

HOUSE BILL No. 1128

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3; IC 7.1-3-18.5; IC 7.1-5-12-5; IC 7.1-6-2; IC 7.1-7; IC 22-5-4; IC 24-3-5; IC 35-31.5-2; IC 35-43-5-3.8; IC 35-46-1.

Synopsis: Tobacco issues. Prohibits a person who is less than 21 years of age from buying or possessing: (1) cigarettes; (2) tobacco products; (3) e-liquid; or (4) electronic cigarettes. Makes conforming changes regarding enforcement provisions, sales certificates, prohibition of delivery sales, and notices posted at retail establishments and at vending machines. Repeals employment protections for individuals who smoke cigarettes or use other tobacco products. Makes technical corrections. Requires the label of an e-liquid to have a scannable bar code or QR code linked to a document containing information regarding the manufacturing of the e-liquid, a certificate of analysis for the batch of e-liquid, and the ingredients used in an e-liquid. Requires a certificate of analysis prepared by an independent testing laboratory for the distribution of e-liquid in Indiana. Expands the applicability of the vapor pens and e-liquids article to include closed system vapor products. Provides that the alcohol and tobacco commission (commission) has the duty and responsibility to investigate violations of the vapor pens and e-liquid laws. Provides that a person may not sell or distribute e-liquids without a valid tobacco sales certificate issued by the commission. Requires a person who desires to sell e-liquid to pay a fee and provide certain information to the commission.

Effective: July 1, 2020.

Aylesworth

January 8, 2020, read first time and referred to Committee on Public Health.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1128

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 7.1-1-3-8.6 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2020]: **Sec. 8.6. The term "certificate of analysis" means a**
- 4 **certificate from an independent testing laboratory describing the**
- 5 **results of the laboratory's testing of a sample.**
- 6 SECTION 2. IC 7.1-1-3-19.1 IS ADDED TO THE INDIANA
- 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 8 [EFFECTIVE JULY 1, 2020]: **Sec. 19.1. The term "independent**
- 9 **testing laboratory" means a laboratory:**
- 10 **(1) with respect to which no person having a direct or indirect**
- 11 **interest in the laboratory also has a direct or indirect interest**
- 12 **in a facility that:**
- 13 **(A) processes, manufactures, distributes, or sells electronic**
- 14 **cigarettes or e-liquids; or**
- 15 **(B) processes, manufactures, distributes, or sells vapor**
- 16 **products; and**
- 17 **(2) that is accredited as a testing laboratory to the**



1 **International Organization for Standardization (ISO) 17025**
 2 **by a third party accrediting body such as the American**
 3 **Association for Laboratory Accreditation (A2LA) or Assured**
 4 **Calibration and Laboratory Accreditation Select Services**
 5 **(ACCLASS).**

6 SECTION 3. IC 7.1-1-3-25, AS AMENDED BY P.L.176-2015,
 7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2020]: Sec. 25. (a) "Minor" ~~except as provided in subsection~~
 9 **(b)**; means a person less than twenty-one (21) years of age.

10 **(b) "Minor"**; for purposes of IC 7.1-7, has the meaning set forth in
 11 ~~IC 7.1-7-2-17.~~

12 SECTION 4. IC 7.1-1-3-46.1 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2020]: **Sec. 46.1. The term "tamper evident**
 15 **package" means a package having at least one (1) indicator or**
 16 **barrier to entry that, if breached or missing, can reasonably be**
 17 **expected to provide visible evidence to consumers that tampering**
 18 **has occurred.**

19 SECTION 5. IC 7.1-3-18.5-1, AS AMENDED BY P.L.32-2019,
 20 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2020]: Sec. 1. (a) A person may not sell or otherwise
 22 distribute in exchange for consideration a tobacco product, **e-liquid**, or
 23 electronic cigarette at retail without a valid tobacco sales certificate
 24 issued by the commission.

25 (b) A certificate may be issued only to a person who owns or
 26 operates at least one (1) of the following:

- 27 (1) A premises consisting of a permanent building or structure
 28 where the tobacco product, **e-liquid**, or electronic cigarette is sold
 29 or distributed.
 30 (2) A premises upon which a cigarette vending machine is
 31 located.

32 SECTION 6. IC 7.1-3-18.5-2, AS AMENDED BY P.L.231-2015,
 33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2020]: Sec. 2. (a) A person who desires a certificate must
 35 provide the following to the commission:

- 36 (1) The applicant's name and mailing address and the address of
 37 the premises for which the certificate is being issued.
 38 (2) Except as provided in section 6(c) of this chapter, a fee of two
 39 hundred dollars (\$200).
 40 (3) The name under which the applicant transacts or intends to
 41 transact business.
 42 (4) The address of the applicant's principal place of business or



- 1 headquarters, if any.
- 2 (5) The statement required under section 2.6 of this chapter.
- 3 (b) A separate certificate is required for each location where the
- 4 tobacco products, **e-liquid**, or electronic cigarettes are sold or
- 5 distributed.
- 6 (c) A certificate holder shall conspicuously display the holder's
- 7 certificate on the holder's premises where the tobacco products,
- 8 **e-liquid**, or electronic cigarettes are sold or distributed.
- 9 (d) Any intentional misstatement or suppression of a material fact
- 10 in an application filed under this section constitutes grounds for denial
- 11 of the certificate.
- 12 (e) A certificate may be issued only to a person who meets the
- 13 following requirements:
- 14 (1) If the person is an individual, the person must be at least
- 15 ~~eighteen (18)~~ **twenty-one (21)** years of age.
- 16 (2) The person must be authorized to do business in Indiana.
- 17 (f) The fees collected under this section shall be deposited in the
- 18 enforcement and administration fund under IC 7.1-4-10.
- 19 SECTION 7. IC 7.1-3-18.5-5, AS AMENDED BY P.L.214-2016,
- 20 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2020]: Sec. 5. (a) Subject to subsection (b), the commission
- 22 may suspend the certificate of a person who fails to pay a civil penalty
- 23 imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11,
- 24 IC 35-46-1-11.2, IC 35-46-1-11.5, IC 35-46-1-11.7, or IC 35-46-1-11.8.
- 25 (b) Before enforcing the imposition of a civil penalty or suspending
- 26 or revoking a certificate under this chapter, the commission shall
- 27 provide written notice of the alleged violation to the certificate holder
- 28 and conduct a hearing. The commission shall provide written notice of
- 29 the civil penalty or suspension or revocation of a certificate to the
- 30 certificate holder.
- 31 (c) Subject to subsection (b), the commission shall revoke the
- 32 certificate of a person upon a finding by a preponderance of the
- 33 evidence that the person:
- 34 (1) has violated IC 35-45-5-3, IC 35-45-5-3.5, IC 35-45-5-4,
- 35 IC 35-46-1-11, IC 35-46-1-11.2, or IC 35-46-1-11.8;
- 36 (2) has committed habitual illegal sale of tobacco **or an**
- 37 **electronic cigarette** as established under ~~IC 35-46-1-10.2(h);~~
- 38 **IC 35-46-1-10.2(i);** or
- 39 (3) has committed habitual illegal entrance by a minor as
- 40 established under IC 35-46-1-11.7(f).
- 41 SECTION 8. IC 7.1-3-18.5-6, AS AMENDED BY P.L.214-2016,
- 42 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 6. (a) If a certificate has:

- 2 (1) expired; or
3 (2) been suspended;

4 the commission may not reinstate or renew the certificate until all civil
5 penalties imposed against the certificate holder for violating
6 IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2,
7 IC 35-46-1-11.5, IC 35-46-1-11.7, or IC 35-46-1-11.8 have been paid.

