

HOUSE BILL NO. HB0282

Tobacco products.

Sponsored by: House Appropriations Committee

A BILL

for

1 AN ACT relating to tobacco; specifying the sellers who are
2 retailers of tobacco products for purposes of prohibiting
3 sales to minors; requiring checks of identification as
4 specified; providing for an injunction of retailers;
5 specifying tobacco products for taxation purposes; specifying
6 that tobacco products include electronic cigarettes, vapor
7 material and additional accessories; and providing for an
8 effective date.

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10 *Be It Enacted by the Legislature of the State of Wyoming:*

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12 **Section 1.** W.S. 14-3-301(a)(i), (iii) and (v),
13 14-3-302(e) and by creating a new subsection (h),
14 39-18-101(a) by creating new paragraphs (ix) through (xi) and
15 39-18-102 by creating a new subsection (c) are amended to
16 read:

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2 **14-3-301. Definitions.**

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4 (a) As used in this article:

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6 (i) "Tobacco products" means ~~any substance~~
7 ~~containing tobacco leaf, or any product made or derived from~~
8 ~~tobacco that contains nicotine, including, but not limited~~
9 ~~to, cigarettes, electronic cigarettes, cigars, pipe tobacco,~~
10 ~~snuff, chewing tobacco or dipping tobacco~~ as defined in W.S.
11 39-18-101(a)(x);

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13 (iii) "Retailer" means a business of any kind at
14 a specific location that sells tobacco products to a user or
15 consumer and includes a seller who does not have a physical
16 presence in this state if the seller sells tobacco products
17 to a user or consumer in this state;

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19 (v) "Electronic cigarette" means ~~a product that~~
20 ~~employs any mechanical heating element, battery or electronic~~
21 ~~circuit, regardless of shape or size, that can be used to~~
22 ~~deliver doses of nicotine vapor by means of heating a liquid~~

1 ~~nicotine solution contained in a cartridge or other delivery~~
2 ~~system~~ as defined in W.S. 39-18-101(a)(ix).

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4 **14-3-302. Prohibited sales or delivery.**

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6 (e) In addition to the penalties under paragraph
7 (d)(iii) of this section, any person violating subsection (c)
8 of this section for a third or subsequent time within a two
9 (2) year period may be subject to an injunction. The
10 department of revenue or the district attorney of the county
11 in which the offense occurred, may petition the district court
12 for an injunction to prohibit the sale of tobacco in the
13 establishment where the violation occurred or, if the
14 retailer does not have a physical presence in this state, for
15 an injunction prohibiting sales of tobacco products from that
16 retailer into this state. If the court finds that the
17 respondent in the action has violated the provisions of
18 subsection (c) of this section for a third or subsequent time
19 within a two (2) year period and may continue to violate such
20 provisions, it may grant an injunction prohibiting the
21 respondent from selling tobacco products in the establishment
22 where the violation occurred or, if the retailer does not
23 have a physical presence in this state, an injunction

1 prohibiting sales of tobacco products from that retailer into
2 this state for a period of not more than one hundred eighty
3 (180) days. For the purposes of this subsection, multiple
4 violations occurring before the petition for the injunction
5 is filed shall be deemed part of the violation for which the
6 injunction is sought. If the person against whom the
7 injunction is sought operates multiple, geographically
8 separate establishments, the injunction shall apply only to
9 the establishment where the violation occurred. The
10 injunction shall prohibit all sales of tobacco products in
11 the establishment where the violation occurred, regardless of
12 any change in ownership or management of the establishment
13 that is not a bona fide, arms length transaction while the
14 injunction is in effect.

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16 (h) A retailer who mails or ships electronic cigarettes
17 or vapor material, as defined in W.S. 39-18-101(a)(xi), shall
18 use a method of mailing or shipping that requires:

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20 (i) The purchaser placing the delivery sale order,
21 or an adult who is at least eighteen (18) years of age, to
22 sign to accept delivery of the shipping container at the
23 delivery address; and

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39-18-101. Definitions.

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(a) As used in this article:

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(ii) The person who signs to accept delivery of the shipping container to provide proof, in the form of valid, government issued identification bearing a photograph of the individual, that the person is at least eighteen (18) years of age.

(ix) "Electronic cigarette" means any device that can be used to deliver aerosolized or vaporized nicotine to the person using the device and includes a component, part and accessory of the device and any vapor material intended to be aerosolized or vaporized during the use of the device. "Electronic cigarette" includes, without limitation, any electronic cigar, electronic cigarillo, electronic pipe, electronic hooka, vapor pen or any similar product or device. "Electronic cigarette" does not include a battery or battery charger if sold separately from the device and does not include any product regulated as a drug or device by the

1 United States food and drug administration under subchapter
2 V of the Food, Drug and Cosmetic Act;

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4 (x) "Tobacco product" means any product containing
5 tobacco or nicotine and is intended for human consumption or
6 is likely to be consumed, whether smoked, heated, chewed,
7 absorbed, dissolved, inhaled or ingested including, without
8 limitation, a cigarette, cigar, pipe tobacco, chewing
9 tobacco, snuff or snus. "Tobacco product" includes electronic
10 cigarettes and vapor material. "Tobacco product" does not
11 include any product regulated as a drug or device by the
12 United States food and drug administration under subchapter
13 V of the Food, Drug and Cosmetic Act;

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15 (xi) "Vapor material" means any liquid solution or
16 other material containing nicotine that is depleted as an
17 electronic cigarette is used. "Vapor material" includes
18 liquid solution or other material containing nicotine that is
19 sold with or inside a disposable or reusable electronic
20 cigarette.

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22 **39-18-102. Administration; confidentiality.**

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1 (c) The department may promulgate necessary rules and
2 regulations to effectuate the purposes of this chapter.

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4 **Section 2.** This act is effective July 1, 2019.

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(END)