

HOUSE BILL No. 1205

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3-25; IC 7.1-3-18.5; IC 7.1-5-12-5; IC 7.1-6-2-4; IC 7.1-7; IC 24-3-5; IC 35-43-5; IC 35-46-1.

Synopsis: Smoking and vaping restrictions. Raises the age from 18 years of age to 21 years of age for prohibitions and crimes concerning the sale, purchase, and possession of cigarettes and other tobacco products. Makes a corresponding change to the laws concerning electronic cigarettes, e-liquids, tobacco retailer permits, and admission to establishments where smoking is permitted. Makes technical corrections.

Effective: July 1, 2020.

Cherry

January 13, 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. 1205

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

5 (b) "Minor", for purposes of IC 7.1-7, has the meaning set forth in
6 ~~IC 7.1-7-2-17.~~

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

- 11 (1) The applicant's name and mailing address and the address of
12 the premises for which the certificate is being issued.
13 (2) Except as provided in section 6(c) of this chapter, a fee of two
14 hundred dollars (\$200).
15 (3) The name under which the applicant transacts or intends to
16 transact business.
17 (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 or electronic cigarettes are sold or distributed.
- 5 (c) A certificate holder shall conspicuously display the holder's
- 6 certificate on the holder's premises where the tobacco products or
- 7 electronic cigarettes are sold or distributed.
- 8 (d) Any intentional misstatement or suppression of a material fact
- 9 in an application filed under this section constitutes grounds for denial
- 10 of the certificate.
- 11 (e) A certificate may be issued only to a person who meets the
- 12 following requirements:
- 13 (1) If the person is an individual, the person must be at least
- 14 ~~eighteen (18)~~ **twenty-one (21)** years of age.
- 15 (2) The person must be authorized to do business in Indiana.
- 16 (f) The fees collected under this section shall be deposited in the
- 17 enforcement and administration fund under IC 7.1-4-10.
- 18 SECTION 3. IC 7.1-3-18.5-8, AS AMENDED BY P.L.214-2016,
- 19 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2020]: Sec. 8. The commission may mitigate civil penalties
- 21 imposed against a certificate holder for violating IC 35-46-1-10,
- 22 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.5,
- 23 IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the provisions of this
- 24 chapter if a certificate holder provides a training program for the
- 25 certificate holder's employees that includes at least the following
- 26 topics:
- 27 (1) Laws governing the sale of tobacco products and electronic
- 28 cigarettes.
- 29 (2) Methods of recognizing and handling customers who are less
- 30 than ~~eighteen (18)~~ **twenty-one (21)** years of age.
- 31 (3) Procedures for proper examination of identification cards to
- 32 verify that customers are under ~~eighteen (18)~~ **twenty-one (21)**
- 33 years of age.
- 34 SECTION 4. IC 7.1-5-12-5, AS AMENDED BY P.L.231-2015,
- 35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (c) and
- 37 subject to section 13 of this chapter, smoking may be allowed in the
- 38 following:
- 39 (1) A horse racing facility operated under a permit under
- 40 IC 4-31-5 and any other permanent structure on land owned or
- 41 leased by the owner of the facility that is adjacent to the facility.
- 42 (2) A riverboat (as defined in IC 4-33-2-17) and any other