8 (b) The failure to pay a civil penalty described in subsection (a) is
9 a Class B infraction.

10 (c) If a certificate has been revoked, the commission may not
11 reinstate or renew the certificate for at least one hundred eighty (180)
12 days after the date of revocation. The commission may reinstate or
13 renew the certificate only upon a reasonable showing by the applicant
14 that the applicant shall:

- 15 (1) exercise due diligence in the sale of tobacco products or
16 electronic cigarettes on the applicant's premises where the
17 tobacco products, **e-liquid**, or electronic cigarettes are sold or
18 distributed; and
19 (2) properly supervise and train the applicant's employees or
20 agents in the handling and sale of tobacco products, **e-liquid**, or
21 electronic cigarettes.

22 If a certificate is reinstated or renewed, the applicant of the certificate
23 shall pay an application fee of one thousand dollars (\$1,000).

24 (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
25 this section must be deposited in the youth tobacco education and
26 enforcement fund established under IC 7.1-6-2-6.

27 SECTION 9. IC 7.1-3-18.5-8, AS AMENDED BY P.L.214-2016,
28 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2020]: Sec. 8. The commission may mitigate civil penalties
30 imposed against a certificate holder for violating IC 35-46-1-10,
31 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.5,
32 IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the provisions of this
33 chapter if a certificate holder provides a training program for the
34 certificate holder's employees that includes at least the following
35 topics:

- 36 (1) Laws governing the sale of tobacco products, **e-liquid**, and
37 electronic cigarettes.
38 (2) Methods of recognizing and handling customers who are less
39 than ~~eighteen (18) years of the legal age to purchase tobacco~~
40 **products, e-liquid, and electronic cigarettes.**
41 (3) Procedures for proper examination of identification cards to
42 verify that ~~customers are under eighteen (18) years of a customer~~



1 **is less than the legal age to purchase tobacco products,**
 2 **e-liquid, and electronic cigarettes.**

3 SECTION 10. IC 7.1-3-18.5-9, AS AMENDED BY P.L.231-2015,
 4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2020]: Sec. 9. A certificate holder shall exercise due diligence
 6 in the supervision and training of the certificate holder's employees or
 7 agents in the handling and sale of tobacco products, **e-liquid**, and
 8 electronic cigarettes on the holder's retail premises. Proof that
 9 employees or agents of the certificate holder, while in the scope of their
 10 employment, committed at least six (6) violations relating to
 11 ~~IC 35-46-1-10.2(a)~~ **IC 35-46-1-10.2(b)** in any one hundred eighty
 12 (180) day period shall be prima facie evidence of a lack of due
 13 diligence by the certificate holder in the supervision and training of the
 14 certificate holder's employees or agents.

15 SECTION 11. IC 7.1-3-18.5-11, AS ADDED BY P.L.214-2016,
 16 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2020]: Sec. 11. If a certificate holder sells or distributes
 18 tobacco products, **e-liquid**, or electronic cigarettes at a location:

19 (1) determined to be a public nuisance; or
 20 (2) at which conduct or acts that are crimes or infractions under
 21 IC 35 occur;
 22 the commission may impose sanctions against the certificate holder
 23 under IC 7.1-2-3-33 and section 5 of this chapter.

24 SECTION 12. IC 7.1-5-12-5, AS AMENDED BY P.L.231-2015,
 25 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (c) and
 27 subject to section 13 of this chapter, smoking may be allowed in the
 28 following:

29 (1) A horse racing facility operated under a permit under
 30 IC 4-31-5 and any other permanent structure on land owned or
 31 leased by the owner of the facility that is adjacent to the facility.
 32 (2) A riverboat (as defined in IC 4-33-2-17) and any other
 33 permanent structure that is:
 34 (A) owned or leased by the owner of the riverboat; and
 35 (B) located on land that is adjacent to:
 36 (i) the dock to which the riverboat is moored; or
 37 (ii) the land on which the riverboat is situated in the case of
 38 a riverboat described in IC 4-33-2-17(2).
 39 (3) A facility that operates under a gambling game license under
 40 IC 4-35-5 and any other permanent structure on land owned or
 41 leased by the owner of the facility that is adjacent to the facility.
 42 (4) A satellite facility licensed under IC 4-31-5.5.



- 1 (5) An establishment owned or leased by a business that meets the
 2 following requirements:
 3 (A) The business was in business and permitted smoking on
 4 December 31, 2012.
 5 (B) The business prohibits entry by an individual who is less
 6 than twenty-one (21) years of age.
 7 (C) The owner or operator of the business holds a beer, liquor,
 8 or wine retailer's permit.
 9 (D) The business limits smoking in the establishment to
 10 smoking with a waterpipe or hookah device.
 11 (E) During the preceding calendar year, at least ten percent
 12 (10%) of the business's annual gross income was from the sale
 13 of loose tobacco for use in a waterpipe or hookah device.
 14 (F) The person in charge of the business posts in the
 15 establishment conspicuous signs that display the message that
 16 cigarette smoking is prohibited.
- 17 (6) An establishment owned or leased by a business that meets the
 18 following requirements:
 19 (A) The business prohibits entry by an individual who is less
 20 than twenty-one (21) years of age.
 21 (B) The owner or operator of the business holds a beer, liquor,
 22 or wine retailer's permit.
 23 (C) The business limits smoking in the establishment to cigar
 24 smoking.
 25 (D) During the preceding calendar year, at least ten percent
 26 (10%) of the business's annual gross income was from the sale
 27 of cigars and the rental of onsite humidors.
 28 (E) The person in charge of the business posts in the
 29 establishment conspicuous signs that display the message that
 30 cigarette smoking is prohibited.
- 31 (7) A premises owned or leased by and regularly used for the
 32 activities of a business that meets all of the following:
 33 (A) The business is exempt from federal income taxation
 34 under 26 U.S.C. 501(c).
 35 (B) The business:
 36 (i) meets the requirements to be considered a club under
 37 IC 7.1-3-20-1; or
 38 (ii) is a fraternal club (as defined in IC 7.1-3-20-7).
 39 (C) The business provides food or alcoholic beverages only to
 40 its bona fide members and their guests.
 41 (D) The business:
 42 (i) provides a separate, enclosed, designated smoking room



