

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 766*
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Short Title: Tobacco Sales/Minors.

(Public)

Sponsors: Representatives Brawley; Aldridge, Buchanan, Gardner, Howard, Miner, Mitchell, Warner, and Watson.

Referred to: Judiciary I.

April 6, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY AND MAKE UNIFORM THE LAWS REGARDING THE
3 SALE AND DISTRIBUTION OF TOBACCO PRODUCTS TO PERSONS LESS
4 THAN EIGHTEEN YEARS OLD.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 14-313 reads as rewritten:

7 "**§ 14-313. Selling cigarettes to minors. Youth access to tobacco products.**

8 (a) Definitions. – The following definitions apply in this section:

9 (1) Distribute. – To sell, furnish, give, or provide tobacco products,
10 including tobacco product samples, or cigarette wrapping papers to the
11 ultimate consumer.

12 (2) Proof of age. – A drivers license or other documentary or written
13 evidence that purports to establish that the person is 18 years of age or
14 older.

15 (3) Sample. – A tobacco product distributed to members of the general
16 public at no cost for the purpose of promoting the product.

17 (4) Tobacco product. – Any product that contains tobacco and is intended
18 for human consumption.

1 (b) Sale or distribution to persons under the age of 18 years. – If any person shall
2 knowingly sell, give away or otherwise dispose of, directly or indirectly, cigarettes, or
3 tobacco in the form of cigarettes, or cut tobacco in any form or shape which may be used
4 or intended to be used as a substitute for cigarettes, distribute, or knowingly aid, assist, or
5 abet any other person in distributing tobacco products or cigarette wrapping papers
6 papers, or a smokeless tobacco product to any minor person under the age of 18 years, or
7 if any person shall knowingly aid, assist or abet any other person in selling such articles
8 purchase tobacco products or cigarette wrapping papers on behalf of such minor, a
9 person, less than 18 years, he the person shall be guilty of a Class 2 misdemeanor.
10 misdemeanor; As used in this section, "smokeless tobacco product" means (i) loose
11 tobacco or a flat compressed cake of tobacco that may be chewed or held in the mouth or
12 (ii) shredded, powdered, or pulverized tobacco that may be inhaled through the nostrils,
13 chewed, or held in the mouth or (ii) shredded, powdered, or pulverized tobacco that may
14 be inhaled through the nostrils, chewed, or held in the mouth; provided, however, that it
15 shall not be unlawful to distribute tobacco products or cigarette wrapping papers to an
16 employee when required in the performance of the employee's duties.

17 A person engaged in the sale of tobacco products shall demand proof of age from a
18 prospective purchaser if the person has reason to believe that the prospective purchaser is
19 under 18 years of age. Failure to demand proof of age as required by this subsection is a
20 Class 2 misdemeanor. Proof that the defendant demanded, was shown, and reasonably
21 relied upon proof of age shall be a defense to any action brought under this subsection.

22 (c) Purchase by persons under the age of 18 years. – If any person under the age of
23 18 years purchases or accepts receipt, or attempts to purchase or accept receipt, of
24 tobacco products or cigarette wrapping papers, or presents or offers to any person any
25 purported proof of age which is false, fraudulent, or not actually his or her own, for the
26 purpose of purchasing or receiving any tobacco product, the person shall be guilty of an
27 infraction as provided in G.S. 14-3.1. The provisions of this subsection shall not apply to
28 the purchase, receipt, or possession by a person under the age of 18 years if the person is
29 acting under the direction of a family member who is at least 18 years of age.

30 (d) Send or assist person less than 18 years to purchase or receive tobacco
31 product. – If any person shall knowingly send or assist a person less than 18 years to
32 purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or
33 cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided,
34 however, persons under the age of 18 may be enlisted by police or local sheriffs'
35 departments to test compliance if the testing is under the direct supervision of that law
36 enforcement department and written parental consent is provided.

37 (e) Statewide uniformity. – It is the intent of the General Assembly to prescribe
38 this uniform system for the regulation of tobacco products to ensure the eligibility for and
39 receipt of any federal funds or grants that the State now receives or may receive relating
40 to the provisions of G.S. 14-313. To ensure uniformity, no political subdivisions, boards,
41 or agencies of the State nor any county, city, municipality, municipal corporation, town,
42 township, village nor any department or agency thereof, may enact ordinances, rules or
43 regulations concerning the sale, distribution, display or promotion of tobacco products or

1 cigarette wrapping papers. This subsection does not apply to the regulation of vending
2 machines."

3 Sec. 2. This act becomes effective July 1, 1995, and applies to offenses
4 committed on or after that date. Subsection (e) of G.S. 14-313 as enacted by this act does
5 not affect local ordinances adopted before July 1, 1995.