- 1 permanent structure that is:
 2 (A) owned or leased by the owner of the riverboat; and
 3 (B) located on land that is adjacent to:
 4 (i) the dock to which the riverboat is moored; or
 5 (ii) the land on which the riverboat is situated in the case of
 6 a riverboat described in IC 4-33-2-17(2).
 7 (3) A facility that operates under a gambling game license under
 8 IC 4-35-5 and any other permanent structure on land owned or
 9 leased by the owner of the facility that is adjacent to the facility.
 10 (4) A satellite facility licensed under IC 4-31-5.5.
 11 (5) An establishment owned or leased by a business that meets the
 12 following requirements:
 13 (A) The business was in business and permitted smoking on
 14 December 31, 2012.
 15 (B) The business prohibits entry by an individual who is less
 16 than twenty-one (21) years of age.
 17 (C) The owner or operator of the business holds a beer, liquor,
 18 or wine retailer's permit.
 19 (D) The business limits smoking in the establishment to
 20 smoking with a waterpipe or hookah device.
 21 (E) During the preceding calendar year, at least ten percent
 22 (10%) of the business's annual gross income was from the sale
 23 of loose tobacco for use in a waterpipe or hookah device.
 24 (F) The person in charge of the business posts in the
 25 establishment conspicuous signs that display the message that
 26 cigarette smoking is prohibited.
 27 (6) An establishment owned or leased by a business that meets the
 28 following requirements:
 29 (A) The business prohibits entry by an individual who is less
 30 than twenty-one (21) years of age.
 31 (B) The owner or operator of the business holds a beer, liquor,
 32 or wine retailer's permit.
 33 (C) The business limits smoking in the establishment to cigar
 34 smoking.
 35 (D) During the preceding calendar year, at least ten percent
 36 (10%) of the business's annual gross income was from the sale
 37 of cigars and the rental of onsite humidors.
 38 (E) The person in charge of the business posts in the
 39 establishment conspicuous signs that display the message that
 40 cigarette smoking is prohibited.
 41 (7) A premises owned or leased by and regularly used for the
 42 activities of a business that meets all of the following:



- 1 (A) The business is exempt from federal income taxation
 2 under 26 U.S.C. 501(c).
 3 (B) The business:
 4 (i) meets the requirements to be considered a club under
 5 IC 7.1-3-20-1; or
 6 (ii) is a fraternal club (as defined in IC 7.1-3-20-7).
 7 (C) The business provides food or alcoholic beverages only to
 8 its bona fide members and their guests.
 9 (D) The business:
 10 (i) provides a separate, enclosed, designated smoking room
 11 or area that is adequately ventilated to prevent migration of
 12 smoke to nonsmoking areas of the premises;
 13 (ii) allows smoking only in the room or area described in
 14 item (i);
 15 (iii) does not allow an individual who is less than ~~eighteen~~
 16 **(18) twenty-one (21)** years of age to enter into the room or
 17 area described in item (i); and
 18 (iv) allows a guest in the smoking room or area described in
 19 item (i) only when accompanied by a bona fide member of
 20 the business.
 21 (8) A retail tobacco store used primarily for the sale of tobacco
 22 products and tobacco accessories that meets the following
 23 requirements:
 24 (A) The owner or operator of the store holds a valid tobacco
 25 sales certificate issued under IC 7.1-3-18.5.
 26 (B) The store prohibits entry by an individual who is less than
 27 ~~eighteen (18)~~ **twenty-one (21)** years of age.
 28 (C) The sale of products other than tobacco products and
 29 tobacco accessories is merely incidental.
 30 (D) The sale of tobacco products accounts for at least
 31 eighty-five percent (85%) of the store's annual gross sales.
 32 (E) Food or beverages are not sold in a manner that requires
 33 consumption on the premises, and there is not an area set aside
 34 for customers to consume food or beverages on the premises.
 35 (9) A bar or tavern:
 36 (A) for which a permittee holds:
 37 (i) a beer retailer's permit under IC 7.1-3-4;
 38 (ii) a liquor retailer's permit under IC 7.1-3-9; or
 39 (iii) a wine retailer's permit under IC 7.1-3-14;
 40 (B) that does not employ an individual who is less than
 41 eighteen (18) years of age;
 42 (C) that does not allow an individual who:



