

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Prevention of Tobacco Use by Minors and Sale  
5 and Distribution of Tobacco Products Act is amended by changing  
6 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  
17 product at a retail establishment selling tobacco products.  
18 This subsection does not apply to a sales clerk in a  
19 family-owned business which can prove that the sales clerk is  
20 in fact a son or daughter of the owner.

21 (a-6) No minor under 18 years of age in the furtherance or  
22 facilitation of obtaining any tobacco product shall display or  
23 use a false or forged identification card or transfer, alter,

1 or deface an identification card.

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

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

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

10 (2) from a lunch wagon; or

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

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

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

16 "Adult-only facility means a facility or restricted  
17 area (whether open-air or enclosed) where the operator  
18 ensures or has a reasonable basis to believe (such as by  
19 checking identification as required under State law, or by  
20 checking the identification of any person appearing to be  
21 under the age of 27) that no person under legal age is  
22 present. A facility or restricted area need not be  
23 permanently restricted to persons under legal age to  
24 constitute an adult-only facility, provided that the  
25 operator ensures or has a reasonable basis to believe that  
26 no person under legal age is present during the event or

1 time period in question.

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

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

19 "Lunch wagon" means a mobile vehicle designed and  
20 constructed to transport food and from which food is sold  
21 to the general public.

22 "Smokeless tobacco" means any tobacco products that  
23 are suitable for dipping or chewing.

24 "Tobacco product" means any cigar, cigarette,  
25 electronic cigarette, smokeless tobacco, or tobacco in any  
26 of its forms.

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

6 (1) (Blank).

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

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

12 (4) (Blank).

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

17 (c) (Blank).

18 (d) The sale or distribution by any person of a tobacco  
19 product in this Section, including but not limited to a single  
20 or loose cigarette, that is not contained within a sealed  
21 container, pack, or package as provided by the manufacturer,  
22 which container, pack, or package bears the health warning  
23 required by federal law, is prohibited.

24 (e) It is not a violation of this Act for a person under 18  
25 years of age to purchase or possess a cigar, cigarette,  
26 electronic cigarette, alternative nicotine product, smokeless

1 tobacco or tobacco in any of its forms if the person under the  
2 age of 18 purchases or is given the cigar, cigarette,  
3 electronic cigarette, alternative nicotine product, smokeless  
4 tobacco or tobacco in any of its forms from a retail seller of  
5 tobacco products or an employee of the retail seller pursuant  
6 to a plan or action to investigate, patrol, or otherwise  
7 conduct a "sting operation" or enforcement action against a  
8 retail seller of tobacco products or a person employed by the  
9 retail seller of tobacco products or on any premises authorized  
10 to sell tobacco products to determine if tobacco products are  
11 being sold or given to persons under 18 years of age if the  
12 "sting operation" or enforcement action is approved by the  
13 Department of State Police, the county sheriff, a municipal  
14 police department, the Department of Public Health, or a local  
15 health department.

16 (Source: P.A. 95-905, eff. 1-1-09; 96-179, eff. 8-10-09;  
17 96-446, eff. 1-1-10; 96-1000, eff. 7-2-10.)".

18 (720 ILCS 675/1.5 new)

19 Sec. 1.5. Distribution of alternative nicotine products to  
20 persons under 18 years of age prohibited.

21 (a) A person, either directly or indirectly by an agent or  
22 employee, or by a vending machine owned by the person or  
23 located in the person's establishment, may not sell, offer for  
24 sale, give, or furnish any alternative nicotine product, or any  
25 cartridge or component of an alternative nicotine product, to a

1 person under 18 years of age.

2 (b) Before selling, offering for sale, giving, or  
3 furnishing an alternative nicotine product, or any cartridge or  
4 component of an alternative nicotine product, to another  
5 person, the person selling, offering for sale, giving, or  
6 furnishing the alternative nicotine product shall verify that  
7 the person is at least 18 years of age by:

8 (1) examining from any person that appears to be under  
9 27 years of age a government-issued photographic  
10 identification that establishes the person is at least 18  
11 years of age or

12 (2) for sales made through the Internet or other remote  
13 sales methods, performing an age verification through an  
14 independent, third-party age verification service that  
15 compares information available from public records to the  
16 personal information entered by the person during the  
17 ordering process that establishes the person is 18 years of  
18 age or older.

19 (720 ILCS 675/2) (from Ch. 23, par. 2358)

20 Sec. 2. Penalties.

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

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

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

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

13           (e) Any second or subsequent violation not within the  
14 12-month time period after the first violation is punishable as  
15 provided for a first violation.

16           (f) If a minor is convicted of or placed on supervision for  
17 a violation of subsection (a-7) of Section 1, the court may, in  
18 its discretion, and upon recommendation by the State's  
19 Attorney, order that minor and his or her parents or legal  
20 guardian to attend a smoker's education or youth diversion  
21 program if that program is available in the jurisdiction where  
22 the offender resides. Attendance at a smoker's education or  
23 youth diversion program shall be time-credited against any  
24 community service time imposed for any first violation of  
25 subsection (a-7) of Section 1. In addition to any other penalty  
26 that the court may impose for a violation of subsection (a-7)

1 of Section 1, the court, upon request by the State's Attorney,  
2 may in its discretion require the offender to remit a fee for  
3 his or her attendance at a smoker's education or youth  
4 diversion program.

5 (g) For purposes of this Section, "smoker's education  
6 program" or "youth diversion program" includes, but is not  
7 limited to, a seminar designed to educate a person on the  
8 physical and psychological effects of smoking tobacco products  
9 and the health consequences of smoking tobacco products that  
10 can be conducted with a locality's youth diversion program.

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

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

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

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