

**Senate File 66 - Introduced**

SENATE FILE 66  
BY SHIPLEY

**A BILL FOR**

1 An Act establishing the minimum age relative to various  
2 activities relating to vapor products, and making penalties  
3 applicable.

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

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

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

22 b. A person shall not sell, give, or otherwise supply any  
23 vapor products to any person under twenty-one years of age.

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

28 b. A person under twenty-one years of age shall not use,  
29 possess, purchase, or attempt to purchase any vapor products.

30 3. Possession of tobacco, tobacco products, alternative  
31 nicotine products, ~~vapor products~~, or cigarettes by an  
32 individual under eighteen years of age or possession of  
33 vapor products by an individual under twenty-one years of age  
34 does not constitute a violation under [this section](#) if the  
35 such individual under eighteen years of age possesses the

1 tobacco, tobacco products, alternative nicotine products, vapor  
2 products, or cigarettes as part of the individual's employment  
3 and the individual is employed by a person who holds a valid  
4 permit under [this chapter](#) or who lawfully offers for sale or  
5 sells cigarettes or tobacco products.

6 Sec. 3. Section 453A.2, subsection 8, paragraph a, Code  
7 2019, is amended to read as follows:

8 a. A person shall not be guilty of a violation of this  
9 section if conduct that would otherwise constitute a violation  
10 is performed to assess compliance with tobacco, tobacco  
11 products, alternative nicotine products, vapor products, or  
12 cigarette laws if any of the following applies:

13 (1) The compliance effort is conducted by or under the  
14 supervision of law enforcement officers.

15 (2) The compliance effort is conducted with the advance  
16 knowledge of law enforcement officers and reasonable measures  
17 are adopted by those conducting the effort to ensure ~~that~~ all  
18 of the following:

19 (a) That use of tobacco, tobacco products, alternative  
20 nicotine products, ~~vapor products,~~ or cigarettes by individuals  
21 under eighteen years of age does not result from participation  
22 by any individual under eighteen years of age in the compliance  
23 effort.

24 (b) That use of vapor products by individuals under  
25 twenty-one years of age does not result from participation by  
26 any individual under twenty-one years of age in the compliance  
27 effort.

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

30 1. The alcoholic beverages division of the department of  
31 commerce shall develop a tobacco compliance employee training  
32 program not to exceed two hours in length for employees and  
33 prospective employees of retailers, as defined in sections  
34 453A.1 and [453A.42](#), to inform the employees about state and  
35 federal laws and regulations regarding the sale of tobacco,

1 tobacco products, alternative nicotine products, ~~vapor~~  
2 ~~products~~, and cigarettes to persons under eighteen years of age  
3 and, the sale of vapor products to persons under twenty-one  
4 years of age, compliance with and the importance of laws  
5 regarding the sale of tobacco, tobacco products, alternative  
6 nicotine products, ~~vapor products~~, and cigarettes to persons  
7 under eighteen years of age, and the sale of vapor products to  
8 persons under twenty-one years of age.

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

11       6. a. Any sales of tobacco, tobacco products, alternative  
12 nicotine products, vapor products, or cigarettes made through a  
13 cigarette vending machine are subject to rules and penalties  
14 relative to retail sales of tobacco, tobacco products,  
15 alternative nicotine products, vapor products, and cigarettes  
16 provided for in [this chapter](#).

17       b. Cigarettes shall not be sold through any cigarette  
18 vending machine unless the cigarettes have been properly  
19 stamped or metered as provided by [this subchapter](#), and in  
20 case of violation of this provision, the permit of the dealer  
21 authorizing retail sales of cigarettes shall be revoked.

22       c. Payment of the permit fee as provided in section  
23 453A.13 authorizes a cigarette vendor to sell tobacco, tobacco  
24 products, alternative nicotine products, vapor products, and  
25 cigarettes through vending machines. ~~However,~~

26       d. Notwithstanding paragraph "c", all of the following  
27 shall apply to tobacco, tobacco products, alternative nicotine  
28 products, vapor products, and cigarettes sold through a vending  
29 machine:

30       (1) Tobacco, tobacco products, alternative nicotine  
31 products, and cigarettes shall not be sold through a vending  
32 machine unless the vending machine is located in a place where  
33 the retailer ensures that no person younger than eighteen years  
34 of age is present or permitted to enter at any time.