- 1 (i) is less than twenty-one (21) years of age; and
 2 (ii) is not an employee of the bar or tavern;
 3 to enter any area of the bar or tavern; and
 4 (D) that is not located in a business that would otherwise be
 5 subject to this chapter.
 6 (10) A cigar manufacturing facility that does not offer retail sales.
 7 (11) A premises of a cigar specialty store to which all of the
 8 following apply:
 9 (A) The owner or operator of the store holds a valid tobacco
 10 sales certificate issued under IC 7.1-3-18.5.
 11 (B) The sale of tobacco products and tobacco accessories
 12 account for at least fifty percent (50%) of the store's annual
 13 gross sales.
 14 (C) The store has a separate, enclosed, designated smoking
 15 room that is adequately ventilated to prevent migration of
 16 smoke to nonsmoking areas.
 17 (D) Smoking is allowed only in the room described in clause
 18 (C).
 19 (E) Individuals who are less than ~~eighteen (18)~~ **twenty-one**
 20 **(21)** years of age are prohibited from entering into the room
 21 described in clause (C).
 22 (F) Cigarette smoking is not allowed on the premises of the
 23 store.
 24 (G) The owner or operator of the store posts a conspicuous
 25 sign on the premises of the store that displays the message that
 26 cigarette smoking is prohibited.
 27 (H) The store does not prepare any food or beverage that
 28 would require a certified food handler under IC 16-42-5.2.
 29 (12) The premises of a business that is located in the business
 30 owner's private residence (as defined in IC 3-5-2-42.5) if the only
 31 employees of the business who work in the residence are the
 32 owner and other individuals who reside in the residence.
 33 (b) The owner, operator, manager, or official in charge of an
 34 establishment or premises in which smoking is allowed under this
 35 section shall post conspicuous signs in the establishment that read
 36 "WARNING: Smoking Is Allowed In This Establishment" or other
 37 similar language.
 38 (c) This section does not allow smoking in the following enclosed
 39 areas of an establishment or premises described in subsection (a)(1)
 40 through (a)(11):
 41 (1) Any hallway, elevator, or other common area where an
 42 individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years



1 of age is permitted.

2 (2) Any room that is intended for use by an individual who is less
3 than ~~eighteen (18)~~ **twenty-one (21)** years of age.

4 (d) The owner, operator, or manager of an establishment or premises
5 that is listed under subsection (a) and that allows smoking shall provide
6 a verified statement to the commission that states that the establishment
7 or premises qualifies for the exemption. The commission may require
8 the owner, operator, or manager of an establishment or premises to
9 provide documentation or additional information concerning the
10 exemption of the establishment or premises.

11 SECTION 5. IC 7.1-6-2-4, AS AMENDED BY P.L.20-2013,
12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2020]: Sec. 4. (a) An enforcement officer vested with full
14 police powers and duties may engage a person less than ~~eighteen (18)~~
15 **twenty-one (21)** years of age as part of an enforcement action under
16 this article if the initial or contemporaneous receipt or purchase of a
17 tobacco product, **e-liquid**, or electronic cigarette by a person less than
18 ~~eighteen (18)~~ **twenty-one (21)** years of age occurs under the direction
19 of an enforcement officer vested with full police powers and duties and
20 is part of the enforcement action.

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

23 (1) recruit or attempt to recruit a person less than ~~eighteen (18)~~
24 **twenty-one (21)** years of age to participate in an enforcement
25 action under subsection (a) at the scene of a violation of section
26 2 of this chapter; or

27 (2) allow a person less than eighteen (18) years of age to purchase
28 or receive a tobacco product, **e-liquid**, or electronic cigarette as
29 part of an enforcement action under subsection (a) without the
30 written permission of the person's parents or legal guardians.

31 SECTION 6. IC 7.1-7-2-17, AS ADDED BY P.L.176-2015,
32 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2020]: Sec. 17. "Minor" means an individual who is less than
34 ~~eighteen (18)~~ **twenty-one (21)** years of age.

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

41 SECTION 8. IC 7.1-7-6-2, AS AMENDED BY P.L.206-2017,
42 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 2. (a) This subsection does not apply to a delivery
2 sale as defined in IC 7.1-7-2-6.3. If a ~~retailer~~ **person**:

3 (1) knowingly and intentionally sells **or distributes** e-liquid to a
4 minor; ~~or~~

5 (2) knowingly, intentionally, or negligently fails to verify the age
6 of a ~~person~~ **an individual** who appears to be less than
7 twenty-seven (27) years of age by checking a government issued
8 identification and sells the ~~person~~ **individual** e-liquid; **or**

9 **(3) purchases an e-liquid for delivery to a minor;**

10 the ~~retailer~~ **person** commits a Class C infraction. For a sale to take
11 place under this section, the buyer must pay the retail establishment for
12 the e-liquid.

