

House File 2135 - Introduced

HOUSE FILE 2135

BY HUNTER

A BILL FOR

1 An Act establishing the minimum age relative to various
2 activities relating to tobacco, tobacco products,
3 alternative nicotine products, vapor products, and
4 cigarettes, making penalties applicable, and including
5 effective date provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.216C, Code 2020, is amended to read
2 as follows:

3 **321.216C Use of driver's license or nonoperator's**
4 **identification card by underage person to obtain tobacco, tobacco**
5 **products, alternative nicotine products, vapor products, or**
6 **cigarettes.**

7 A person who is under the age of ~~eighteen~~ twenty-one,
8 who alters or displays or has in the person's possession
9 a fictitious or fraudulently altered driver's license or
10 nonoperator's identification card and who uses the license
11 or card to violate or attempt to violate section 453A.2,
12 subsection 2, commits a simple misdemeanor punishable as a
13 scheduled violation under [section 805.8A, subsection 4](#). The
14 court shall forward a copy of the conviction to the department.

15 Sec. 2. Section 453A.2, subsections 1, 2, and 3, Code 2020,
16 are amended to read as follows:

17 1. A person shall not sell, give, or otherwise supply any
18 tobacco, tobacco products, alternative nicotine products, vapor
19 products, or cigarettes to any person under ~~eighteen~~ twenty-one
20 years of age.

21 2. A person under ~~eighteen~~ twenty-one years of age shall
22 not smoke, use, possess, purchase, or attempt to purchase any
23 tobacco, tobacco products, alternative nicotine products, vapor
24 products, or cigarettes.

25 3. Possession of tobacco, tobacco products, alternative
26 nicotine products, vapor products, or cigarettes by an
27 individual under ~~eighteen~~ twenty-one years of age does not
28 constitute a violation under [this section](#) if the individual
29 under ~~eighteen~~ twenty-one years of age possesses the tobacco,
30 tobacco products, alternative nicotine products, vapor
31 products, or cigarettes as part of the individual's employment
32 and the individual is employed by a person who holds a valid
33 permit under [this chapter](#) or who lawfully offers for sale or
34 sells cigarettes or tobacco products.

35 Sec. 3. Section 453A.2, subsection 8, paragraph a,

1 subparagraph (2), Code 2020, is amended to read as follows:

2 (2) The compliance effort is conducted with the advance
3 knowledge of law enforcement officers and reasonable measures
4 are adopted by those conducting the effort to ensure that use
5 of tobacco, tobacco products, alternative nicotine products,
6 vapor products, or cigarettes by individuals under eighteen
7 twenty-one years of age does not result from participation by
8 any individual under ~~eighteen~~ twenty-one years of age in the
9 compliance effort.

10 Sec. 4. Section 453A.5, subsection 1, Code 2020, is amended
11 to read as follows:

12 1. The alcoholic beverages division of the department of
13 commerce shall develop a tobacco compliance employee training
14 program not to exceed two hours in length for employees and
15 prospective employees of retailers, as defined in sections
16 453A.1 and [453A.42](#), to inform the employees about state and
17 federal laws and regulations regarding the sale of tobacco,
18 tobacco products, alternative nicotine products, vapor
19 products, and cigarettes to persons under ~~eighteen~~ twenty-one
20 years of age and compliance with and the importance of laws
21 regarding the sale of tobacco, tobacco products, alternative
22 nicotine products, vapor products, and cigarettes to persons
23 under ~~eighteen~~ twenty-one years of age.

24 Sec. 5. Section 453A.36, subsection 6, Code 2020, is amended
25 to read as follows:

26 6. Any sales of tobacco, tobacco products, alternative
27 nicotine products, vapor products, or cigarettes made through a
28 cigarette vending machine are subject to rules and penalties
29 relative to retail sales of tobacco, tobacco products,
30 alternative nicotine products, vapor products, and cigarettes
31 provided for in [this chapter](#). Cigarettes shall not be sold
32 through any cigarette vending machine unless the cigarettes
33 have been properly stamped or metered as provided by this
34 subchapter, and in case of violation of this provision, the
35 permit of the dealer authorizing retail sales of cigarettes

1 shall be revoked. Payment of the permit fee as provided
2 in [section 453A.13](#) authorizes a cigarette vendor to sell
3 tobacco, tobacco products, alternative nicotine products, vapor
4 products, and cigarettes through vending machines. However,
5 tobacco, tobacco products, alternative nicotine products,
6 vapor products, and cigarettes shall not be sold through a
7 vending machine unless the vending machine is located in a
8 place where the retailer ensures that no person younger than
9 ~~eighteen~~ twenty-one years of age is present or permitted to
10 enter at any time. Tobacco, tobacco products, alternative
11 nicotine products, vapor products, and cigarettes shall not be
12 sold through any cigarette vending machine if such products
13 are placed together with any nontobacco product, other than
14 matches, in the cigarette vending machine. [This section](#) does
15 not require a retail permit holder to buy a cigarette vendor's
16 permit if the retail permit holder is in fact the owner of the
17 cigarette vending machines and the machines are operated in the
18 location described in the retail permit.

