

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 829

AN ACT

To repeal sections 191.765, 191.769, 191.775, 191.776, 407.924, 407.925, 407.926, 407.927, 407.929, 407.931, 407.933, and 407.934, RSMo, and to enact in lieu thereof thirteen new sections relating to tobacco products, with penalty provisions and a delayed effective date.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Sections 191.765, 191.769, 191.775, 191.776, 407.924, 407.925, 407.926, 407.927, 407.929, 407.931, 407.933, and 407.934, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 191.765, 191.769, 191.775, 191.776, 407.924, 407.925, 407.926, 407.927, 407.929, 407.930, 407.931, 407.933, and 407.934, to read as follows:

191.765. As used in sections 191.765 to [191.773] 191.777 and section 290.145, the following terms mean:

(1) "Bar" or "tavern", any licensed establishment which serves liquor on the premises for which not more than ten percent of the gross sales receipts of the business are supplied by food purchases, either for consumption on the premises or elsewhere;

(2) "Other person in charge", the agent of the proprietor authorized to give administrative directions to and general supervision of the activities within the public place, work place or public meeting at any given time;

(3) "Proprietor", the party who ultimately controls,

governs or directs the activities within the public place, work place or public meeting, regardless of whether he is the owner or lessor of such place or site. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place or public meeting. The term "proprietor" shall apply to a corporation as well as an individual;

(4) "Public meeting", a gathering in person of members of a governmental body, whether an open or closed session, as defined in chapter 610;

(5) "Public place", any enclosed indoor area used by the general public or serving as a place of work including, but not limited to:

(a) Any retail or commercial establishments;

(b) Health care facilities, health clinics or ambulatory care facilities including, but not limited to, laboratories associated with health care treatment, hospitals, nursing homes, physicians' offices and dentists' offices;

(c) Any vehicle used for public transportation including, but not limited to, buses, taxicabs and limousines for hire;

(d) Rest rooms;

(e) Elevators;

(f) Libraries, educational facilities, day care facilities, museums, auditoriums and art galleries;

(g) All public areas and waiting rooms of public transportation facilities including, but not limited to, bus and airport facilities;

(h) Any enclosed indoor place used for entertainment or

recreation including, but not limited to, gymnasiums, theater lobbies, concert halls, arenas and swimming pools;

(i) Any other enclosed indoor areas used by the general public including, but not limited to, corridors and shopping malls;

(6) "Restaurant", any building, structure or area used, maintained or advertised as or held out to the public to be an enclosure where meals for consideration of payment are made available to be consumed on the premises;

(7) "Smoking", possession of burning tobacco in the form of a cigarette, cigar, pipe or other smoking equipment, or a vapor product;

(8) "Vapor product", the same meaning as in section 407.925.

191.769. The following areas are not considered a public place:

(1) An entire room or hall which is used for private social functions, provided that the seating arrangements are under the control of the sponsor of the function and not of the proprietor or other person in charge;

(2) Limousines for hire and taxicabs, where the driver and all passengers agree to smoking in such vehicle;

(3) Performers on the stage, provided that the smoking is part of the production;

(4) A place where more than fifty percent of the volume of trade or business carried on is that of the blending of tobaccos or sale of tobaccos, cigarettes, pipes, cigars [or], smoking sundries, or vapor products;

(5) Bars, taverns, restaurants that seat less than fifty people, bowling alleys and billiard parlors, which conspicuously post signs stating that "Nonsmoking Areas are Unavailable";

(6) Private residences; and

(7) Any enclosed indoor arena, stadium or other facility which may be used for sporting events and which has a seating capacity of more than fifteen thousand persons.

191.775. No person shall smoke or otherwise use tobacco [or], tobacco products, or vapor products in any indoor area of a public elementary or secondary school building or educational facility, excluding institutions of higher education, or on buses used solely to transport students to or from school or to transport students to or from any place for educational purposes. Any school board of any school district may set policy on the permissible uses of tobacco products in any other nonclassroom or nonstudent occupant facility, and on the school grounds or outdoor facility areas as the school board deems proper. Any person who violates the provisions of this section shall be guilty of an infraction.

191.776. No person shall smoke or otherwise use tobacco products or vapor products in any area of a child care facility licensed by the department of health and senior services pursuant to the provisions of sections 210.201 to 210.245 during the period of time when the children cared for under that license are present. Any person who violates the provisions of this section shall be guilty of an infraction.