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

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

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

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

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

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

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

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

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

42 (2) The buyer or recipient produced a photographic identification



1 card issued under IC 9-24-16-1 or a similar card issued under the
 2 laws of another state or the federal government showing that the
 3 purchaser or recipient was of legal age to make the purchase.

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

8 (e) It is a defense that the accused retail establishment sold or
 9 delivered e-liquid to a person who acted in the ordinary course of
 10 employment or a business concerning e-liquid:

- 11 (1) agriculture;
- 12 (2) processing;
- 13 (3) transporting;
- 14 (4) wholesaling; or
- 15 (5) retailing.

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

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

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

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

31 SECTION 9. IC 24-3-5-4, AS AMENDED BY P.L.160-2005,
 32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2020]: Sec. 4. Subject to section 4.5 of this chapter, a
 34 merchant may not mail or ship cigarettes as part of a delivery sale
 35 unless, before mailing or shipping the cigarettes, the merchant:

- 36 (1) obtains from the prospective customer a written statement
 37 signed by the prospective customer under penalty of perjury:
 - 38 (A) providing the prospective customer's address and date of
 39 birth;
 - 40 (B) advising the prospective customer that:
 - 41 (i) signing another person's name to the statement required
 42 under this subdivision may subject the person to a civil



- 1 monetary penalty of not more than one thousand dollars
 2 (\$1,000); and
 3 (ii) purchasing cigarettes by a person less than ~~eighteen (18)~~
 4 **twenty-one (21)** years of age is a Class C infraction under
 5 IC 35-46-1-10.5;
- 6 (C) confirming that the cigarette order was placed by the
 7 prospective customer;
- 8 (D) providing a warning under 15 U.S.C. 1333(a)(1); and
 9 (E) stating the sale of cigarettes by delivery sale is a taxable
 10 event for purposes of IC 6-7-1;
- 11 (2) makes a good faith effort to verify the information in the
 12 written statement obtained under subdivision (1) by using a
 13 federal or commercially available data base; and
 14 (3) receives payment for the delivery sale by a credit or debit card
 15 issued in the name of the prospective purchaser.
- 16 SECTION 10. IC 24-3-5-5, AS AMENDED BY P.L.160-2005,
 17 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 5. (a) A merchant who mails or ships cigarettes as
 19 part of a delivery sale shall:
- 20 (1) use a mailing or shipping service that requires the customer or
 21 a person at least ~~eighteen (18)~~ **twenty-one (21)** years of age who
 22 is designated by the customer to:
- 23 (A) sign to accept delivery of the cigarettes; and
 24 (B) present a valid operator's license issued under IC 9-24-3 or
 25 an identification card issued under IC 9-24-16 if the customer
 26 or the customer's designee, in the opinion of the delivery agent
 27 or employee of the mailing or shipping service, appears to be
 28 less than twenty-seven (27) years of age;
- 29 (2) provide to the mailing or shipping service used under
 30 subdivision (1) proof of compliance with section 6(a) of this
 31 chapter; and
 32 (3) include the following statement in bold type or capital letters
 33 on an invoice or shipping document:
 34 INDIANA LAW PROHIBITS THE MAILING OR SHIPPING
 35 OF CIGARETTES TO A PERSON LESS THAN ~~EIGHTEEN~~
 36 **(18) TWENTY-ONE (21)** YEARS OF AGE AND
 37 REQUIRES PAYMENT OF ALL APPLICABLE TAXES.
- 38 (b) The commission may impose a civil penalty of not more than
 39 one thousand dollars (\$1,000) if a mailing or shipping service:
 40 (1) delivers cigarettes as part of a delivery sale without first
 41 receiving proof from the merchant of compliance with section
 42 6(a) of this chapter; or



1 (2) fails to obtain a signature and proof of identification of the
 2 customer or the customer's designee under subsection (a)(1).
 3 The commission shall deposit amounts collected under this subsection
 4 into the **Richard D. Doyle** youth tobacco education and enforcement
 5 fund established by IC 7.1-6-2-6.

