



Rep. Kathleen Willis

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1 AMENDMENT TO HOUSE BILL 2250

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2250 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Prevention of Tobacco Use by Minors and  
5 Sale and Distribution of Tobacco Products Act is amended by  
6 changing Sections 1 and 2 and adding Section 1.5 as follows:

7 (720 ILCS 675/1) (from Ch. 23, par. 2357)

8 Sec. 1. Prohibition on sale to and possession of tobacco by  
9 minors; prohibition on the distribution of tobacco samples to  
10 any person; use of identification cards; vending machines;  
11 lunch wagons; out-of-package sales.

12 (a) No minor under 18 years of age shall buy any tobacco  
13 product. No person shall sell, buy for, distribute samples of  
14 or furnish any tobacco product to any minor under 18 years of  
15 age.

16 (a-5) No minor under 16 years of age may sell any tobacco

1 product at a retail establishment selling tobacco products.  
2 This subsection does not apply to a sales clerk in a  
3 family-owned business which can prove that the sales clerk is  
4 in fact a son or daughter of the owner.

5 (a-6) No minor under 18 years of age in the furtherance or  
6 facilitation of obtaining any tobacco product shall display or  
7 use a false or forged identification card or transfer, alter,  
8 or deface an identification card.

9 (a-7) No minor under 18 years of age shall possess any  
10 cigar, cigarette, electronic cigarette, smokeless tobacco, or  
11 tobacco in any of its forms.

12 (a-8) A person shall not distribute without charge samples  
13 of any tobacco product to any other person, regardless of age:

14 (1) within a retail establishment selling tobacco  
15 products, unless the retailer has verified the purchaser's  
16 age with a government issued identification;

17 (2) from a lunch wagon; or

18 (3) on a public way as a promotion or advertisement of  
19 a tobacco manufacturer or tobacco product.

20 This subsection (a-8) does not apply to the distribution of  
21 a tobacco product sample in any adult-only facility.

22 (a-9) For the purpose of this Act ~~Section~~:

23 "Adult-only facility means a facility or restricted  
24 area (whether open-air or enclosed) where the operator  
25 ensures or has a reasonable basis to believe (such as by  
26 checking identification as required under State law, or by

1 checking the identification of any person appearing to be  
2 under the age of 27) that no person under legal age is  
3 present. A facility or restricted area need not be  
4 permanently restricted to persons under legal age to  
5 constitute an adult-only facility, provided that the  
6 operator ensures or has a reasonable basis to believe that  
7 no person under legal age is present during the event or  
8 time period in question.

9 "Alternative nicotine product" means a product or  
10 device not consisting of or containing tobacco that  
11 provides for the ingestion into the body of nicotine,  
12 whether by chewing, smoking, absorbing, dissolving,  
13 inhaling, snorting, sniffing, or by any other means.  
14 "Alternative nicotine product" excludes cigarettes,  
15 smokeless tobacco, or other tobacco products as these terms  
16 are defined in this Section and any product approved by the  
17 United States Food and Drug Administration as a non-tobacco  
18 product for sale as a tobacco cessation product, as a  
19 tobacco dependence product, or for other medical purposes,  
20 and is being marketed and sold solely for that approved  
21 purpose.

22 "Electronic cigarette" or "e-cigarette" means a  
23 battery-operated device that contains cartridges filled  
24 with a combination of nicotine, flavor, and chemicals that  
25 are turned into vapor which is inhaled by the user.

26 "Lunch wagon" means a mobile vehicle designed and

1 constructed to transport food and from which food is sold  
2 to the general public.

3 "Smokeless tobacco" means any tobacco products that  
4 are suitable for dipping or chewing.

5 "Tobacco product" means any cigar, cigarette,  
6 electronic cigarette, smokeless tobacco, or tobacco in any  
7 of its forms.

8 (b) Tobacco products listed in this Section may be sold  
9 through a vending machine only if such tobacco products are not  
10 placed together with any non-tobacco product, other than  
11 matches, in the vending machine and the vending machine is in  
12 any of the following locations:

13 (1) (Blank).

14 (2) Places to which minors under 18 years of age are  
15 not permitted access.

16 (3) Places where alcoholic beverages are sold and  
17 consumed on the premises and vending machine operation is  
18 under the direct supervision of the owner or manager.

19 (4) (Blank).

20 (5) Places where the vending machine can only be  
21 operated by the owner or an employee over age 18 either  
22 directly or through a remote control device if the device  
23 is inaccessible to all customers.

24 (c) (Blank).

25 (d) The sale or distribution by any person of a tobacco  
26 product in this Section, including but not limited to a single

1 or loose cigarette, that is not contained within a sealed  
2 container, pack, or package as provided by the manufacturer,  
3 which container, pack, or package bears the health warning  
4 required by federal law, is prohibited.

