

SENATE FILE NO. SF0050

Nicotine products-lawful age and penalties.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to nicotine products; prohibiting the sale
2 or furnishing of nicotine products to persons under twenty-
3 one years of age as specified; prohibiting the possession
4 and use of nicotine products by persons under twenty-one
5 years of age as specified; providing penalties; and
6 providing for an effective date.

7

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

9

10 **Section 1.** W.S. 14-3-301(a)(i) through (v) and by
11 creating new paragraphs (vi) and (vii), 14-3-302(a), (b)(i)
12 and (ii), (c), (d)(i) and (ii), (e), (f) and (g)(i) through
13 (iii), 14-3-303(a)(intro), (b)(intro), (i)(B) and (C),
14 (ii)(B), (c)(i) and (ii) and (e), 14-3-304(a), (c) and (d),
15 14-3-305(a), (d) and (e), 14-3-307(b), (d)(intro), (i)

1 through (iii), (e)(iii)(C), (F) and (v) and 14-3-308(a) and
2 (c) are amended to read:

3

4

ARTICLE 3

5

SALE OF NICOTINE PRODUCTS

6

7

14-3-301. Definitions.

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9

(a) As used in this article:

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21

(i) "Tobacco products" means any substance
containing tobacco leaf~~7~~ or any product made or derived
from tobacco that contains nicotine~~7~~ including, but not
limited to, cigarettes, ~~electronic cigarettes,~~ cigars, pipe
tobacco, snuff, chewing tobacco or dipping tobacco;

(ii) "Vending machine" means any mechanical,
electric or electronic self-service device which, upon
insertion of money, tokens, or any other form of payment,
dispenses ~~tobacco~~ nicotine products;

1 (iii) "Retailer" means a business of any kind at
2 a specific location that sells ~~tobacco~~-nicotine products to
3 a user or consumer;

4
5 (iv) "Self service display" means any display of
6 ~~tobacco~~-nicotine products that is located in an area where
7 customers are permitted and where the ~~tobacco~~-nicotine
8 products are readily accessible to a customer without the
9 assistance of a salesperson;

10
11 (v) "Electronic cigarette" means ~~a product that~~
12 ~~employs any mechanical heating element, battery or~~
13 ~~electronic circuit, regardless of shape or size, that can~~
14 ~~be used to deliver doses of nicotine vapor by means of~~
15 ~~heating a liquid nicotine solution contained in a cartridge~~
16 ~~or other delivery system.~~ any device that can be used to
17 deliver aerosolized or vaporized nicotine or synthetic
18 nicotine to the person using the device and includes any
19 component, part and accessory of the device and any vapor
20 material intended to be aerosolized or vaporized during the
21 use of the device. "Electronic cigarette" includes, without
22 limitation, any electronic cigar, electronic cigarillo,
23 electronic pipe, electronic hooka, vapor pen and any

1 similar product or device. "Electronic cigarette" does not
2 include a battery or battery charger if sold separately
3 from the electronic cigarette and does not include any
4 product regulated as a drug or device by the United States
5 food and drug administration under subchapter V of the
6 Food, Drug and Cosmetic Act;

7
8 (vi) "Nicotine products" means tobacco products
9 and electronic cigarettes;

10
11 (vii) "Vapor material" means any liquid solution
12 or other material containing nicotine or synthetic nicotine
13 that is depleted as an electronic cigarette is used. "Vapor
14 material" includes liquid solution or other material
15 containing nicotine or synthetic nicotine that is sold with
16 or inside an electronic cigarette.

17
18 **14-3-302. Prohibited sales or delivery.**

19
20 (a) No individual shall sell, offer for sale, give
21 away or deliver ~~tobacco~~nicotine products to any person
22 under the age of ~~eighteen (18)~~twenty-one (21) years.