407.924. 1. The division of [liquor] alcohol and tobacco control within the department of public safety shall implement

and enforce the provisions of sections [407.925] 407.924 to 407.934. The division may enter into agreements with local public health agencies, including those established under chapter 205, to enforce the provisions of sections 407.924 to 407.934.

2. Beginning January 1, 2003, the division [of liquor control] shall submit an annual report to the general assembly on the effectiveness of sections [407.925] 407.924 to 407.934 in reducing tobacco possession by [minors] persons under twenty-one years of age and the enforcement activities by the division for violations of sections [407.925] 407.924 to 407.934.

407.925. As used in sections [407.925] 407.924 to 407.934, the following terms mean:

(1) "Alternative nicotine product", any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any [vapor product,] tobacco product or any product regulated as a drug or device by the [United States] U.S. Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act;

(2) ["Center of youth activities", any playground, school or other facility, when such facility is being used primarily by persons under the age of eighteen for recreational, educational, or other purposes;

(3)] "Distribute", a conveyance to the public by sale, barter, gift, or sample;

[(4) "Minor", a person under the age of eighteen]

(3) "Division", the division of alcohol and tobacco control

within the department of public safety;

[(5)] (4) "Municipality", the city, village or town within which tobacco products[,] or alternative nicotine products [or vapor products] are sold or distributed or, in the case of tobacco products[,] or alternative nicotine products [or vapor products] that are not sold or distributed within a city, village, or town, the county in which they are sold or distributed;

(5) "Nicotine liquid container", a bottle or other container of liquid or other substance containing varying amounts of nicotine, flavorings, or other chemicals that is sold, marketed, or intended for use in a vapor product, but does not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in a vapor product if such cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer;

(6) "Person", an individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity which is recognized by law as the subject of rights and duties;

(7) "Proof of age", a driver's license or other [generally accepted] government-issued means of identification that contains a picture of the individual and appears on its face to be valid;

(8) "Rolling papers", paper designed, manufactured, marketed, or sold for use primarily as a wrapping or enclosure for tobacco, which enables a person to roll loose tobacco into a

smokable cigarette;

(9) "Sample", a tobacco product[,] or alternative nicotine product[, or vapor product] distributed to members of the general public at no cost or at nominal cost for product promotional purposes;

(10) "Sampling", the distribution to members of the general public of tobacco product[,] or alternative nicotine product [or vapor product] samples;

(11) "Tobacco products", any substance [containing] made or derived from tobacco [leaf] that is intended for human consumption, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, vapor products, or dipping tobacco, but does not include alternative nicotine products[, or vapor products];

(12) "Vapor product", any noncombustible product containing nicotine, whether natural or synthetic, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine, flavorings, or other chemicals in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product also includes any device classified by the U.S. Food and Drug Administration as an electronic nicotine delivery system. Vapor

product does not include any alternative nicotine product [or tobacco product];

(13) "Vending machine", any mechanical electric or electronic, self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products[,] or alternative nicotine products[, or vapor products].

407.926. 1. Any person or entity who sells tobacco products[,] or alternative nicotine products[, or vapor products] shall deny the sale of such tobacco products to any person who is less than [eighteen] twenty-one years of age.

2. [Any person] The owner of the establishment or entity [who] that sells or distributes tobacco products[,] or alternative nicotine products[, or vapor products] by mail or through the internet in this state in violation of subsection 1 of this section shall be assessed a fine of [two] five hundred [fifty] dollars for the first violation and [five hundred dollars for] shall be prohibited from selling or distributing tobacco products and alternative nicotine products for a period of one month for each subsequent violation, with a five hundred dollar per day fine for any violation of such sales or distribution prohibition.

3. Alternative nicotine products and vapor products shall only be sold to persons [eighteen] twenty-one years of age or older, and shall be subject to local and state sales tax[, but shall not be otherwise taxed or]. Vapor products shall be regulated as tobacco products.

4. (1) Any nicotine liquid container that is sold at

retail in this state shall satisfy the child-resistant effectiveness standards set forth in 16 CFR 1700.15(b) as in effect on August 28, 2015, when tested in accordance with the method described in 16 CFR 1700.20 as in effect on August 28, 2015.