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

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

- 12 (A) sign to accept delivery of the cigarettes; and
- 13 (B) present a valid operator's license issued under IC 9-24-3 or
- 14 identification card issued under IC 9-24-16 if the customer or
- 15 the customer's designee, in the opinion of the merchant or the
- 16 merchant's employee making the delivery, appears to be less
- 17 than twenty-seven (27) years of age.

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

- 20 (A) delivers the cigarettes without first complying with section
- 21 6(a) of this chapter; or
- 22 (B) fails to obtain a signature and proof of identification of the
- 23 customer or the customer's designee under subdivision (1).

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

27 SECTION 11. IC 24-3-5-8, AS AMENDED BY P.L.160-2005,
 28 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2020]: Sec. 8. The commission may impose a civil penalty of
 30 not more one thousand dollars (\$1,000) on a:

- 31 (1) customer who signs another person's name to a statement
- 32 required under section 4(1) of this chapter; or
- 33 (2) merchant who sells cigarettes by delivery sale to a person less
- 34 than ~~eighteen (18)~~ **twenty-one (21)** years of age.

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

38 SECTION 12. IC 35-43-5-3.5, AS AMENDED BY P.L.158-2013,
 39 SECTION 471, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2020]: Sec. 3.5. (a) Except as provided in
 41 subsection (c), a person who knowingly or intentionally obtains,
 42 possesses, transfers, or uses the identifying information of another



1 person, including the identifying information of a person who is
2 deceased:

- 3 (1) without the other person's consent; and
4 (2) with intent to:
5 (A) harm or defraud another person;
6 (B) assume another person's identity; or
7 (C) profess to be another person;

8 commits identity deception, a Level 6 felony.

9 (b) However, the offense defined in subsection (a) is a Level 5
10 felony if:

- 11 (1) a person obtains, possesses, transfers, or uses the identifying
12 information of more than one hundred (100) persons;
13 (2) the fair market value of the fraud or harm caused by the
14 offense is at least fifty thousand dollars (\$50,000); or
15 (3) a person obtains, possesses, transfers, or uses the identifying
16 information of a person who is less than eighteen (18) years of
17 age and is:
18 (A) the person's son or daughter;
19 (B) a dependent of the person;
20 (C) a ward of the person; or
21 (D) an individual for whom the person is a guardian.

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

- 24 (1) a person less than twenty-one (21) years of age who uses the
25 identifying information of another person to acquire:
26 (A) an alcoholic beverage (as defined in IC 7.1-1-3-5);
27 **(B) a cigarette or a tobacco product (as defined in**
28 **IC 6-7-2-5);**
29 **(C) an electronic cigarette (as defined in IC 35-46-1-1.5);**
30 **or**
31 **(D) an e-liquid (as defined in IC 35-46-1-1.4); or**
32 (2) a minor (as defined in IC 35-49-1-4) who uses the identifying
33 information of another person to acquire:
34 ~~(A) a cigarette, an electronic cigarette (as defined in~~
35 ~~IC 35-46-1-1.5); or a tobacco product (as defined in~~
36 ~~IC 6-7-2-5);~~
37 ~~(B) (A) a periodical, a videotape, or other communication~~
38 ~~medium that contains or depicts nudity (as defined in~~
39 ~~IC 35-49-1-5);~~
40 ~~(C) (B) admittance to a performance (live or film) that~~
41 ~~prohibits the attendance of the minor based on age; or~~
42 ~~(D) (C) an item that is prohibited by law for use or~~



