

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 142, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the
2 following:
3 SECTION 1. IC 7.1-3-18.5-8, AS AMENDED BY P.L.49-2020,
4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2021]: Sec. 8. The commission may mitigate civil penalties
6 imposed against a certificate holder for violating IC 35-46-1-10,
7 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.4,
8 IC 35-46-1-11.5, IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the
9 provisions of this chapter if a certificate holder provides a training
10 program for the certificate holder's employees that includes at least the
11 following topics:
12 (1) Laws governing the sale of tobacco products and electronic
13 cigarettes.
14 (2) Methods of recognizing and handling customers who are less
15 than twenty-one (21) years of age.
16 (3) Procedures for proper examination of identification cards to
17 verify that customers are under twenty-one (21) years of age,
18 **including performing age verification with scanning**
19 **technology or an automated software system.**
20 SECTION 2. IC 7.1-7-6-6, AS AMENDED BY P.L.49-2020,
21 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2021]: Sec. 6. (a) As used in this section, "good faith effort to
23 verify the age of the purchaser of the e-liquid" means
24 ~~(1) verifying the age of the purchaser in a commercially~~
25 ~~available database; or~~
26 ~~(2) obtaining a photocopy of a government issued identification;~~

1 **performing age verification with scanning technology or an**
 2 **automated software system** that indicates the birth date or age of the
 3 purchaser.

4 (b) A person who knowingly or intentionally ships an e-liquid
 5 without first making a good faith effort to verify the age of the
 6 purchaser of the e-liquid commits a Class C infraction.

7 SECTION 3. IC 35-46-1-10, AS AMENDED BY THE
 8 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
 9 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2021]: Sec. 10. (a) A person may not be charged with a
 11 violation under this section and a violation under IC 7.1-7-6-5.

12 (b) A person who knowingly:

13 (1) sells or distributes tobacco, an e-liquid, or an electronic
 14 cigarette to a person less than twenty-one (21) years of age; ~~or~~

15 **(2) sells or distributes tobacco, an e-liquid, or an electronic**
 16 **cigarette without performing age verification of the**
 17 **purchaser with scanning technology or an automated**
 18 **software system; or**

19 ~~(2)~~ **(3) purchases tobacco, an e-liquid, or an electronic cigarette**
 20 **for delivery to another person who is less than twenty-one (21)**
 21 **years of age;**

22 commits a Class C infraction. For a sale to take place under this
 23 section, the buyer must pay the seller for the tobacco, ~~product, the~~
 24 e-liquid, or ~~the~~ electronic cigarette.

25 (c) It is not a defense that the person to whom the tobacco, ~~the~~
 26 e-liquid, or electronic cigarette was sold or distributed did not smoke,
 27 chew, inhale, or otherwise consume the tobacco, e-liquid, or ~~the~~
 28 electronic cigarette.

29 (d) The following defenses are available to a person accused of
 30 selling or distributing tobacco, an e-liquid, or an electronic cigarette to
 31 a person who is less than twenty-one (21) years of age:

32 (1) The buyer or recipient produced a driver's license bearing the
 33 purchaser's or recipient's photograph, showing that the purchaser
 34 or recipient was of legal age to make the purchase **and the**
 35 **person performed age verification with scanning technology**
 36 **or an automated software system.**

37 (2) The buyer or recipient produced a photographic identification
 38 card issued under IC 9-24-16-1, or a similar card issued under
 39 the laws of another state or the federal government, showing that
 40 the purchaser or recipient was of legal age to make the purchase
 41 **and the person performed age verification with scanning**
 42 **technology or an automated software system.**

43 (3) The appearance of the purchaser or recipient was such that
 44 an ordinary prudent person would believe that the purchaser or
 45 recipient was not less than thirty (30) years of age.

46 (e) It is a defense that the accused person sold or delivered the
 47 tobacco, e-liquid, or electronic cigarette to a person who acted in the
 48 ordinary course of employment or a business concerning tobacco, an
 49 e-liquid, or electronic cigarettes including the following activities:

50 (1) Agriculture.

- 1 (2) Processing.
 2 (3) Transporting.
 3 (4) Wholesaling.
 4 (5) Retailing.

5 (f) As used in this section, "distribute" means to give tobacco, an
 6 e-liquid, or an electronic cigarette to another person as a means of
 7 promoting, advertising, or marketing the tobacco, e-liquid, or electronic
 8 cigarette to the general public.

9 (g) Unless the person buys or receives tobacco, an e-liquid, or an
 10 electronic cigarette under the direction of a law enforcement officer as
 11 part of an enforcement action, a person who sells or distributes tobacco,
 12 an e-liquid, or an electronic cigarette is not liable for a violation of this
 13 section unless the person less than twenty-one (21) years of age who
 14 bought or received the tobacco, e-liquid, or electronic cigarette is
 15 issued a citation or summons under section 10.5 of this chapter.