(2) [For the purposes of this subsection, "nicotine liquid container" shall mean a bottle or other container of liquid or other substance containing nicotine if the liquid or substance is sold, marketed, or intended for use in a vapor product. A "nicotine liquid container" shall not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in a vapor product, provided that such cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

(3) Any person who engages in retail sales of liquid nicotine containers in this state in violation of this subsection shall be assessed a fine of two hundred fifty dollars for the first violation and five hundred dollars for each subsequent violation.

[(4)] (3) The department of health and senior services may adopt rules necessary to carry out the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the

effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

[(5) The provisions of this subsection and any rules adopted hereunder shall be null, void, and of no force and effect upon the effective date of the final regulations issued by the federal Food and Drug Administration or from any other federal agency if such regulations mandate child-resistant effectiveness standards for nicotine liquid containers.]

5. Any person who engages in the sale of liquid nicotine containers or vapor products that contain any amount of tetrahydrocannabinol or any other controlled substance listed in section 195.017 shall be guilty of a class A misdemeanor.

407.927. The owner of an establishment at which tobacco products, alternative nicotine products, [vapor products,] or rolling papers are sold at retail or through vending machines shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products, alternative nicotine products, or [vapor products] rolling papers are sold and on every vending machine where tobacco products are purchased a sign that shall:

(1) Contain in red lettering at least one-half inch high on a white background the following: "It is a violation of state law for cigarettes, other tobacco products, alternative nicotine products, or vapor products to be sold or otherwise provided to any person under the age of [eighteen] twenty-one or for such person to purchase, attempt to purchase or possess cigarettes,

other tobacco products, alternative nicotine products or vapor products."; and

(2) Include a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal diameter of a surrounding red circle, and the words "Under [18] 21".

407.929. 1. A person or entity selling tobacco products, alternative nicotine products, [or vapor products] or rolling papers or distributing tobacco product[,] or alternative nicotine product[, or vapor product] samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of [eighteen] thirty.

2. The operator's or chauffeur's license issued pursuant to the provisions of section 302.177, or the operator's or chauffeur's license issued pursuant to the laws of any state or possession of the United States to residents of those states or possessions, or an identification card as provided for in section 302.181, or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the division [of liquor control] or local public health agency with an enforcement agreement with the division or any owner or employee of an establishment that sells tobacco[,] or alternative nicotine products[, or vapor products,] for the purpose of aiding the [registrant,] agent, owner, or employee to determine whether or not the person is at least [eighteen] twenty-one years of age when such person desires to purchase or possess tobacco products[,] or alternative nicotine products[, or vapor products

procured from a registrant]. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card, or passport with the physical characteristics of the person presenting the license, identification card, or passport.

3. Any person who shall, without authorization from the department of revenue, reproduce, alter, modify, or misrepresent any chauffeur's license, motor vehicle operator's license, or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars, and confinement for not more than one year, or by both such fine and imprisonment.

4. Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation of subsections 1[,] and 2 [and 3] of section 407.931. [No person shall be liable for more than one violation of subsections 2 and 3 of section 407.931 on any single day.]

407.930. 1. No person or entity shall sell cigarettes, tobacco products, alternative nicotine products, or rolling papers unless the person has a retail sales tax license.

2. In addition to the retail sales tax license required under subsection 1 of this section, any person or entity selling, providing, or distributing tobacco products, alternative nicotine products, or rolling papers, in any quantity, shall annually register with the department of revenue prior to such sale, provision, or distribution through an online application on the department's website.

3. All persons or entities selling, providing, or

distributing tobacco products, alternative nicotine products, or rolling papers, in any quantity, on or before January 1, 2021, shall have forty-five days to register with the department, during which time such persons or entities may continue to sell, provide, or distribute such products; provided, that such persons or entities shall be required to register with the department by the end of the forty-five-day period in order to continue to sell, provide, or distribute such products. All other persons or entities selling, providing, or distributing such products after January 1, 2021, shall be required to register with the department prior to engaging in such sale, provision, or distribution in this state.

4. (1) All persons or entities shall register each location at which tobacco products, alternative nicotine products, or rolling papers shall be sold, provided, or distributed. Each location registered shall be accompanied by a fifty dollar registration charge.