23

1 (b) Any individual violating subsection (a) of this
2 section is guilty of a misdemeanor punishable by a fine of
3 not more than:

4
5 (i) ~~Fifty dollars (\$50.00)~~ Two hundred fifty
6 dollars (\$250.00) for a first violation committed within a
7 twenty-four (24) month period. The court may allow the
8 defendant to perform community service and be granted
9 credit against his fine and court costs at the rate of five
10 dollars (\$5.00) for each hour of work performed;

11
12 (ii) ~~Two hundred fifty dollars (\$250.00)~~ Five
13 hundred dollars (\$500.00) for a second violation committed
14 within a twenty-four (24) month period, regardless of the
15 locations where the violations occurred. The court may
16 allow the defendant to perform community service and be
17 granted credit against his fine and court costs at the rate
18 of five dollars (\$5.00) for each hour of work performed;

19
20 (c) No retailer shall sell, permit the sale, offer
21 for sale, give away or deliver ~~tobacco~~ nicotine products to
22 any person under the age of ~~eighteen (18)~~ twenty-one (21)
23 years.

1

2 (d) Any person violating subsection (c) of this
3 section is guilty of a misdemeanor punishable by a fine of
4 not more than:

5

6 (i) ~~Fifty dollars (\$50.00)~~ Two hundred fifty
7 dollars (\$250.00) for a first violation committed within a
8 twenty-four (24) month period;

9

10 (ii) ~~Two hundred fifty dollars (\$250.00)~~ Five
11 hundred dollars (\$500.00) for a second violation committed
12 within a twenty-four (24) month period;

13

14 (e) In addition to the penalties under paragraph
15 (d)(iii) of this section, any person violating subsection
16 (c) of this section for a third or subsequent time within a
17 two (2) year period may be subject to an injunction. The
18 department of revenue or the district attorney of the
19 county in which the offense occurred, may petition the
20 district court for an injunction to prohibit the sale of
21 ~~tobacco~~ nicotine products in the establishment where the
22 violation occurred. If the court finds that the respondent
23 in the action has violated the provisions of subsection (c)

1 of this section for a third or subsequent time within a two
2 (2) year period and may continue to violate such
3 provisions, it may grant an injunction prohibiting the
4 respondent from selling ~~tobacco~~nicotine products in the
5 establishment where the violation occurred for a period of
6 not more than one hundred eighty (180) days. For the
7 purposes of this subsection, multiple violations occurring
8 before the petition for the injunction is filed shall be
9 deemed part of the violation for which the injunction is
10 sought. If the person against whom the injunction is sought
11 operates multiple, geographically separate establishments,
12 the injunction shall apply only to the establishment where
13 the violation occurred. The injunction shall prohibit all
14 sales of ~~tobacco~~nicotine products in the establishment
15 where the violation occurred, regardless of any change in
16 ownership or management of the establishment that is not a
17 bona fide, arms length transaction while the injunction is
18 in effect.

19

20 (f) It is an affirmative defense to a prosecution
21 under subsections (a) and (c) of this section that, in the
22 case of a sale, the person who sold the ~~tobacco~~nicotine
23 product was presented with, and reasonably relied upon, an

1 identification card which identified the person buying or
2 receiving the ~~tobacco~~nicotine product as being over
3 ~~eighteen (18)~~twenty-one (21) years of age.

4

5 (g) Notwithstanding the provisions of subsection (d)
6 of this section, no fine for a violation of subsection (c)
7 of this section shall be imposed for a first offense in a
8 twenty-four (24) month period if the retailer can show it
9 had:

10

11 (i) Adopted and enforced a written policy
12 against selling ~~tobacco~~nicotine products to persons under
13 the age of ~~eighteen (18)~~twenty-one (21) years;

14

15 (ii) Informed its employees of the applicable
16 laws regarding the sale of ~~tobacco~~nicotine products to
17 persons under the age of ~~eighteen (18)~~twenty-one (21)
18 years;

19

20 (iii) Required employees to verify the age of
21 ~~tobacco~~nicotine product customers by way of photographic
22 identification or by means of electronic transaction scan
23 device; and

