly legible statement that sales of cigarettes
24 are taxable under chapter 25, title 63, Idaho Code, and an explanation of how
25 such tax has been, or is to be paid, with respect to such delivery sale.