(2) Upon receipt of a completed registration form and registration charge, the department shall provide the registrant a notice of registration that the registrant shall prominently display at the location address for which the registrant received such notice. The notice shall clearly state the registered location address and the valid registration time period on the face of the notice. Such notice may be provided to the registrant electronically.

(3) The registration charge provided for under this subsection shall be allocated as follows, after allocating two dollars of every registration charge collected to the department

for administration and maintenance of the registry:

(a) One-third to the division, or the local public health agency in an enforcement agreement with the division in the area in which the registered person or entity is located, for the costs of enforcing the provisions of sections 407.924 to 407.934;

(b) One-third to the department of health and senior services for tobacco and smoking cessation activities; and

(c) One-third to the local public health agency in the area in which the registered person or entity is located for tobacco and smoking cessation activities.

(4) Any person or entity who fails to register in accordance with the provisions of this section shall be penalized as follows:

(a) For the first offense per location within twelve months, the division or local public health agency shall issue a written warning describing the failure and how to address the failure within seven days and shall assess a fine of five hundred dollars;

(b) For the second offense per location within twelve months, the division or local public health agency shall issue a citation prohibiting the location from selling, providing, or distributing tobacco products, alternative nicotine products, or rolling papers for a ten-day-period. Any person or entity in violation of this citation shall be assessed a fine of five hundred dollars per day such person or entity sells, provides, or distributes such products;

(c) For the third offense per location within twelve months, the division or local public health agency shall issue a

citation prohibiting the location from selling, providing, or distributing tobacco products, alternative nicotine products, or rolling papers for a sixty-day-period. Any person or entity in violation of this citation shall be assessed a fine of five hundred dollars per day such person or entity sells, provides, or distributes such products; and

(d) For the fourth offense per location within twelve months, the division or local public health agency shall issue a citation prohibiting the location from selling, providing, or distributing tobacco products, alternative nicotine products, or rolling papers permanently. Any person or entity in violation of this citation shall be assessed a fine of five hundred dollars per day such person or entity sells, provides, or distributes such products.

5. Any person or entity adversely affected by this section may file an appeal with the administrative hearing commission, which shall be adjudicated pursuant to the procedures established in chapter 621.

6. The department of revenue shall provide the division and any local public health agencies in enforcement agreements with the division access to a complete and updated list of every registered person or entity under this section for purposes of enforcing sections 407.924 to 407.934.

407.931. 1. It shall be unlawful for any person or entity to sell, provide, or distribute tobacco products, alternative nicotine products, or [vapor products] rolling papers to persons under [eighteen] twenty-one years of age.

2. All vending machines that dispense tobacco products[,]

or alternative nicotine products[, or vapor products] shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than [eighteen] twenty-one years of age from purchasing any tobacco product[,] or alternative nicotine product[, or vapor product] from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. [A locking device shall not be required on machines that are located in areas where persons less than eighteen years of age are not permitted or prohibited by law.] An owner of an establishment whose vending machine is not in compliance with the provisions of this subsection shall be subject to the penalties contained in subsection [5] 3 of this section. A determination of noncompliance may be made by a local law enforcement agency [or], the division [of liquor control], or a local public health agency in an enforcement agreement with the division. Nothing in this section shall apply to a vending machine [if] located in [a factory, private club or other location not generally] an area not accessible to [the general public] individuals who are not twenty-one years of age.

3. [No person or entity shall sell, provide or distribute any tobacco product, alternative nicotine product, or vapor product or rolling papers to any minor, or sell any individual cigarettes to any person in this state. This subsection shall

not apply to the distribution by family members on property that is not open to the public.

4. Any person including, but not limited to, a sales clerk, owner or operator who violates subsection 1, 2 or 3 of this section or section 407.927 shall be penalized as follows:

- (1) For the first offense, twenty-five dollars;
- (2) For the second offense, one hundred dollars;
- (3) For a third and subsequent offense, two hundred fifty dollars.

5.] Any owner of the establishment where tobacco products, alternative nicotine products, or [vapor products] rolling papers are available for sale who violates [subsection 3 of this section, in addition to the penalties established in subsection 4 of this section,] any provision of sections 407.927 to 407.929 or this section shall be penalized in the following manner:

(1) For the first violation per location within two years, a reprimand shall be issued and a fine of one hundred and fifty dollars shall be assessed by the division [of liquor control] or local public health agency;

(2) For the second violation per location within two years, the division [of liquor control] or local public health agency shall issue a citation prohibiting the outlet from selling tobacco products, alternative nicotine products, or [vapor products] rolling papers for a [twenty-four-hour] seven-day period; and

(3) For the third [violation] and subsequent violations per location within two years, the division [of liquor control] or local public health agency shall issue a citation prohibiting the

outlet from selling tobacco products, alternative nicotine products, or [vapor products] rolling papers for a [forty-eight-hour] thirty-day period[;

(4) For the fourth and any subsequent violations per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products for a five-day period].