- 1 or area that is adequately ventilated to prevent migration of
 2 smoke to nonsmoking areas of the premises;
 3 (ii) allows smoking only in the room or area described in
 4 item (i);
 5 (iii) does not allow an individual who is less than ~~eighteen~~
 6 ~~(18)~~ **twenty-one (21)** years of age to enter into the room or
 7 area described in item (i); and
 8 (iv) allows a guest in the smoking room or area described in
 9 item (i) only when accompanied by a bona fide member of
 10 the business.
- 11 (8) A retail tobacco store used primarily for the sale of tobacco
 12 products and tobacco accessories that meets the following
 13 requirements:
- 14 (A) The owner or operator of the store holds a valid tobacco
 15 sales certificate issued under IC 7.1-3-18.5.
 16 (B) The store prohibits entry by an individual who is less than
 17 ~~eighteen (18)~~ **twenty-one (21)** years of age.
 18 (C) The sale of products other than tobacco products and
 19 tobacco accessories is merely incidental.
 20 (D) The sale of tobacco products accounts for at least
 21 eighty-five percent (85%) of the store's annual gross sales.
 22 (E) Food or beverages are not sold in a manner that requires
 23 consumption on the premises, and there is not an area set aside
 24 for customers to consume food or beverages on the premises.
- 25 (9) A bar or tavern:
- 26 (A) for which a permittee holds:
 27 (i) a beer retailer's permit under IC 7.1-3-4;
 28 (ii) a liquor retailer's permit under IC 7.1-3-9; or
 29 (iii) a wine retailer's permit under IC 7.1-3-14;
 30 (B) that does not employ an individual who is less than
 31 eighteen (18) years of age;
 32 (C) that does not allow an individual who:
 33 (i) is less than twenty-one (21) years of age; and
 34 (ii) is not an employee of the bar or tavern;
 35 to enter any area of the bar or tavern; and
 36 (D) that is not located in a business that would otherwise be
 37 subject to this chapter.
- 38 (10) A cigar manufacturing facility that does not offer retail sales.
 39 (11) A premises of a cigar specialty store to which all of the
 40 following apply:
 41 (A) The owner or operator of the store holds a valid tobacco
 42 sales certificate issued under IC 7.1-3-18.5.



- 1 (B) The sale of tobacco products and tobacco accessories
 2 account for at least fifty percent (50%) of the store's annual
 3 gross sales.
- 4 (C) The store has a separate, enclosed, designated smoking
 5 room that is adequately ventilated to prevent migration of
 6 smoke to nonsmoking areas.
- 7 (D) Smoking is allowed only in the room described in clause
 8 (C).
- 9 (E) Individuals who are less than ~~eighteen (18)~~ **twenty-one**
 10 **(21)** years of age are prohibited from entering into the room
 11 described in clause (C).
- 12 (F) Cigarette smoking is not allowed on the premises of the
 13 store.
- 14 (G) The owner or operator of the store posts a conspicuous
 15 sign on the premises of the store that displays the message that
 16 cigarette smoking is prohibited.
- 17 (H) The store does not prepare any food or beverage that
 18 would require a certified food handler under IC 16-42-5.2.
- 19 (12) The premises of a business that is located in the business
 20 owner's private residence (as defined in IC 3-5-2-42.5) if the only
 21 employees of the business who work in the residence are the
 22 owner and other individuals who reside in the residence.
- 23 (b) The owner, operator, manager, or official in charge of an
 24 establishment or premises in which smoking is allowed under this
 25 section shall post conspicuous signs in the establishment that read
 26 "WARNING: Smoking Is Allowed In This Establishment" or other
 27 similar language.
- 28 (c) This section does not allow smoking in the following enclosed
 29 areas of an establishment or premises described in subsection (a)(1)
 30 through (a)(11):
- 31 (1) Any hallway, elevator, or other common area where an
 32 individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years
 33 of age is permitted.
- 34 (2) Any room that is intended for use by an individual who is less
 35 than ~~eighteen (18) years of age~~ **twenty-one (21) years of age**.
- 36 (d) The owner, operator, or manager of an establishment or premises
 37 that is listed under subsection (a) and that allows smoking shall provide
 38 a verified statement to the commission that states that the establishment
 39 or premises qualifies for the exemption. The commission may require
 40 the owner, operator, or manager of an establishment or premises to
 41 provide documentation or additional information concerning the
 42 exemption of the establishment or premises.



1 SECTION 13. IC 7.1-6-2-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. The division of
 3 mental health and addiction established under IC 12-21 shall
 4 coordinate the conduct of random unannounced inspections at locations
 5 where tobacco products, **e-liquids, or electronic cigarettes** are sold or
 6 distributed to ensure compliance with this article. Only the
 7 commission, an Indiana law enforcement agency, the office of the
 8 sheriff of a county, or an organized police department of a municipal
 9 corporation may conduct the random unannounced inspections. These
 10 entities may use retired or off-duty law enforcement officers to conduct
 11 inspections under this section.

12 SECTION 14. IC 7.1-6-2-4, AS AMENDED BY P.L.20-2013,
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2020]: Sec. 4. (a) An enforcement officer vested with full
 15 police powers and duties may engage a person less than ~~eighteen (18)~~
 16 **twenty-one (21)** years of age as part of an enforcement action under
 17 this article if the initial or contemporaneous receipt or purchase of a
 18 tobacco product, **e-liquid**, or electronic cigarette by a person less than
 19 ~~eighteen (18)~~ **twenty-one (21)** years of age occurs under the direction
 20 of an enforcement officer vested with full police powers and duties and
 21 is part of the enforcement action.

22 (b) An enforcement officer vested with full police powers and duties
 23 shall not:

- 24 (1) recruit or attempt to recruit a person less than ~~eighteen (18)~~
 25 **twenty-one (21)** years of age to participate in an enforcement
 26 action under subsection (a) at the scene of a violation of section
 27 2 of this chapter; or
 28 (2) allow a person less than ~~eighteen (18)~~ **twenty-one (21)** years
 29 of age to purchase or receive a tobacco product, **e-liquid**, or
 30 electronic cigarette as part of an enforcement action under
 31 subsection (a) without the written permission of the person's
 32 parents or legal guardians.

33 SECTION 15. IC 7.1-7-1-1, AS AMENDED BY P.L.206-2017,
 34 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2020]: Sec. 1. ~~(a) Except as provided in subsection (b);~~ This
 36 article applies to the following:

- 37 (1) The commercial manufacturing, bottling, selling, bartering, or
 38 importing of e-liquid in Indiana.
 39 (2) The sale, possession, and use of e-liquid products in Indiana.
 40 **(3) The manufacture of an open system or closed system**
 41 **vapor product.**

42 ~~(b) This article does not apply to a manufacturer of a closed system~~



1 vapor product, except as specifically provided in this article:

2 SECTION 16. IC 7.1-7-2-6.3, AS ADDED BY P.L.206-2017,
3 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2020]: Sec. 6.3. "Delivery sale" means a sale of ~~e-liquids~~ **an**
5 **e-liquid** to a purchaser in Indiana in which the purchaser submits the
6 order for the sale:

- 7 (1) by telephone;
- 8 (2) over the Internet; or
- 9 (3) through the mail or another delivery system;

10 and the ~~e-liquids~~ **are e-liquid is** shipped through a delivery service.
11 "Delivery sale" does not include a sale of ~~e-liquids~~ **an e-liquid** not for
12 personal consumption to a person who is a retailer.

13 SECTION 17. IC 7.1-7-2-17 IS REPEALED [EFFECTIVE JULY
14 1, 2020]. ~~Sec. 17. "Minor" means an individual who is less than~~
15 ~~eighteen (18) years of age.~~

16 SECTION 18. IC 7.1-7-3-2, AS AMENDED BY P.L.206-2017,
17 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2020]: Sec. 2. The commission has the following duties and
19 responsibilities:

- 20 (1) To require the submission of information necessary to
21 implement this article.
- 22 (2) To issue permits.
- 23 (3) To charge fees as set forth in this article. The fees charged
24 under this subdivision may not exceed the actual costs incurred by
25 the commission.
- 26 (4) To approve or deny a permit application made under
27 IC 7.1-7-4 within sixty (60) days of receiving the application.