5 (e) It is not a violation of this Act for a person under 18  
6 years of age to purchase or possess a cigar, cigarette,  
7 electronic cigarette, alternative nicotine product, smokeless  
8 tobacco or tobacco in any of its forms if the person under the  
9 age of 18 purchases or is given the cigar, cigarette,  
10 electronic cigarette, alternative nicotine product, smokeless  
11 tobacco or tobacco in any of its forms from a retail seller of  
12 tobacco products or an employee of the retail seller pursuant  
13 to a plan or action to investigate, patrol, or otherwise  
14 conduct a "sting operation" or enforcement action against a  
15 retail seller of tobacco products or a person employed by the  
16 retail seller of tobacco products or on any premises authorized  
17 to sell tobacco products to determine if tobacco products are  
18 being sold or given to persons under 18 years of age if the  
19 "sting operation" or enforcement action is approved by the  
20 Department of State Police, the county sheriff, a municipal  
21 police department, the Department of Public Health, or a local  
22 health department.

23 (Source: P.A. 95-905, eff. 1-1-09; 96-179, eff. 8-10-09;  
24 96-446, eff. 1-1-10; 96-1000, eff. 7-2-10.)".

1       Sec. 1.5. Distribution of alternative nicotine products to  
2 persons under 18 years of age prohibited.

3       (a) A person, either directly or indirectly by an agent or  
4 employee, or by a vending machine owned by the person or  
5 located in the person's establishment, may not sell, offer for  
6 sale, give, or furnish any alternative nicotine product, or any  
7 cartridge or component of an alternative nicotine product, to a  
8 person under 18 years of age.

9       (b) Before selling, offering for sale, giving, or  
10 furnishing an alternative nicotine product, or any cartridge or  
11 component of an alternative nicotine product, to another  
12 person, the person selling, offering for sale, giving, or  
13 furnishing the alternative nicotine product shall verify that  
14 the person is at least 18 years of age by:

15           (1) examining from any person that appears to be under  
16 27 years of age a government-issued photographic  
17 identification that establishes the person is at least 18  
18 years of age or

19           (2) for sales made though the Internet or other remote  
20 sales methods, performing an age verification through an  
21 independent, third-party age verification service that  
22 compares information available from public records to the  
23 personal information entered by the person during the  
24 ordering process that establishes the person is 18 years of  
25 age or older.

1 (720 ILCS 675/2) (from Ch. 23, par. 2358)

2 Sec. 2. Penalties.

3 (a) Any person who violates subsection (a), (a-5), or (a-6)  
4 of Section 1 or Section 1.5 of this Act is guilty of a petty  
5 offense and for the first offense shall be fined \$200, \$400 for  
6 the second offense in a 12-month period, and \$600 for the third  
7 or any subsequent offense in a 12-month period.

8 (b) If a minor violates subsection (a-7) of Section 1 he or  
9 she is guilty of a petty offense and the court may impose a  
10 sentence of 15 hours of community service or a fine of \$25 for  
11 a first violation.

12 (c) A second violation by a minor of subsection (a-7) of  
13 Section 1 that occurs within 12 months after the first  
14 violation is punishable by a fine of \$50 and 25 hours of  
15 community service.

16 (d) A third or subsequent violation by a minor of  
17 subsection (a-7) of Section 1 that occurs within 12 months  
18 after the first violation is punishable by a \$100 fine and 30  
19 hours of community service.

20 (e) Any second or subsequent violation not within the  
21 12-month time period after the first violation is punishable as  
22 provided for a first violation.

23 (f) If a minor is convicted of or placed on supervision for  
24 a violation of subsection (a-7) of Section 1, the court may, in  
25 its discretion, and upon recommendation by the State's  
26 Attorney, order that minor and his or her parents or legal

1 guardian to attend a smoker's education or youth diversion  
2 program if that program is available in the jurisdiction where  
3 the offender resides. Attendance at a smoker's education or  
4 youth diversion program shall be time-credited against any  
5 community service time imposed for any first violation of  
6 subsection (a-7) of Section 1. In addition to any other penalty  
7 that the court may impose for a violation of subsection (a-7)  
8 of Section 1, the court, upon request by the State's Attorney,  
9 may in its discretion require the offender to remit a fee for  
10 his or her attendance at a smoker's education or youth  
11 diversion program.

12 (g) For purposes of this Section, "smoker's education  
13 program" or "youth diversion program" includes, but is not  
14 limited to, a seminar designed to educate a person on the  
15 physical and psychological effects of smoking tobacco products  
16 and the health consequences of smoking tobacco products that  
17 can be conducted with a locality's youth diversion program.

18 (h) All moneys collected as fines for violations of  
19 subsection (a), (a-5), (a-6), or (a-7) of Section 1 shall be  
20 distributed in the following manner:

21 (1) one-half of each fine shall be distributed to the  
22 unit of local government or other entity that successfully  
23 prosecuted the offender; and

24 (2) one-half shall be remitted to the State to be used  
25 for enforcing this Act.

26 (Source: P.A. 96-179, eff. 8-10-09.)".