Any owner of the establishment where tobacco products, alternative nicotine products, or rolling papers are available for sale who violates a prohibition of sale issued under subdivision (2) or (3) of this subsection shall be penalized five hundred dollars for each day tobacco products, alternative nicotine products, or rolling papers are sold in violation of the prohibition.

[6. Any owner of the establishment where tobacco products are available for sale who violates subsection 3 of this section shall not be penalized pursuant to this section if such person documents the following:

(1) An in-house or other tobacco compliance employee training program was in place to provide the employee with information on the state and federal regulations regarding sales of tobacco products, alternative nicotine products, or vapor products to minors. Such training program must be attended by all employees who sell tobacco products, alternative nicotine products, or vapor products to the general public;

(2) A signed statement by the employee stating that the employee has been trained and understands the state laws and

federal regulations regarding the sale of tobacco products, alternative nicotine products, or vapor products to minors; and

(3) Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety minutes in length, established by the division of liquor control.

7. The exemption in subsection 6 of this section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products, alternative nicotine products, or vapor products are available for sale if:

(1) Four or more violations per location of subsection 3 of this section occur within a one-year period; or

(2) Such person knowingly violates or knowingly allows his or her employees to violate subsection 3 of this section.

8. If a sale is made by an employee of the owner of an establishment in violation of sections 407.925 to 407.934, the employee shall be guilty of an offense established in subsections 1, 2 and 3 of this section. If a vending machine is in violation of section 407.927, the owner of the establishment shall be guilty of an offense established in subsections 3 and 4 of this section. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in subsections 3 and 4 of this section.

9. A person cited for selling, providing or distributing any tobacco product, alternative nicotine product, or vapor product to any individual less than eighteen years of age in violation of subsection 1, 2 or 3 of this section shall conclusively be presumed to have reasonably relied on proof of

age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen years of age or older.

10.] 4. Any person adversely affected by this section may file an appeal with the administrative hearing commission which shall be adjudicated pursuant to the procedures established in chapter 621.

407.933. 1. No person less than [~~eighteen~~] twenty-one years of age shall purchase, attempt to purchase, or possess cigarettes, other tobacco products, or alternative nicotine products[, or vapor products] unless such person is an employee of a seller of cigarettes, tobacco products, or alternative nicotine products[, or vapor products] and is in such possession to effect a sale in the course of employment, or an employee of the division [~~of liquor control~~] or local public health agency for enforcement purposes pursuant to [~~subsection 5 of~~] section 407.934.

2. Any person less than [~~eighteen~~] twenty-one years of age shall not misrepresent his or her age to purchase cigarettes, tobacco products, or alternative nicotine products[, or vapor products].

3. Any person who violates the provisions of this section shall be penalized as follows:

(1) For the first violation, the person is guilty of an infraction and shall have any cigarettes, tobacco products, or

alternative nicotine products[, or vapor products] confiscated;
and

(2) For a second violation and any subsequent violations, the person is guilty of an infraction, shall have any cigarettes, tobacco products, or alternative nicotine products[, or vapor products] confiscated and shall complete a tobacco education or smoking cessation program, if available.

407.934. 1. [No person shall sell cigarettes, tobacco products, alternative nicotine products, or vapor products unless the person has a retail sales tax license.

2. The department of revenue shall permit persons to designate through the internet or by including a place on all sales tax license applications for the applicant to designate himself or herself as a seller of tobacco products, alternative nicotine products, or vapor products and to provide a list of all locations where the applicant sells such products.

3. On or before July first of each year, the department of revenue shall make available to the division of liquor control and the department of mental health a complete list of every establishment which sells cigarettes, other tobacco products, or alternative nicotine products, or vapor products in this state.

