

Senate File 607 - Introduced

SENATE FILE 607

BY SCHNEIDER

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 and applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.216C, Code 2019, 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 This section shall not apply to a person who is exempt from the
16 provisions of chapter 453A as specified in section 453A.41.

17 Sec. 2. Section 453A.2, subsections 1, 2, and 3, Code 2019,
18 are amended to read as follows:

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

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

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

1 sells cigarettes or tobacco products.

2 Sec. 3. Section 453A.2, subsection 8, paragraph a,
3 subparagraph (2), Code 2019, is amended to read as follows:

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

12 Sec. 4. Section 453A.5, subsection 1, Code 2019, is amended
13 to read as follows:

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

26 Sec. 5. Section 453A.36, subsection 6, Code 2019, is amended
27 to read as follows:

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

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

21 Sec. 6. Section 453A.39, subsection 2, paragraphs b and c,
22 Code 2019, are amended to read as follows:

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

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

35 Sec. 7. NEW SECTION. 453A.41 Exemption for person with

1 **military or veteran identification card.**

2 For the purposes of this chapter, a person who has attained
3 the age of eighteen but who has not yet attained the age of
4 twenty-one is exempt from the provisions applicable to a person
5 under this chapter based upon attaining the age of twenty-one,
6 if the person is able to establish the person's identity
7 by presenting a veteran identification card or a military
8 identification card that contains the person's signature.

9 Sec. 8. Section 453A.47B, Code 2019, is amended to read as
10 follows:

11 **453A.47B Requirements for mailing or shipping — alternative**
12 **nicotine products or vapor products.**

13 A retailer shall not mail, ship, or otherwise cause to be
14 delivered any alternative nicotine product or vapor product in
15 connection with a delivery sale unless the retailer meets all
16 of the following ~~apply~~ conditions:

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

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

23 b. Obtaining a copy of a valid government-issued document
24 that provides the name, address, and date of birth of the
25 purchaser.

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

30 Sec. 9. EFFECTIVE DATE. This Act takes effect January 1,
31 2020.

32 Sec. 10. APPLICABILITY. This Act shall not apply to any
33 person who is eighteen years of age or older before January
34 1, 2020, and at such time could lawfully smoke, use, possess,
35 purchase, or attempt to purchase tobacco, tobacco products,

1 alternative nicotine products, vapor products, or cigarettes.

2 EXPLANATION

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

5 This bill increases the minimum age relative to various
6 activities relating to tobacco, tobacco products, alternative
7 nicotine products, vapor products, and cigarettes from 18 years
8 of age to 21 years of age.

9 The bill prohibits a person from selling, giving, or
10 otherwise supplying any tobacco, tobacco products, alternative
11 nicotine products, vapor products, or cigarettes to any person
12 under 21 years of age. The bill also prohibits a person under
13 21 years of age from smoking, using, possessing, purchasing,
14 or attempting to purchase any tobacco, tobacco products,
15 alternative nicotine products, vapor products, or cigarettes.

16 The bill makes conforming changes in the Code relative to
17 use of a driver's license or nonoperator's identification card
18 by an underage person to obtain tobacco, tobacco products,
19 alternative nicotine products, vapor products, or cigarettes;
20 compliance efforts; sale of tobacco, tobacco products,
21 alternative nicotine products, vapor products, or cigarettes
22 through vending machines; the giving away of samples of
23 tobacco, tobacco products, alternative nicotine products,
24 vapor products, or cigarettes to persons under 21 years of age
25 and within 500 feet of certain locations; and the mailing,
26 shipping, or other delivery of alternative nicotine products
27 or vapor products.

28 A person holding a permit, including a retailer, who
29 violates a provision of the bill is subject to civil penalties
30 and permit suspension or revocation provisions based on the
31 number of violations. A person other than a retailer who
32 sells, gives, or otherwise supplies any tobacco, tobacco
33 products, alternative nicotine products, vapor products, or
34 cigarettes to any person under 21 years of age is guilty of
35 a simple misdemeanor. An employee of a retailer who sells,

1 gives, or otherwise supplies any tobacco, tobacco products,
2 alternative nicotine products, vapor products, or cigarettes to
3 any person under 21 years of age commits a simple misdemeanor
4 punishable as a scheduled violation ranging from \$100 to
5 \$500 based upon the number of violations. A person under
6 21 years of age who smokes, uses, possesses, purchases, or
7 attempts to purchase any tobacco, tobacco products, alternative
8 nicotine products, vapor products, or cigarettes is subject to
9 performance of community service hours ranging from 8 hours for
10 a first offense to 16 hours for a third or subsequent offense.

11 The bill exempts from the provisions, based upon a person
12 attaining the age of 21 under Code chapter 453A, a person who
13 has attained the age of 18 but who has not yet attained the age
14 of 21, if the person is able to establish the person's identity
15 by presenting a veteran identification card or a military
16 identification card that contains the person's signature.

17 The bill takes effect January 1, 2020.

18 The bill is not applicable to any person who is 18 years of
19 age or older before January 1, 2020, and at such time could
20 lawfully smoke, use, possess, purchase, or attempt to purchase
21 tobacco, tobacco products, alternative nicotine products, vapor
22 products, or cigarettes.