1 consumption by a minor; or
 2 (3) any person who uses the identifying information for a lawful
 3 purpose.
 4 (d) It is not a defense in a prosecution under subsection (a) or (b)
 5 that no person was harmed or defrauded.
 6 SECTION 13. IC 35-43-5-3.8, AS AMENDED BY P.L.158-2013,
 7 SECTION 473, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2020]: Sec. 3.8. (a) A person who knowingly or
 9 intentionally obtains, possesses, transfers, or uses the synthetic
 10 identifying information:
 11 (1) with intent to harm or defraud another person;
 12 (2) with intent to assume another person's identity; or
 13 (3) with intent to profess to be another person;
 14 commits synthetic identity deception, a Level 6 felony.
 15 (b) The offense under subsection (a) is a Level 5 felony if:
 16 (1) a person obtains, possesses, transfers, or uses the synthetic
 17 identifying information of more than one hundred (100) persons;
 18 or
 19 (2) the fair market value of the fraud or harm caused by the
 20 offense is at least fifty thousand dollars (\$50,000).
 21 (c) The conduct prohibited in subsections (a) and (b) does not apply
 22 to:
 23 (1) a person less than twenty-one (21) years of age who uses the
 24 synthetic identifying information of another person to acquire:
 25 (A) an alcoholic beverage (as defined in IC 7.1-1-3-5); or
 26 (B) a cigarette or tobacco product (as defined in
 27 IC 6-7-2-5);
 28 (C) an electronic cigarette (as defined in IC 35-46-1-1.5);
 29 or
 30 (D) an e-liquid (as defined in IC 35-46-1-1.4); 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 14. 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 15. 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 who knowingly:

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

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

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

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

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

33 (d) It is a defense that the accused person sold or delivered the
 34 tobacco or electronic cigarette to a person who acted in the ordinary
 35 course of employment or a business concerning tobacco or electronic
 36 cigarettes:

- 37 (1) agriculture;
 38 (2) processing;
 39 (3) transporting;
 40 (4) wholesaling; or
 41 (5) retailing.

42 (e) As used in this section, "distribute" means to give tobacco or an



1 electronic cigarette to another person as a means of promoting,
2 advertising, or marketing the tobacco or electronic cigarette to the
3 general public.

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

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

14 SECTION 16. IC 35-46-1-10.2, AS AMENDED BY P.L.20-2013,
15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2020]: Sec. 10.2. (a) A retail establishment that sells or
17 distributes tobacco or an electronic cigarette to a person less than
18 ~~eighteen (18)~~ **twenty-one (21)** years of age commits a Class C
19 infraction. For a sale to take place under this section, the buyer must
20 pay the retail establishment for the tobacco product or electronic
21 cigarette. Notwithstanding IC 34-28-5-4(c), a civil judgment for an
22 infraction committed under this section must be imposed as follows:

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

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

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

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

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

42 (b) It is not a defense that the person to whom the tobacco or



1 electronic cigarette was sold or distributed did not smoke, chew, inhale,
2 or otherwise consume the tobacco or electronic cigarette.

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

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

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

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

17 (d) It is a defense that the accused retail establishment sold or
18 delivered the tobacco or electronic cigarette to a person who acted in
19 the ordinary course of employment or a business concerning tobacco
20 or electronic cigarettes:

- 21 (1) agriculture;
22 (2) processing;
23 (3) transporting;
24 (4) wholesaling; or
25 (5) retailing.

26 (e) As used in this section, "distribute" means to give tobacco or an
27 electronic cigarette to another person as a means of promoting,
28 advertising, or marketing the tobacco or electronic cigarette to the
29 general public.

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

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

40 (h) A person who violates subsection (a) at least six (6) times in any
41 one hundred eighty (180) day period commits habitual illegal sale of
42 tobacco, a Class B infraction.



1 SECTION 17. IC 35-46-1-10.5, AS AMENDED BY P.L.20-2013,
 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2020]: Sec. 10.5. (a) A person less than ~~eighteen (18)~~
 4 **twenty-one (21)** years of age who:

- 5 (1) purchases tobacco, **an e-liquid**, or an electronic cigarette;
- 6 (2) accepts tobacco, **an e-liquid**, or an electronic cigarette for
 7 personal use; or
- 8 (3) possesses tobacco, **an e-liquid**, or an electronic cigarette on
 9 **his the person's** person;

10 commits a Class C infraction.