19 Sec. 6. Section 453A.39, subsection 2, paragraphs b and c,
20 Code 2020, are amended to read as follows:

21 *b.* A manufacturer, distributor, wholesaler, retailer, or
22 distributing agent or agent thereof shall not give away any
23 tobacco, tobacco products, alternative nicotine products, vapor
24 products, or cigarettes to any person under ~~eighteen~~ twenty-one
25 years of age, or within five hundred feet of any playground,
26 school, high school, or other facility when such facility is
27 being used primarily by persons under age ~~eighteen~~ twenty-one
28 for recreational, educational, or other purposes.

29 *c.* Proof of age shall be required if a reasonable person
30 could conclude on the basis of outward appearance that a
31 prospective recipient of a sample may be under ~~eighteen~~
32 twenty-one years of age.

33 Sec. 7. Section 453A.47B, Code 2020, is amended to read as
34 follows:

35 **453A.47B Requirements for mailing or shipping — alternative**

1 nicotine products or vapor products.

2 A retailer shall not mail, ship, or otherwise cause to be
3 delivered any alternative nicotine product or vapor product in
4 connection with a delivery sale unless the retailer meets all
5 of the following apply conditions:

6 1. Prior to sale to the purchaser, the retailer verifies
7 that the purchaser is at least ~~eighteen~~ twenty-one years of age
8 through or by one of the following:

9 a. A commercially available database, or aggregate of
10 databases, that is regularly used by government and businesses
11 for the purpose of age and identity verification.

12 b. Obtaining a copy of a valid government-issued document
13 that provides the name, address, and date of birth of the
14 purchaser.

15 2. The retailer uses a method of mailing, shipping, or
16 delivery that requires the signature of a person who is at
17 least ~~eighteen~~ twenty-one years of age before the shipping
18 package is released to the purchaser.

19 Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate
20 importance, takes effect upon enactment.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill increases the minimum age relative to various
25 activities relating to tobacco, tobacco products, alternative
26 nicotine products, vapor products, and cigarettes from 18 years
27 of age to 21 years of age.

28 The bill prohibits a person from selling, giving, or
29 otherwise supplying any tobacco, tobacco products, alternative
30 nicotine products, vapor products, or cigarettes to any person
31 under 21 years of age. The bill also prohibits a person under
32 21 years of age from smoking, using, possessing, purchasing,
33 or attempting to purchase any tobacco, tobacco products,
34 alternative nicotine products, vapor products, or cigarettes.

35 The bill makes conforming changes in the Code relative to

1 use of a driver's license or nonoperator's identification card
2 by an underage person to obtain tobacco, tobacco products,
3 alternative nicotine products, vapor products, or cigarettes;
4 compliance efforts; sale of tobacco, tobacco products,
5 alternative nicotine products, vapor products, or cigarettes
6 through vending machines; the giving away of samples of
7 tobacco, tobacco products, alternative nicotine products,
8 vapor products, or cigarettes to persons under 21 years of age
9 and within 500 feet of certain locations; and the mailing,
10 shipping, or other delivery of alternative nicotine products
11 or vapor products.

12 A person holding a permit, including a retailer, who
13 violates a provision of the bill is subject to civil penalties
14 and permit suspension or revocation provisions based on the
15 number of violations. A person other than a retailer who
16 sells, gives, or otherwise supplies any tobacco, tobacco
17 products, alternative nicotine products, vapor products, or
18 cigarettes to any person under 21 years of age is guilty of
19 a simple misdemeanor. An employee of a retailer who sells,
20 gives, or otherwise supplies any tobacco, tobacco products,
21 alternative nicotine products, vapor products, or cigarettes to
22 any person under 21 years of age commits a simple misdemeanor
23 punishable as a scheduled violation ranging from \$100 to
24 \$500 based upon the number of violations. A person under
25 21 years of age who smokes, uses, possesses, purchases, or
26 attempts to purchase any tobacco, tobacco products, alternative
27 nicotine products, vapor products, or cigarettes is subject to
28 performance of community service hours ranging from 8 hours for
29 a first offense to 16 hours for a third or subsequent offense.

30 The bill takes effect upon enactment.