1

2 **14-3-303. Posted notice required; location of vending**
3 **machines.**

4

5 (a) Any person who sells ~~tobacco~~-nicotine products
6 shall post signs informing the public of the age
7 restrictions provided by this article at or near every
8 display of ~~tobacco~~-nicotine products and on or upon every
9 vending machine which offers ~~tobacco~~-nicotine products for
10 sale. Each sign shall be plainly visible and shall contain
11 a statement communicating that the sale of ~~tobacco~~-nicotine
12 products to persons under ~~eighteen (18)~~-twenty-one (21)
13 years of age is prohibited by law. ~~Effective January 1,~~
14 ~~2001,~~ Any person who owns, operates or manages a business
15 where ~~tobacco~~-nicotine products are offered for sale at
16 retail and at which persons under the age of ~~eighteen (18)~~-
17 twenty-one (21) are allowed admission with or without an
18 adult, shall maintain all ~~tobacco~~-nicotine products within
19 the line of sight of a cashier or other employee or under
20 the control of the cashier or other employee. For purposes
21 of this subsection:

22

1 (b) No person shall sell or offer ~~tobacco~~ nicotine
2 products:

3

4 (i) Through a vending machine unless the vending
5 machine is located in:

6

7 (B) Places to which persons under the age
8 of ~~eighteen (18)~~ twenty-one (21) years of age are not
9 permitted access; or

10

11 (C) Business premises where alcoholic or
12 malt beverages are sold or dispensed and where entry by
13 persons under ~~eighteen (18)~~ twenty-one (21) years of age is
14 prohibited.

15

16 (ii) Through a self service display except in:

17

18 (B) A business where entry by persons under
19 ~~eighteen (18)~~ twenty-one (21) years of age is prohibited.

20

21 (c) Any person violating subsection (a) or (b) of
22 this section is guilty of a misdemeanor punishable by a
23 fine of not more than:

1

2 (i) ~~Fifty dollars (\$50.00)~~ Two hundred fifty
3 dollars (\$250.00) for a first violation committed within a
4 twenty-four (24) month period;

5

6 (ii) ~~Two hundred fifty dollars (\$250.00)~~ Five
7 hundred dollars (\$500.00) for a second violation committed
8 within a twenty-four (24) month period;

9

10 (e) In addition to the penalties under paragraph
11 (c)(iii) of this section, any person violating subsection
12 (a) or (b) of this section for a third or subsequent time
13 within a two (2) year period may be subject to an
14 injunction. The department or the district attorney of the
15 county in which the offense occurred, may petition the
16 district court for an injunction to prohibit the sale of
17 ~~tobacco~~ nicotine products from the vending machines or the
18 establishment where the violation occurred. If the court
19 finds that the respondent in the action has violated the
20 provisions of subsection (a) or (b) of this section for a
21 third or subsequent time within a two (2) year period and
22 may continue to violate such provisions, it may grant an
23 injunction prohibiting the respondent from selling ~~tobacco~~

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

18

19 **14-3-304. Purchase by person under twenty-one years**
20 **of age prohibited.**

21

22 (a) No person under the age of ~~eighteen~~-(18)
23 twenty-one (21) years shall purchase or attempt to purchase

1 ~~tobacco~~nicotine products, or misrepresent his identity or
2 age, or use any false or altered identification for the
3 purpose of purchasing or attempting to purchase ~~tobacco~~
4 nicotine products.

5
6 (c) In lieu of the fine under subsection (b) of this
7 section, the court may allow the defendant to perform
8 community service or attend a tobacco or nicotine cessation
9 program and be granted credit against his fine and court
10 costs at the rate of five dollars (\$5.00) for each hour of
11 work performed or each hour of tobacco or nicotine
12 cessation program attended.

13
14 (d) After twenty-four (24) months or upon reaching
15 the age of majority, whichever occurs later, ~~a criminal~~
16 ~~conviction under this section may be expunged~~ a minor
17 convicted under this section may petition the court for the
18 expungement of his record in accordance with W.S. 14-6-241.

19
20 **14-3-305. Possession or use by person under**
21 **twenty-one years of age prohibited.**

22

1 (a) It is unlawful for any person under the age of
2 ~~eighteen (18)~~ twenty-one (21) years to possess or use any
3 ~~tobacco~~ nicotine products.

4
5 (d) In lieu of the fine under subsection (b) of this
6 section, the court may allow the defendant to perform
7 community service or attend a tobacco or nicotine cessation
8 program and be granted credit against his fine and court
9 costs at the rate of five dollars (\$5.00) for each hour of
10 work performed or each hour of tobacco or nicotine
11 cessation program attended.