28 **(5) To investigate violations of this article.**

29 SECTION 19. IC 7.1-7-4-6, AS AMENDED BY P.L.17-2019,
30 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2020]: Sec. 6. (a) As used in this section, ~~(1)~~ "adulterated"
32 means a product that:

- 33 ~~(A)~~ **(1)** consists in whole or in part of any filthy, putrid, or
34 decomposed substance; or
- 35 ~~(B)~~ **(2)** is contaminated by any added poisonous or added
36 deleterious substance that may render the product injurious to
37 health. ~~and~~
- 38 ~~(2)~~ "tamper evident package" means a package having at least one
39 ~~(1)~~ indicator or barrier to entry that, if breached or missing, can
40 reasonably be expected to provide visible evidence to consumers
41 that tampering has occurred.

42 (b) A manufacturing facility shall comply with the following



- 1 requirements:
- 2 (1) An e-liquid container must use a child proof cap that has the
- 3 child resistant effectiveness set forth in the federal poison
- 4 prevention packaging standards, 16 CFR 1700.15(b)(1).
- 5 (2) An e-liquid container must use a tamper evident package. The
- 6 tamper evident package feature must be designed to and remain
- 7 intact when handled in a reasonable manner during the
- 8 manufacture, distribution, and retail display of the e-liquid
- 9 container.
- 10 (3) The label on an e-liquid container must:
- 11 (A) meet the nicotine addictiveness warning statement
- 12 requirements set forth in 21 CFR 1143.3; **and**
- 13 **(B) contain a scannable bar code or QR code linked to a**
- 14 **document that contains information with respect to the**
- 15 **manufacturing of the e-liquid, including:**
- 16 (i) a batch identification number;
- 17 (ii) the batch date;
- 18 (iii) the batch size;
- 19 (iv) a downloadable link for a certificate of analysis for
- 20 the batch identified;
- 21 (v) the product name;
- 22 (vi) the ingredients used, including each ingredient
- 23 name;
- 24 (vii) the name of the company that manufactured each
- 25 ingredient;
- 26 (viii) a company or product identification number or
- 27 code, if applicable; and
- 28 (ix) an ingredient lot number.
- 29 (4) The manufacturer or retailer may not add an adulterated
- 30 product to any e-liquid produced for sale in Indiana.
- 31 (5) The manufacturer must submit to random site visits by the
- 32 commission.
- 33 (6) The manufacturer may:
- 34 (A) own and control both the e-liquid manufacturing process
- 35 and the bottling process; or
- 36 (B) subcontract with another manufacturer for the performance
- 37 of the e-liquid manufacturing service, the bottling services, or
- 38 both services.
- 39 However, both the manufacturer performing a service under
- 40 clause (B) and the manufacturer for which the service is
- 41 performed must meet the requirements of this article.
- 42 (7) A manufacturer may use a flavoring, as defined by



- 1 IC 7.1-7-2-12, as an ingredient in an e-liquid.
- 2 (8) The manufacturer or any person listed on the permit
- 3 application may not have been convicted within ten (10) years
- 4 before the date of application of:
- 5 (A) a federal crime having a sentence of at least one (1) year;
- 6 (B) an Indiana Class A, Class B, or Class C felony (for a crime
- 7 committed before July 1, 2014) or a Level 1, Level 2, Level 3,
- 8 Level 4, or Level 5 felony (for a crime committed after June
- 9 30, 2014);
- 10 (C) a crime in a state other than Indiana having a penalty equal
- 11 to the penalty for an Indiana Class A, Class B, or Class C
- 12 felony (for a crime committed before July 1, 2014) or a Level
- 13 1, Level 2, Level 3, Level 4, or Level 5 felony (for a crime
- 14 committed after June 30, 2014);
- 15 (D) an Indiana Class D felony involving a controlled substance
- 16 under IC 35-48-4 (for a crime committed before July 1, 2014)
- 17 or a Level 6 felony involving a controlled substance under
- 18 IC 35-48-4 (for a crime committed after June 30, 2014); or
- 19 (E) a crime in a state other than Indiana similar to a Class D
- 20 felony involving a controlled substance under IC 35-48-4 (for
- 21 a crime committed before July 1, 2014) or a Level 6 felony
- 22 involving a controlled substance under IC 35-48-4 (for a crime
- 23 committed after June 30, 2014).

24 SECTION 20. IC 7.1-7-4-6.5 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2020]: **Sec. 6.5. A person may distribute, sell,**
 27 **barter, or exchange e-liquid in Indiana only if the e-liquid has a**
 28 **certificate of analysis prepared by an independent testing**
 29 **laboratory showing that the e-liquid is the product of a batch tested**
 30 **by the independent testing laboratory.**

31 SECTION 21. IC 7.1-7-5.5-1, AS ADDED BY P.L.206-2017,
 32 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2020]: Sec. 1. A retailer may not make a delivery sale of
 34 e-liquid to a **minor an individual who does not meet the minimum**
 35 **age requirement** as set forth in IC 7.1-7-6-5.

36 SECTION 22. IC 7.1-7-5.5-2, AS ADDED BY P.L.206-2017,
 37 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2020]: Sec. 2. A retailer may not ship ~~e-liquids~~ **an e-liquid**
 39 without first making a good faith effort to verify the age of the
 40 purchaser of the ~~e-liquids~~ **e-liquid** as set forth in IC 7.1-7-6-6.

41 SECTION 23. IC 7.1-7-5.5-3, AS ADDED BY P.L.206-2017,
 42 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 3. (a) Before ~~e-liquids are an e-liquid is~~ shipped
 2 in a delivery sale, a retailer must be fully paid for the purchase and
 3 shall accept payment from the purchaser:

- 4 (1) by a check drawn on an account in the purchaser's name;
 5 (2) by a credit card issued in the purchaser's name; or
 6 (3) by a debit card issued in the purchaser's name.

7 (b) A retailer may ship ~~e-liquids~~ **an e-liquid** only to a purchaser.

8 SECTION 24. IC 7.1-7-5.5-5, AS ADDED BY P.L.206-2017,
 9 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 5. A retailer who ships ~~e-liquids~~ **an e-liquid** from
 11 a delivery sale order shall include as part of the shipping documents a
 12 document with the following statement: "E-LIQUIDS: Indiana law
 13 prohibits the sale of this product to a person who is less than ~~18~~ **21**
 14 years of age."

15 SECTION 25. IC 7.1-7-6-2, AS AMENDED BY P.L.206-2017,
 16 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2020]: Sec. 2. (a) This subsection does not apply to a delivery
 18 sale as defined in IC 7.1-7-2-6.3, **and a person cannot be charged**
 19 **with a violation under this section and a violation set forth in**
 20 **IC 35-46-1-10 and IC 35-46-1-10.2.** If a retailer:

- 21 (1) knowingly and intentionally sells e-liquid to ~~a minor; an~~
 22 **individual who is less than twenty-one (21) years of age;** or
 23 (2) knowingly, intentionally, or negligently fails to verify the age
 24 of a person who appears to be less than twenty-seven (27) years
 25 of age by checking a government issued identification and sells
 26 the person e-liquid;

27 the retailer commits a Class C infraction. For a sale to take place under
 28 this section, the buyer must pay the retail establishment for the e-liquid.