4.] The division [of liquor control] or local public health agency with an enforcement agreement with the division shall have the authority to inspect stores [and], tobacco outlets, and any registered entity under section 407.930 for compliance with all laws related to access of tobacco products[,] or alternative nicotine products[, or vapor products] to [minors] persons under twenty-one years of age and the provisions of sections 407.924 to

407.934. The division or local public health agency may employ a person between seventeen and twenty years of age, with parental consent for a person under eighteen years of age, to attempt to purchase tobacco products or alternative nicotine products for the purpose of inspection or enforcement of tobacco laws.

[5.] 2. The [supervisor of the] division [of liquor control] or local public health agency shall not use [minors] persons under twenty-one years of age to enforce the provisions of this chapter unless the [supervisor] division promulgates rules that establish standards for the use of [minors] persons under twenty-one years of age. The [supervisor] division shall establish mandatory guidelines for the use of [minors] persons under twenty-one years of age in investigations by a state, county, municipal, or other local public health agency or law enforcement authority, which shall be followed by such authority and which shall, at a minimum, provide for the following:

(1) The [minor] person shall be between seventeen and twenty years of age;

(2) The [minor] person shall have a youthful appearance, and [the minor], if a male, shall not have facial hair or a receding hairline and, if a female, shall not wear excessive makeup or excessive jewelry;

(3) The state, county, municipal, or other local public health agency or law enforcement agency shall obtain the consent of the [minor's] person's parent or legal guardian before the use of such [minor] person on a form approved by the [supervisor] division, if the person is under eighteen years of age;

(4) The state, county, municipal, or other local public

health agency or law enforcement agency shall make a photocopy of the [minor's] person's valid identification showing the [minor's] person's correct date of birth;

(5) Any attempt by such [minor] person to purchase tobacco products[,] or alternative nicotine products[, or vapor products] shall be videotaped or audiotaped with equipment sufficient to record all statements made by the [minor] person and the seller of the tobacco product or alternative nicotine product;

(6) The [minor] person shall carry his or her own identification showing [the minor's] his or her correct date of birth and shall, upon request, produce such identification to the seller of the tobacco product[,] or alternative nicotine product[, or vapor product];

(7) The [minor] person shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age;

(8) The [minor] person shall not lie to the seller of the tobacco product[,] or alternative nicotine product[, or vapor product] to induce a sale of tobacco products or alternative nicotine products;

(9) The [minor] person shall not be employed by the state, county, municipal, or other local public health agency or law enforcement agency on an incentive or quota basis;

(10) The state, county, municipal, or other local public health agency or law enforcement agency shall, within forty-eight hours, contact or take all reasonable steps to contact the owner or manager of the establishment if a violation occurs;

(11) The state, county, municipal, or other local public

health agency or law enforcement agency shall maintain records of each visit to an establishment where a [minor] person under twenty-one years of age is used by the state, county, municipal, or other local public health agency or law enforcement agency for a period of at least one year following the incident, regardless of whether a violation occurs at each visit, and such records shall, at a minimum, include the following information:

(a) The signed consent form of the [minor's] person's parent or legal guardian if the person is under eighteen years of age;

(b) A [Polaroid] photograph of the [minor] person;

(c) A photocopy of the [minor's] person's valid identification, showing the [minor's] his or her correct date of birth;

(d) An information sheet completed by the [minor] person on a form approved by the [supervisor] division; and

(e) The name of each establishment visited by the [minor,] person and the date and time of each visit.

[6.] 3. If the state, county, municipal, or other local public health agency or law enforcement authority uses [minors] persons under twenty-one years of age in investigations or in enforcing or determining violations of [this chapter] sections 407.924 to 407.934 or any local ordinance and does not comply with the mandatory guidelines established by the [supervisor of liquor control] division in subsection [5] 2 of this section, the [supervisor of liquor control] division or local public health agency shall not take any disciplinary action against the establishment or seller pursuant to [this chapter] sections

407.924 to 407.934 based on an alleged violation discovered when using a [minor] person under twenty-one years of age and shall not cooperate in any way with the state, county, municipal, or other local law enforcement authority in prosecuting any alleged violation discovered when using a [minor] person under twenty-one years of age.

Section B. The enactment of section 407.930 and the repeal and reenactment of sections 191.765, 191.769, 191.775, 191.776, 407.924, 407.925, 407.926, 407.927, 407.929, 407.931, 407.933, and 407.934 shall become effective January 1, 2021.