12
13 (e) After twenty-four (24) months or upon reaching
14 the age of majority, whichever occurs later, ~~a criminal~~
15 ~~conviction under this section may be expunged~~ a minor
16 convicted under this section may petition the court for the
17 expungement of his record in accordance with W.S. 14-6-241.

18
19 **14-3-307. Compliance inspections.**

20
21 (b) The department of health shall develop strategies
22 to coordinate and support local law enforcement efforts to
23 enforce all state statutes relating to the prohibition of

1 the sale of ~~tobacco~~nicotine products to ~~minors~~persons
2 under twenty-one (21) years of age.

3
4 (d) To coordinate the enforcement of state statutes
5 relating to the prohibition of the sale of ~~tobacco~~nicotine
6 products to ~~minors~~persons under twenty-one (21) years of
7 age and to comply with applicable federal law, the
8 department of health shall have authority to contract with
9 or provide grants to local law enforcement agencies or
10 other local individuals or entities having the appropriate
11 level of enforcement authority on the local level to
12 conduct random, unannounced inspections at retail locations
13 where ~~tobacco~~nicotine products are sold. The ~~use of minors~~
14 ~~during inspections is authorized subject to the following~~
15 local law enforcement agencies or other local individuals
16 or entities authorized to conduct inspections shall be
17 permitted to use minors and persons under twenty-one (21)
18 years of age subject to the following:

19
20 (i) ~~The~~ Prior to the inspection, the local law
21 enforcement agency or other authorized individual or entity
22 shall obtain the written consent ~~shall include notification~~
23 ~~that testimony in a subsequent court proceeding may be~~

1 ~~required. The~~ of the person being used in the inspection
2 or if using a minor, the written consent of the minor's
3 parents or guardian shall be obtained prior to the minor
4 participating in an inspection. The written consent
5 required under this paragraph shall include a notification
6 that testimony in a subsequent court proceeding may be
7 required;

8
9 (ii) ~~A minor~~ Any person under twenty-one (21)
10 years of age participating in an inspection shall, if
11 questioned, state his true age and that he is less than
12 ~~eighteen (18)~~ twenty-one (21) years of age;

13
14 (iii) The ~~minor's~~ appearance of a person under
15 twenty-one (21) years of age shall not be altered to make
16 him appear to be ~~eighteen (18)~~ twenty-one (21) years of age
17 or older;

18
19 (e) The person conducting an inspection under this
20 section shall:

21
22 (iii) Within two (2) days, prepare a report of
23 the inspection containing:

1

2 (C) The name and position of the person
3 from whom the participant attempted to purchase ~~tobacco~~
4 nicotine products;

5

6 (F) The results of the inspection,
7 including whether the inspection resulted in the sale or
8 distribution of, or offering for sale, ~~tobacco~~nicotine
9 products to ~~the minor~~a person under twenty-one (21) years
10 of age.

11

12 (v) Request a law enforcement officer to issue a
13 citation for any illegal acts relating to providing ~~tobacco~~
14 nicotine products to ~~minors~~persons under twenty-one (21)
15 years of age during the inspection.

16

17 **14-3-308. Further regulation by local ordinance.**

18

19 (a) Except as specified under subsection (b) of this
20 section, this article shall not be construed to prohibit
21 the imposition by local law or ordinance of further
22 regulation or prohibition upon the sale, use and possession
23 of ~~tobacco~~nicotine products to any person under eighteen

1 ~~(18)~~ twenty-one (21) years of age, but the governmental
2 entity shall not permit or authorize the sale, use or
3 possession of ~~tobacco~~ nicotine products to any person under
4 ~~eighteen~~ ~~(18)~~ twenty-one (21) years of age in violation of
5 this article.

6
7 (c) The governmental entity may require that sellers
8 of ~~tobacco~~ nicotine products obtain a license to sell
9 ~~tobacco~~ nicotine products and may deny or revoke the
10 license in the case of reported violations of W.S. 14-3-302
11 or similar local ordinance.

12

13 **Section 2.** This act is effective July 1, 2020.

14

15

(END)