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

- 31 (1) If the retail establishment at that specific business location has
 32 not been issued a citation or summons for a violation of this
 33 section in the previous one hundred eighty (180) days, a civil
 34 penalty of up to two hundred dollars (\$200).
 35 (2) If the retail establishment at that specific business location has
 36 had one (1) citation or summons issued for a violation of this
 37 section in the previous one hundred eighty (180) days, a civil
 38 penalty of up to four hundred dollars (\$400).
 39 (3) If the retail establishment at that specific business location has
 40 had two (2) citations or summonses issued for a violation of this
 41 section in the previous one hundred eighty (180) days, a civil
 42 penalty of up to seven hundred dollars (\$700).



1 (4) If the retail establishment at that specific business location has
 2 had three (3) or more citations or summonses issued for a
 3 violation of this section in the previous one hundred eighty (180)
 4 days, a civil penalty of up to one thousand dollars (\$1,000).

5 A retail establishment may not be issued a citation or summons for a
 6 violation of this section more than once every twenty-four (24) hours
 7 for each specific business location.

8 (c) It is not a defense that the person to whom e-liquid was sold or
 9 distributed did not inhale or otherwise consume e-liquid.

10 (d) The following defenses are available to a retail establishment
 11 accused of selling or distributing e-liquid to a person who is less than
 12 ~~eighteen (18)~~ **twenty-one (21)** years of age:

13 (1) The buyer or recipient produced a driver's license bearing the
 14 purchaser's or recipient's photograph showing that the purchaser
 15 or recipient was of legal age to make the purchase.

16 (2) The buyer or recipient produced a photographic identification
 17 card issued under IC 9-24-16-1 or a similar card issued under the
 18 laws of another state or the federal government showing that the
 19 purchaser or recipient was of legal age to make the purchase.

20 (3) The appearance of the purchaser or recipient was such that an
 21 ordinary prudent person would believe that the purchaser or
 22 recipient was not less than the age that complies with regulations
 23 promulgated by the federal Food and Drug Administration.

24 (e) It is a defense that the accused retail establishment sold or
 25 delivered e-liquid to a person who acted in the ordinary course of
 26 employment or a business concerning e-liquid **for the following**
 27 **activities:**

28 (1) Agriculture.

29 (2) Processing.

30 (3) Transporting.

31 (4) Wholesaling. ~~or~~

32 (5) Retailing.

33 (f) As used in this section, "distribute" means to give e-liquid to
 34 another person as a means of promoting, advertising, or marketing
 35 e-liquid to the general public.

36 (g) Unless a person buys or receives e-liquid under the direction of
 37 a law enforcement officer as part of an enforcement action, a retail
 38 establishment that sells or distributes e-liquid is not liable for a
 39 violation of this section unless the person less than ~~eighteen (18)~~
 40 **twenty-one (21)** years of age who bought or received the e-liquid is
 41 issued a citation or summons in violation of this article.

42 (h) Notwithstanding IC 34-28-5-5(c), civil penalties collected under



1 this section must be deposited in the Richard D. Doyle youth tobacco
2 education and enforcement fund (IC 7.1-6-2-6).

3 (i) A person who violates subsection (a) at least six (6) times in any
4 one hundred eighty (180) day period commits habitual illegal sale of
5 e-liquid, a Class B infraction.

6 SECTION 26. IC 7.1-7-6-5, AS ADDED BY P.L.206-2017,
7 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2020]: Sec. 5. **A person cannot be charged with a violation
9 under this section and a violation set forth in IC 35-46-1-10 and
10 IC 35-46-1-10.2.** A person who knowingly or intentionally makes a
11 delivery sale of ~~e-liquids~~ **an e-liquid** to a ~~minor~~ **an individual who is
12 less than twenty-one (21) years of age** commits a Class C infraction.

13 SECTION 27. IC 7.1-7-6-6, AS ADDED BY P.L.206-2017,
14 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2020]: Sec. 6. (a) As used in this section, "good faith effort to
16 verify the age of ~~a the purchaser of e-liquids~~ **e-liquid**" means:

17 (1) verifying the age of the purchaser in a commercially available
18 database; or

19 (2) obtaining a photocopy of a government issued identification;
20 that indicates the birth date or age of the purchaser.

21 (b) A person who knowingly or intentionally ships ~~e-liquids~~ **an
22 e-liquid** without first making a good faith effort to verify the age of the
23 purchaser of ~~the e-liquids~~ **e-liquid** commits a Class C infraction.

24 SECTION 28. IC 22-5-4 IS REPEALED [EFFECTIVE JULY 1,
25 2020]. (Off Duty Use of Tobacco by Employee).

26 SECTION 29. IC 24-3-5-4, AS AMENDED BY P.L.160-2005,
27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2020]: Sec. 4. Subject to section 4.5 of this chapter, a
29 merchant may not mail or ship cigarettes as part of a delivery sale
30 unless, before mailing or shipping the cigarettes, the merchant:

31 (1) obtains from the prospective customer a written statement
32 signed by the prospective customer under penalty of perjury:

33 (A) providing the prospective customer's address and date of
34 birth;

35 (B) advising the prospective customer that:

36 (i) signing another person's name to the statement required
37 under this subdivision may subject the person to a civil
38 monetary penalty of not more than one thousand dollars
39 (\$1,000); and

40 (ii) purchasing cigarettes by a person less than ~~eighteen (18)~~
41 **twenty-one (21)** years of age is a Class C infraction under
42 IC 35-46-1-10.5;



- 1 (C) confirming that the cigarette order was placed by the
- 2 prospective customer;
- 3 (D) providing a warning under 15 U.S.C. 1333(a)(1); and
- 4 (E) stating the sale of cigarettes by delivery sale is a taxable
- 5 event for purposes of IC 6-7-1;
- 6 (2) makes a good faith effort to verify the information in the
- 7 written statement obtained under subdivision (1) by using a
- 8 federal or commercially available data base; and
- 9 (3) receives payment for the delivery sale by a credit or debit card
- 10 issued in the name of the prospective purchaser.

11 SECTION 30. IC 24-3-5-5, AS AMENDED BY P.L.160-2005,
 12 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2020]: Sec. 5. (a) A merchant who mails or ships cigarettes as
 14 part of a delivery sale shall:

- 15 (1) use a mailing or shipping service that requires the customer or
- 16 a person at least ~~eighteen (18)~~ **twenty-one (21)** years of age who
- 17 is designated by the customer to:
 - 18 (A) sign to accept delivery of the cigarettes; and
 - 19 (B) present a valid operator's license issued under IC 9-24-3 or
 - 20 an identification card issued under IC 9-24-16 if the customer
 - 21 or the customer's designee, in the opinion of the delivery agent
 - 22 or employee of the mailing or shipping service, appears to be
 - 23 less than twenty-seven (27) years of age;
- 24 (2) provide to the mailing or shipping service used under
- 25 subdivision (1) proof of compliance with section 6(a) of this
- 26 chapter; and
- 27 (3) include the following statement in bold type or capital letters
- 28 on an invoice or shipping document:

29 INDIANA LAW PROHIBITS THE MAILING OR SHIPPING
 30 OF CIGARETTES TO A PERSON LESS THAN ~~EIGHTEEN~~
 31 **(18) TWENTY-ONE (21)** YEARS OF AGE AND
 32 REQUIRES PAYMENT OF ALL APPLICABLE TAXES.