35       (2) Vapor products shall not be sold through a vending

1 machine unless the vending machine is located in a place where  
2 the retailer ensures that no person younger than twenty-one  
3 years of age is present or permitted to enter at any time.

4 e. Tobacco, tobacco products, alternative nicotine products,  
5 vapor products, and cigarettes shall not be sold through any  
6 cigarette vending machine if such products are placed together  
7 with any nontobacco product, other than matches, in the  
8 cigarette vending machine.

9 f. This section does not require a retail permit holder to  
10 buy a cigarette vendor's permit if the retail permit holder is  
11 in fact the owner of the cigarette vending machines and the  
12 machines are operated in the location described in the retail  
13 permit.

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

16 b. A manufacturer, distributor, wholesaler, retailer,  
17 or distributing agent or agent ~~thereof~~ of a manufacturer,  
18 distributor, wholesaler, retailer, or distributing agent shall  
19 not give away any ~~tobacco,~~ of the following:

20 (1) Tobacco, tobacco products, alternative nicotine  
21 products, ~~vapor products,~~ or cigarettes to any person under  
22 eighteen years of age, or within five hundred feet of any  
23 playground, school, high school, or other facility when such  
24 facility is being used primarily by persons under age eighteen  
25 for recreational, educational, or other purposes.

26 (2) Vapor products to any person under twenty-one years of  
27 age, or within five hundred feet of any playground, school,  
28 high school, or other facility when such facility is being used  
29 primarily by persons under age twenty-one years of age for  
30 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 years~~  
34 of the minimum applicable age as specified in paragraph "b".

35 Sec. 7. Section 453A.47B, Code 2019, is amended to read as

1 follows:

2 **453A.47B Requirements for mailing or shipping — alternative**  
3 **nicotine products or vapor products.**

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

8 1. a. Prior to sale to the purchaser, the retailer verifies  
9 by one of the methods specified in paragraph "b" that the  
10 purchaser is at the minimum applicable age, as follows:

11 (1) If the purchase is an alternative nicotine product,  
12 at least eighteen years of age through or by one of the  
13 following:

14 (2) If the purchase is a vapor product, at least twenty-one  
15 years of age.

16 b. Verification by a retailer of the minimum applicable  
17 age under paragraph "a" may be made through or by one of the  
18 following methods:

19 ~~a.~~ (1) A commercially available database, or aggregate of  
20 databases, that is regularly used by government and businesses  
21 for the purpose of age and identity verification.

22 ~~b.~~ (2) Obtaining a copy of a valid government-issued  
23 document that provides the name, address, and date of birth of  
24 the purchaser.

25 2. The retailer uses a method of mailing, shipping, or  
26 delivery that requires the signature of a person who is at  
27 ~~least eighteen years of~~ the minimum applicable age as specified  
28 in subsection 1 before the shipping package is released to the  
29 purchaser.

30 EXPLANATION

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

33 This bill relates to the minimum age relative to various  
34 activities relating to vapor products. The bill increases the  
35 minimum age relative to vapor products from 18 years of age to

1 21 years of age.

2 The bill prohibits a person from selling, giving, or  
3 otherwise supplying any vapor products to any person under  
4 21 years of age. The bill also prohibits a person under 21  
5 years of age from smoking, using, possessing, purchasing, or  
6 attempting to purchase any vapor products.

7 The bill makes conforming changes in the Code relative to  
8 use of a driver's license or nonoperator's identification card  
9 by an underage person to obtain vapor products; compliance  
10 efforts; sale of vapor products through vending machines; the  
11 giving away of samples of vapor products to persons under 21  
12 years of age and within 500 feet of certain locations; and the  
13 mailing, shipping, or other delivery of vapor products.

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