11 (b) It is a defense under subsection (a) that the accused person acted
 12 in the ordinary course of employment in a business concerning tobacco,
 13 **e-liquids**, or electronic cigarettes:

- 14 (1) agriculture;
- 15 (2) processing;
- 16 (3) transporting;
- 17 (4) wholesaling; or
- 18 (5) retailing.

19 SECTION 18. IC 35-46-1-11, AS AMENDED BY P.L.20-2013,
 20 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2020]: Sec. 11. (a) A tobacco, **e-liquid**, or electronic cigarette
 22 vending machine that is located in a public place must bear the
 23 following conspicuous notices:

- 24 (1) A notice:
 - 25 (A) that reads as follows, with the capitalization indicated: "If
 26 you are under ~~18~~ **21** years of age, YOU ARE FORBIDDEN by
 27 Indiana law to buy tobacco, **e-liquids**, or electronic cigarettes
 28 from this machine."; or
 - 29 (B) that:
 - 30 (i) conveys a message substantially similar to the message
 31 described in clause (A); and
 - 32 (ii) is formatted with words and in a form authorized under
 33 the rules adopted by the alcohol and tobacco commission.
- 34 (2) A notice that reads as follows, "Smoking by Pregnant Women
 35 May Result in Fetal Injury, Premature Birth, and Low Birth
 36 Weight.".
- 37 (3) A notice printed in letters and numbers at least one-half (1/2)
 38 inch high that displays a toll free phone number for assistance to
 39 callers in quitting smoking, as determined by the state department
 40 of health.

41 (b) A person who owns or has control over a tobacco, **e-liquid**, or
 42 electronic cigarette vending machine in a public place and who:



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



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

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

5 (1) distribute or sell tobacco, **e-liquids**, or electronic cigarettes by
6 use of a coin machine; or

7 (2) install or maintain a coin machine that is intended to be used
8 for the sale or distribution of tobacco, **e-liquids**, or electronic
9 cigarettes.

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

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

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

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

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

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

34 SECTION 20. IC 35-46-1-11.7, AS AMENDED BY P.L.94-2008,
35 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2020]: Sec. 11.7. (a) A retail establishment that has as its
37 primary purpose the sale of tobacco products, **e-liquid, or electronic**
38 **cigarettes** may not allow an individual who is less than ~~eighteen (18)~~
39 **twenty-one (21)** years of age to enter the retail establishment.

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



1 (c) A retail establishment described in subsection (a) must
 2 conspicuously post on all entrances to the retail establishment the
 3 following:

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

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

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

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

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

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

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

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

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

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

33 SECTION 21. IC 35-46-1-11.8, AS AMENDED BY P.L.20-2013,
 34 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2020]: Sec. 11.8. (a) As used in this section, "self-service
 36 display" means a display that contains tobacco, **e-liquids**, or electronic
 37 cigarettes in an area where a customer:

38 (1) is permitted; and

39 (2) has access to the tobacco, **e-liquids**, or electronic cigarettes
 40 without assistance from a sales person.

41 (b) This section does not apply to a self-service display located in
 42 a retail establishment that:



- 1 (1) has a primary purpose to sell tobacco, **e-liquids**, or electronic
2 cigarettes; and
3 (2) prohibits entry by persons who are less than ~~eighteen (18)~~
4 **twenty-one (21)** years of age.
5 (c) The owner of a retail establishment that sells or distributes
6 tobacco, **e-liquids**, or electronic cigarettes through a self-service
7 display, other than a coin operated machine operated under
8 IC 35-46-1-11 or IC 35-46-1-11.5, commits a Class C infraction.
9 (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
10 this section must be deposited in the Richard D. Doyle youth tobacco
11 education and enforcement fund (IC 7.1-6-2-6).