33 (b) The commission may impose a civil penalty of not more than
 34 one thousand dollars (\$1,000) if a mailing or shipping service:

- 35 (1) delivers cigarettes as part of a delivery sale without first
- 36 receiving proof from the merchant of compliance with section
- 37 6(a) of this chapter; or
- 38 (2) fails to obtain a signature and proof of identification of the
- 39 customer or the customer's designee under subsection (a)(1).

40 The commission shall deposit amounts collected under this subsection
 41 into the **Richard D. Doyle** youth tobacco education and enforcement
 42 fund established by IC 7.1-6-2-6.



1 (c) The following apply to a merchant that mails or ships cigarettes
 2 as part of a delivery sale without using a third party service as required
 3 by subsection (a)(1):

4 (1) The merchant shall require the customer or a person at least
 5 ~~eighteen (18)~~ **twenty-one (21)** years of age who is designated by
 6 the customer to:

7 (A) sign to accept delivery of the cigarettes; and

8 (B) present a valid operator's license issued under IC 9-24-3 or
 9 identification card issued under IC 9-24-16 if the customer or
 10 the customer's designee, in the opinion of the merchant or the
 11 merchant's employee making the delivery, appears to be less
 12 than twenty-seven (27) years of age.

13 (2) The commission may impose a civil penalty of not more than
 14 one thousand dollars (\$1,000) if the merchant:

15 (A) delivers the cigarettes without first complying with section
 16 6(a) of this chapter; or

17 (B) fails to obtain a signature and proof of identification of the
 18 customer or the customer's designee under subdivision (1).

19 The commission shall deposit amounts collected under this
 20 subdivision into the **Richard D. Doyle** youth tobacco education
 21 and enforcement fund established by IC 7.1-6-2-6.

22 SECTION 31. IC 24-3-5-8, AS AMENDED BY P.L.160-2005,
 23 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2020]: Sec. 8. The commission may impose a civil penalty of
 25 not more one thousand dollars (\$1,000) on a:

26 (1) customer who signs another person's name to a statement
 27 required under section 4(1) of this chapter; or

28 (2) merchant who sells cigarettes by delivery sale to a person less
 29 than ~~eighteen (18)~~ **twenty-one (21)** years of age.

30 The commission shall deposit amounts collected under this section into
 31 the **Richard D. Doyle** youth tobacco education and enforcement fund
 32 established by IC 7.1-6-2-6.

33 SECTION 32. IC 35-31.5-2-100, AS AMENDED BY P.L.185-2019,
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2020]: Sec. 100. (a) "Distribute", for purposes of
 36 IC 35-45-4-8, has the meaning set forth in IC 35-45-4-8.

37 (b) "Distribute", for purposes of IC 35-46-1-10, has the meaning set
 38 forth in ~~IC 35-46-1-10(c)~~. **IC 35-46-1-10(f)**.

39 (c) "Distribute", for purposes of IC 35-46-1-10.2, has the meaning
 40 set forth in ~~IC 35-46-1-10.2(c)~~. **IC 35-46-1-10.2(f)**.

41 (d) "Distribute", for purposes of IC 35-47.5, has the meaning set
 42 forth in IC 35-47.5-2-6.



1 (e) "Distribute", for purposes of IC 35-48, has the meaning set forth
2 in IC 35-48-1-14.

3 (f) "Distribute", for purposes of IC 35-49, has the meaning set forth
4 in IC 35-49-1-2.

5 SECTION 33. IC 35-31.5-2-107.5 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2020]: **Sec. 107.5. "E-liquid," for purposes
8 of IC 35-46-1, has the meaning set forth in IC 35-46-1-1.4.**

9 SECTION 34. IC 35-43-5-3.8, AS AMENDED BY P.L.158-2013,
10 SECTION 473, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2020]: Sec. 3.8. (a) A person who knowingly or
12 intentionally obtains, possesses, transfers, or uses the synthetic
13 identifying information:

14 (1) with intent to harm or defraud another person;

15 (2) with intent to assume another person's identity; or

16 (3) with intent to profess to be another person;

17 commits synthetic identity deception, a Level 6 felony.

18 (b) The offense under subsection (a) is a Level 5 felony if:

19 (1) a person obtains, possesses, transfers, or uses the synthetic
20 identifying information of more than one hundred (100) persons;

21 or

22 (2) the fair market value of the fraud or harm caused by the
23 offense is at least fifty thousand dollars (\$50,000).

24 (c) The conduct prohibited in subsections (a) and (b) does not apply
25 to:

26 (1) a person less than twenty-one (21) years of age who uses the
27 synthetic identifying information of another person to acquire:

28 (A) an alcoholic beverage (as defined in IC 7.1-1-3-5); or

29 (B) a cigarette, e-liquid, or tobacco product (as defined in
30 IC 6-7-2-5); or

31 (2) a minor (as defined in IC 35-49-1-4) who uses the synthetic
32 identifying information of another person to acquire:

33 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);

34 (B) (A) a periodical, a videotape, or other communication
35 medium that contains or depicts nudity (as defined in
36 IC 35-49-1-5);

37 (C) (B) admittance to a performance (live or on film) that
38 prohibits the attendance of the minor based on age; or

39 (D) (C) an item that is prohibited by law for use or
40 consumption by a minor.

41 (d) It is not a defense in a prosecution under subsection (a) or (b)
42 that no person was harmed or defrauded.



1 SECTION 35. IC 35-46-1-1.4 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2020]: **Sec. 1.4. As used in this chapter,**
 4 **"e-liquid" has the meaning set forth in IC 7.1-7-2-10.**

5 SECTION 36. IC 35-46-1-10, AS AMENDED BY P.L.20-2013,
 6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2020]: Sec. 10. (a) **A person cannot be charged with a**
 8 **violation under this section and a violation set forth in IC 7.1-7.**

9 (b) A person who knowingly:

- 10 (1) sells or distributes tobacco or an electronic cigarette to a
 11 person less than ~~eighteen (18)~~ **twenty-one (21)** years of age; or
 12 (2) purchases tobacco or an electronic cigarette for delivery to
 13 another person who is less than ~~eighteen (18)~~ **twenty-one (21)**
 14 years of age;

15 commits a Class C infraction. For a sale to take place under this
 16 section, the buyer must pay the seller for the tobacco product or the
 17 electronic cigarette.

18 ~~(b)~~ (c) It is not a defense that the person to whom the tobacco or
 19 electronic cigarette was sold or distributed did not smoke, chew, inhale,
 20 or otherwise consume the tobacco or the electronic cigarette.

21 ~~(c)~~ (d) The following defenses are available to a person accused of
 22 selling or distributing tobacco or an electronic cigarette to a person
 23 who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age:

- 24 (1) The buyer or recipient produced a driver's license bearing the
 25 purchaser's or recipient's photograph, showing that the purchaser
 26 or recipient was of legal age to make the purchase.
 27 (2) The buyer or recipient produced a photographic identification
 28 card issued under IC 9-24-16-1, or a similar card issued under the
 29 laws of another state or the federal government, showing that the
 30 purchaser or recipient was of legal age to make the purchase.
 31 (3) The appearance of the purchaser or recipient was such that an
 32 ordinary prudent person would believe that the purchaser or
 33 recipient was not less than the age that complies with regulations
 34 promulgated by the federal Food and Drug Administration.

