



February 5, 2021

SENATE BILL No. 142

DIGEST OF SB 142 (Updated February 3, 2021 2:03 pm - DI 140)

Citations Affected: IC 7.1-3; IC 7.1-7; IC 35-46.

Synopsis: Age verification for tobacco and vaping sales. Makes it a Class C infraction if a person or retail establishment sells or distributes tobacco, an e-liquid, or an electronic cigarette without performing age verification of the purchaser with scanning technology or an automated software system. Provides that a good faith effort to verify the age of a purchaser of e-liquids includes performing age verification with scanning technology or an automated software system.

Effective: July 1, 2021.

Ford Jon, Grooms

January 4, 2021, read first time and referred to Committee on Rules and Legislative Procedure.

January 7, 2021, amended; reassigned to Committee on Public Policy.

February 4, 2021, reported favorably — Do Pass.

SB 142—LS 6125/DI 13



February 5, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 142

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 7.1-3-18.5-8, AS AMENDED BY P.L.49-2020,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 8. The commission may mitigate civil penalties
4 imposed against a certificate holder for violating IC 35-46-1-10,
5 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.4,
6 IC 35-46-1-11.5, IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the
7 provisions of this chapter if a certificate holder provides a training
8 program for the certificate holder's employees that includes at least the
9 following topics:
10 (1) Laws governing the sale of tobacco products and electronic
11 cigarettes.
12 (2) Methods of recognizing and handling customers who are less
13 than twenty-one (21) years of age.
14 (3) Procedures for proper examination of identification cards to
15 verify that customers are under twenty-one (21) years of age,
16 **including performing age verification with scanning**
17 **technology or an automated software system.**

SB 142—LS 6125/DI 13



1 SECTION 2. IC 7.1-7-6-6, AS AMENDED BY P.L.49-2020,
 2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2021]: Sec. 6. (a) As used in this section, "good faith effort to
 4 verify the age of the purchaser of the e-liquid" means

5 ~~(1) verifying the age of the purchaser in a commercially available~~
 6 ~~database; or~~

7 ~~(2) obtaining a photocopy of a government issued identification;~~
 8 **performing age verification with scanning technology or an**
 9 **automated software system** that indicates the birth date or age of the
 10 purchaser.

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

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

19 (b) A person who knowingly:

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

22 **(2) sells or distributes tobacco, an e-liquid, or an electronic**
 23 **cigarette without performing age verification of the purchaser**
 24 **with scanning technology or an automated software system;**
 25 **or**

26 ~~(2) (3) purchases tobacco, an e-liquid, or an electronic cigarette~~
 27 ~~for delivery to another person who is less than twenty-one (21)~~
 28 ~~years of age;~~

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

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

36 (d) The following defenses are available to a person accused of
 37 selling or distributing tobacco, an e-liquid, or an electronic cigarette to
 38 a person who is less than 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 **and the person**
 42 **performed age verification with scanning technology or an**



- 1 **automated software system.**
- 2 (2) The buyer or recipient produced a photographic identification
- 3 card issued under IC 9-24-16-1, or a similar card issued under the
- 4 laws of another state or the federal government, showing that the
- 5 purchaser or recipient was of legal age to make the purchase **and**
- 6 **the person performed age verification with scanning**
- 7 **technology or an automated software system.**
- 8 (3) The appearance of the purchaser or recipient was such that an
- 9 ordinary prudent person would believe that the purchaser or
- 10 recipient was not less than thirty (30) years of age.
- 11 (e) It is a defense that the accused person sold or delivered the
- 12 tobacco, e-liquid, or electronic cigarette to a person who acted in the
- 13 ordinary course of employment or a business concerning tobacco, an
- 14 e-liquid, or electronic cigarettes including the following activities:
- 15 (1) Agriculture.
- 16 (2) Processing.
- 17 (3) Transporting.
- 18 (4) Wholesaling.
- 19 (5) Retailing.
- 20 (f) As used in this section, "distribute" means to give tobacco, an
- 21 e-liquid, or an electronic cigarette to another person as a means of
- 22 promoting, advertising, or marketing the tobacco, e-liquid, or electronic
- 23 cigarette to the general public.
- 24 (g) Unless the person buys or receives tobacco, an e-liquid, or an
- 25 electronic cigarette under the direction of a law enforcement officer as
- 26 part of an enforcement action, a person who sells or distributes tobacco,
- 27 an e-liquid, or an electronic cigarette is not liable for a violation of this
- 28 section unless the person less than twenty-one (21) years of age who
- 29 bought or received the tobacco, e-liquid, or electronic cigarette is
- 30 issued a citation or summons under section 10.5 of this chapter.
- 31 (h) 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 (IC 7.1-6-2-6).
- 34 SECTION 4. IC 35-46-1-10.2, AS AMENDED BY THE
- 35 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
- 36 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 37 JULY 1, 2021]: Sec. 10.2. (a) A person may not be charged with a
- 38 violation under this section and a violation under IC 7.1-7-6-5.
- 39 (b) A retail establishment that:
- 40 (1) sells or distributes tobacco, an e-liquid, or an electronic
- 41 cigarette to a person less than twenty-one (21) years of age; **or**
- 42 (2) **sells or distributes tobacco, an e-liquid, or an electronic**



1 **cigarette without performing age verification of the purchaser**
 2 **with scanning technology or an automated software system;**
 3 commits a Class C infraction. For a sale to take place under this
 4 section, the buyer must pay the retail establishment for the tobacco,
 5 ~~product,~~ an e-liquid, or electronic cigarette.

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

8 (1) If the retail establishment at that specific business location has
 9 not been issued a citation or summons for a violation of this
 10 section in the previous one (1) year, a civil penalty of up to four
 11 hundred dollars (\$400).

12 (2) If the retail establishment at that specific business location has
 13 had one (1) citation or summons issued for a violation of this
 14 section in the previous one (1) year, a civil penalty of up to eight
 15 hundred dollars (\$800).

16 (3) If the retail establishment at that specific business location has
 17 had two (2) citations or summonses issued for a violation of this
 18 section in the previous one (1) year, a civil penalty of up to one
 19 thousand four hundred dollars (\$1,400).

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

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

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

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

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

40 (2) The buyer or recipient produced a photographic identification
 41 card issued under IC 9-24-16-1 or a similar card issued under the
 42 laws of another state or the federal government showing that the



1 purchaser or recipient was of legal age to make the purchase **and**
 2 **an employee of the retail establishment performed age**
 3 **verification with scanning technology or an automated**
 4 **software system.**

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

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

- 12 (1) Agriculture.
- 13 (2) Processing.
- 14 (3) Transporting.
- 15 (4) Wholesaling.
- 16 (5) Retailing.

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

21 (h) Unless a person buys or receives tobacco, an e-liquid, or an
 22 electronic cigarette under the direction of a law enforcement officer as
 23 part of an enforcement action, a retail establishment that sells or
 24 distributes tobacco, an e-liquid, or an electronic cigarette is not liable
 25 for a violation of this section unless the person less than twenty-one
 26 (21) years of age who bought or received the tobacco, an e-liquid, or
 27 electronic cigarette is issued a citation or summons under section 10.5
 28 of this chapter.

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

32 (j) A person who violates subsection (b) at least six (6) times in any
 33 one (1) year commits habitual illegal sale of tobacco, a Class B
 34 infraction.



COMMITTEE REPORT

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

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

(Reference is to SB 142 as introduced.)

BRAY, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 142, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 142 as printed January 8, 2021.)

ALTING, Chairperson

Committee Vote: Yeas 10, Nays 0