16 (h) Notwithstanding IC 34-28-5-5(c), civil penalties collected
 17 under this section must be deposited in the Richard D. Doyle youth
 18 tobacco education and enforcement fund (IC 7.1-6-2-6).

19 SECTION 4. IC 35-46-1-10.2, AS AMENDED BY THE
 20 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
 21 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2021]: Sec. 10.2. (a) A person may not be charged with a
 23 violation under this section and a violation under IC 7.1-7-6-5.

24 (b) A retail establishment that:

- 25 (1) sells or distributes tobacco, an e-liquid, or an electronic
 26 cigarette to a person less than twenty-one (21) years of age; **or**
 27 **(2) sells or distributes tobacco, an e-liquid, or an electronic**
 28 **cigarette without performing age verification of the**
 29 **purchaser with scanning technology or an automated**
 30 **software system;**

31 commits a Class C infraction. For a sale to take place under this
 32 section, the buyer must pay the retail establishment for the tobacco,
 33 ~~product,~~ an e-liquid, or electronic cigarette.

34 (c) Notwithstanding IC 34-28-5-4(c), a civil judgment for an
 35 infraction committed under this section must be imposed as follows:

- 36 (1) If the retail establishment at that specific business location
 37 has not been issued a citation or summons for a violation of this
 38 section in the previous one (1) year, a civil penalty of up to four
 39 hundred dollars (\$400).
 40 (2) If the retail establishment at that specific business location
 41 has had one (1) citation or summons issued for a violation of this
 42 section in the previous one (1) year, a civil penalty of up to eight
 43 hundred dollars (\$800).
 44 (3) If the retail establishment at that specific business location
 45 has had two (2) citations or summonses issued for a violation of
 46 this section in the previous one (1) year, a civil penalty of up to
 47 one thousand four hundred dollars (\$1,400).
 48 (4) If the retail establishment at that specific business location
 49 has had three (3) or more citations or summonses issued for a
 50 violation of this section in the previous one (1) year, a civil

1 penalty of up to two thousand dollars (\$2,000).
 2 A retail establishment may not be issued a citation or summons for a
 3 violation of this section more than once every twenty-four (24) hours
 4 for each specific business location.

5 (d) It is not a defense that the person to whom the tobacco, ~~an~~
 6 e-liquid, or electronic cigarette was sold or distributed did not smoke,
 7 chew, inhale, or otherwise consume the tobacco, e-liquid, or electronic
 8 cigarette.

9 (e) The following defenses are available to a retail establishment
 10 accused of selling or distributing tobacco, an e-liquid, or an electronic
 11 cigarette to a person who is less than twenty-one (21) years of age:

12 (1) The buyer or recipient produced a driver's license bearing the
 13 purchaser's or recipient's photograph showing that the purchaser
 14 or recipient was of legal age to make the purchase **and an**
 15 **employee of the retail establishment performed age**
 16 **verification with scanning technology or an automated**
 17 **software system.**

18 (2) The buyer or recipient produced a photographic identification
 19 card issued under IC 9-24-16-1 or a similar card issued under the
 20 laws of another state or the federal government showing that the
 21 purchaser or recipient was of legal age to make the purchase **and**
 22 **an employee of the retail establishment performed age**
 23 **verification with scanning technology or an automated**
 24 **software system.**

25 (3) The appearance of the purchaser or recipient was such that
 26 an ordinary prudent person would believe that the purchaser or
 27 recipient was not less than thirty (30) years of age.

28 (f) It is a defense that the accused retail establishment sold or
 29 delivered the tobacco, e-liquid, or electronic cigarette to a person who
 30 acted in the ordinary course of employment or a business concerning
 31 tobacco, an e-liquid, or electronic cigarettes for the following activities:

32 (1) Agriculture.

33 (2) Processing.

34 (3) Transporting.

35 (4) Wholesaling.

36 (5) Retailing.

37 (g) As used in this section, "distribute" means to give tobacco, an
 38 e-liquid, or an electronic cigarette to another person as a means of
 39 promoting, advertising, or marketing the tobacco or electronic cigarette
 40 to the general public.

41 (h) Unless a person buys or receives tobacco, an e-liquid, or an
 42 electronic cigarette under the direction of a law enforcement officer as
 43 part of an enforcement action, a retail establishment that sells or
 44 distributes tobacco, an e-liquid, or an electronic cigarette is not liable
 45 for a violation of this section unless the person less than twenty-one
 46 (21) years of age who bought or received the tobacco, ~~an~~ e-liquid, or
 47 electronic cigarette is issued a citation or summons under section 10.5
 48 of this chapter.

49 (i) Notwithstanding IC 34-28-5-5(c), civil penalties collected
 50 under this section must be deposited in the Richard D. Doyle youth

1 tobacco education and enforcement fund (IC 7.1-6-2-6).
2 (j) A person who violates subsection (b) at least six (6) times in
3 any one (1) year commits habitual illegal sale of tobacco, a Class B
4 infraction.

(Reference is to SB 142 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on .

BRAY, Chairperson