35 ~~(d)~~ (e) It is a defense that the accused person sold or delivered the
 36 tobacco or electronic cigarette to a person who acted in the ordinary
 37 course of employment or a business concerning tobacco or electronic
 38 cigarettes **for the following activities:**

- 39 (1) Agriculture.
 40 (2) Processing.
 41 (3) Transporting.
 42 (4) Wholesaling. ~~or~~



1 (5) Retailing.

2 ~~(e)~~ **(f)** As used in this section, "distribute" means to give tobacco or
 3 an electronic cigarette to another person as a means of promoting,
 4 advertising, or marketing the tobacco or electronic cigarette to the
 5 general public.

6 ~~(f)~~ **(g)** Unless the person buys or receives tobacco or an electronic
 7 cigarette under the direction of a law enforcement officer as part of an
 8 enforcement action, a person who sells or distributes tobacco or an
 9 electronic cigarette is not liable for a violation of this section unless the
 10 person less than ~~eighteen (18)~~ **twenty-one (21)** years of age who
 11 bought or received the tobacco or electronic cigarette is issued a
 12 citation or summons under section 10.5 of this chapter.

13 ~~(g)~~ **(h)** Notwithstanding IC 34-28-5-5(c), civil penalties collected
 14 under this section must be deposited in the Richard D. Doyle youth
 15 tobacco education and enforcement fund (IC 7.1-6-2-6).

16 SECTION 37. IC 35-46-1-10.2, AS AMENDED BY P.L.20-2013,
 17 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 10.2. (a) **A person cannot be charged with a
 19 violation under this section and a violation set forth in IC 7.1-7.**

20 **(b)** A retail establishment that sells or distributes tobacco or an
 21 electronic cigarette to a person less than ~~eighteen (18)~~ **twenty-one (21)**
 22 years of age commits a Class C infraction. For a sale to take place
 23 under this section, the buyer must pay the retail establishment for the
 24 tobacco product or electronic cigarette. Notwithstanding
 25 IC 34-28-5-4(c), a civil judgment for an infraction committed under
 26 this section must be imposed as follows:

27 (1) If the retail establishment at that specific business location has
 28 not been issued a citation or summons for a violation of this
 29 section in the previous one hundred eighty (180) days, a civil
 30 penalty of up to two hundred dollars (\$200).

31 (2) If the retail establishment at that specific business location has
 32 had one (1) citation or summons issued for a violation of this
 33 section in the previous one hundred eighty (180) days, a civil
 34 penalty of up to four hundred dollars (\$400).

35 (3) If the retail establishment at that specific business location has
 36 had two (2) citations or summonses issued for a violation of this
 37 section in the previous one hundred eighty (180) days, a civil
 38 penalty of up to seven hundred dollars (\$700).

39 (4) If the retail establishment at that specific business location has
 40 had three (3) or more citations or summonses issued for a
 41 violation of this section in the previous one hundred eighty (180)
 42 days, a civil penalty of up to one thousand dollars (\$1,000).



1 A retail establishment may not be issued a citation or summons for a
 2 violation of this section more than once every twenty-four (24) hours
 3 for each specific business location.

4 ~~(b)~~ (c) It is not a defense that the person to whom the tobacco or
 5 electronic cigarette was sold or distributed did not smoke, chew, inhale,
 6 or otherwise consume the tobacco or electronic cigarette.

7 ~~(c)~~ (d) The following defenses are available to a retail establishment
 8 accused of selling or distributing tobacco or an electronic cigarette to
 9 a person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age:

10 (1) The buyer or recipient produced a driver's license bearing the
 11 purchaser's or recipient's photograph showing that the purchaser
 12 or recipient was of legal age to make the purchase.

13 (2) The buyer or recipient produced a photographic identification
 14 card issued under IC 9-24-16-1 or a similar card issued under the
 15 laws of another state or the federal government showing that the
 16 purchaser or recipient was of legal age to make the purchase.

17 (3) The appearance of the purchaser or recipient was such that an
 18 ordinary prudent person would believe that the purchaser or
 19 recipient was not less than the age that complies with regulations
 20 promulgated by the federal Food and Drug Administration.

21 ~~(d)~~ (e) It is a defense that the accused retail establishment sold or
 22 delivered the tobacco or electronic cigarette to a person who acted in
 23 the ordinary course of employment or a business concerning tobacco
 24 or electronic cigarettes **for the following activities:**

25 (1) Agriculture.

26 (2) Processing.

27 (3) Transporting.

28 (4) Wholesaling. ~~or~~

29 (5) Retailing.

30 ~~(e)~~ (f) As used in this section, "distribute" means to give tobacco or
 31 an electronic cigarette to another person as a means of promoting,
 32 advertising, or marketing the tobacco or electronic cigarette to the
 33 general public.

34 ~~(f)~~ (g) Unless a person buys or receives tobacco or an electronic
 35 cigarette under the direction of a law enforcement officer as part of an
 36 enforcement action, a retail establishment that sells or distributes
 37 tobacco or an electronic cigarette is not liable for a violation of this
 38 section unless the person less than ~~eighteen (18)~~ **twenty-one (21)** years
 39 of age who bought or received the tobacco or electronic cigarette is
 40 issued a citation or summons under section 10.5 of this chapter.

41 ~~(g)~~ (h) Notwithstanding IC 34-28-5-5(c), civil penalties collected
 42 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 ~~(h)~~ **(i)** A person who violates subsection ~~(a)~~ **(b)** at least six (6) times
3 in any one hundred eighty (180) day period commits habitual illegal
4 sale of tobacco **or an electronic cigarette**, a Class B infraction.

5 SECTION 38. IC 35-46-1-10.5, AS AMENDED BY P.L.20-2013,
6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2020]: Sec. 10.5. (a) A person less than ~~eighteen (18)~~
8 **twenty-one (21)** years of age who:

9 (1) purchases tobacco, **an e-liquid**, or an electronic cigarette;

10 (2) accepts tobacco, **an e-liquid**, or an electronic cigarette for
11 personal use; or

12 (3) possesses tobacco, **an e-liquid**, or an electronic cigarette on
13 ~~his the person's~~ person;

14 commits a Class C infraction.

15 (b) It is a defense under subsection (a) that the accused person acted
16 in the ordinary course of employment in a business concerning tobacco,
17 **e-liquids**, or electronic cigarettes **for the following activities**:

18 (1) Agriculture.

19 (2) Processing.

20 (3) Transporting.

21 (4) Wholesaling. ~~or~~

22 (5) Retailing.

23 SECTION 39. IC 35-46-1-11, AS AMENDED BY P.L.20-2013,
24 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2020]: Sec. 11. (a) A tobacco or electronic cigarette vending
26 machine that is located in a public place must bear the following
27 conspicuous notices:

28 (1) A notice:

29 (A) that reads as follows, with the capitalization indicated: "If
30 you are under ~~18~~ **21** years of age, YOU ARE FORBIDDEN by
31 Indiana law to buy tobacco or electronic cigarettes from this
32 machine."; or

33 (B) that:

34 (i) conveys a message substantially similar to the message
35 described in clause (A); and

36 (ii) is formatted with words and in a form authorized under
37 the rules adopted by the alcohol and tobacco commission.

38 (2) A notice that reads as follows, "Smoking by Pregnant Women
39 May Result in Fetal Injury, Premature Birth, and Low Birth
40 Weight."

41 (3) A notice printed in letters and numbers at least one-half (1/2)
42 inch high that displays a toll free phone number for assistance to



- 1 callers in quitting smoking, as determined by the state department
2 of health.
- 3 (b) A person who owns or has control over a tobacco or electronic
4 cigarette vending machine in a public place and who:
- 5 (1) fails to post a notice required by subsection (a) on the vending
6 machine; or
7 (2) fails to replace a notice within one (1) month after it is
8 removed or defaced;
9 commits a Class C infraction.
- 10 (c) An establishment selling tobacco or electronic cigarettes at retail
11 shall post and maintain in a conspicuous place, at the point of sale, the
12 following:
- 13 (1) Signs printed in letters at least one-half (1/2) inch high,
14 reading as follows:
- 15 (A) "The sale of tobacco or electronic cigarettes to persons
16 under ~~18~~ **21** years of age is forbidden by Indiana law."
17 (B) "Smoking by Pregnant Women May Result in Fetal Injury,
18 Premature Birth, and Low Birth Weight."
19 (2) A sign printed in letters and numbers at least one-half (1/2)
20 inch high that displays a toll free phone number for assistance to
21 callers in quitting smoking, as determined by the state department
22 of health.
- 23 (d) A person who:
- 24 (1) owns or has control over an establishment selling tobacco or
25 electronic cigarettes at retail; and
26 (2) fails to post and maintain the sign required by subsection (c);
27 commits a Class C infraction.
- 28 SECTION 40. IC 35-46-1-11.5, AS AMENDED BY P.L.20-2013,
29 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2020]: Sec. 11.5. (a) Except for a coin machine that is placed
31 in or directly adjacent to an entranceway or an exit, or placed in a
32 hallway, a restroom, or another common area that is accessible to
33 persons who are less than ~~eighteen (18)~~ **twenty-one (21)** years of age,
34 this section does not apply to a coin machine that is located in the
35 following:
- 36 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)
37 where entry is limited to persons who are at least ~~eighteen (18)~~
38 **twenty-one (21)** years of age.
39 (2) Private industrial or office locations that are customarily
40 accessible only to persons who are at least ~~eighteen (18)~~
41 **twenty-one (21)** years of age.
42 (3) Private clubs if the membership is limited to persons who are



1 at least ~~eighteen (18)~~ **twenty-one (21)** years of age.

2 (4) Riverboats where entry is limited to persons who are at least
3 twenty-one (21) years of age and on which lawful gambling is
4 authorized.

5 (b) As used in this section, "coin machine" has the meaning set forth
6 in IC 35-43-5-1.

7 (c) Except as provided in subsection (a), an owner of a retail
8 establishment may not:

9 (1) distribute or sell tobacco or electronic cigarettes by use of a
10 coin machine; or

11 (2) install or maintain a coin machine that is intended to be used
12 for the sale or distribution of tobacco or electronic cigarettes.

13 (d) An owner of a retail establishment who violates this section
14 commits a Class C infraction. A citation or summons issued under this
15 section must provide notice that the coin machine must be moved
16 within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil
17 judgment for an infraction committed under this section must be
18 imposed as follows:

19 (1) If the owner of the retail establishment has not been issued a
20 citation or summons for a violation of this section in the previous
21 ninety (90) days, a civil penalty of fifty dollars (\$50).

22 (2) If the owner of the retail establishment has had one (1) citation
23 or summons issued for a violation of this section in the previous
24 ninety (90) days, a civil penalty of two hundred fifty dollars
25 (\$250).

26 (3) If the owner of the retail establishment has had two (2)
27 citations or summonses issued for a violation of this section in the
28 previous ninety (90) days for the same machine, the coin machine
29 shall be removed or impounded by a law enforcement officer
30 having jurisdiction where the violation occurs.

31 An owner of a retail establishment may not be issued a citation or
32 summons for a violation of this section more than once every two (2)
33 business days for each business location.

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

37 SECTION 41. IC 35-46-1-11.7, AS AMENDED BY P.L.94-2008,
38 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2020]: Sec. 11.7. (a) A retail establishment that has as its
40 primary purpose the sale of tobacco products may not allow an
41 individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age
42 to enter the retail establishment.



1 (b) An individual who is less than ~~eighteen (18)~~ **twenty-one (21)**
 2 years of age may not enter a retail establishment described in
 3 subsection (a).

4 (c) A retail establishment described in subsection (a) must
 5 conspicuously post on all entrances to the retail establishment the
 6 following:

7 (1) A sign in boldface type that states "NOTICE: It is unlawful for
 8 a person less than ~~18 21~~ **years old of age** to enter this store."

9 (2) A sign printed in letters and numbers at least one-half (1/2)
 10 inch high that displays a toll free phone number for assistance to
 11 callers in quitting smoking, as determined by the state department
 12 of health.

13 (d) A person who violates this section commits a Class C infraction.
 14 Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction
 15 committed under this section must be imposed as follows:

16 (1) If the person has not been cited for a violation of this section
 17 in the previous one hundred eighty (180) days, a civil penalty of
 18 up to two hundred dollars (\$200).

19 (2) If the person has had one (1) violation in the previous one
 20 hundred eighty (180) days, a civil penalty of up to four hundred
 21 dollars (\$400).

22 (3) If the person has had two (2) violations in the previous one
 23 hundred eighty (180) days, a civil penalty of up to seven hundred
 24 dollars (\$700).

25 (4) If the person has had three (3) or more violations in the
 26 previous one hundred eighty (180) days, a civil penalty of up to
 27 one thousand dollars (\$1,000).

28 A person may not be cited more than once every twenty-four (24)
 29 hours.

30 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 31 this section must be deposited in the Richard D. Doyle youth tobacco
 32 education and enforcement fund established under IC 7.1-6-2-6.

33 (f) A person who violates subsection (a) at least six (6) times in any
 34 one hundred eighty (180) day period commits habitual illegal entrance
 35 by a minor, a Class B infraction.

36 SECTION 42. IC 35-46-1-11.8, AS AMENDED BY P.L.20-2013,
 37 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2020]: Sec. 11.8. (a) As used in this section, "self-service
 39 display" means a display that contains tobacco or electronic cigarettes
 40 in an area where a customer:

41 (1) is permitted; and

42 (2) has access to the tobacco or electronic cigarettes without



- 1 assistance from a sales person.
- 2 (b) This section does not apply to a self-service display located in
3 a retail establishment that:
- 4 (1) has a primary purpose to sell tobacco or electronic cigarettes;
5 and
- 6 (2) prohibits entry by persons who are less than ~~eighteen (18)~~
7 **twenty-one (21)** years of age.
- 8 (c) The owner of a retail establishment that sells or distributes
9 tobacco or electronic cigarettes through a self-service display, other
10 than a coin operated machine operated under IC 35-46-1-11 or
11 IC 35-46-1-11.5, commits a Class C infraction.
- 12 (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
13 this section must be deposited in the Richard D. Doyle youth tobacco
14 education and enforcement fund (IC 7.1-6-2-6).

