

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0342.01 Jennifer Berman x3286

SENATE BILL 14-018

SENATE SPONSORSHIP

Nicholson and Jones,

HOUSE SPONSORSHIP

Hamner and Young,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING THE PROHIBITION AGAINST FURNISHING NICOTINE
102 PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, it is illegal to furnish tobacco products to persons under 18 years of age. **Section 1** of the bill expands the prohibition to include all nicotine products. **Sections 2 to 8** of the bill make conforming amendments concerning the liquor enforcement division's enforcement of the law.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 18-13-121 as
3 follows:

4 **18-13-121. Furnishing nicotine products to minors.** (1) (a) A
5 person shall not give, sell, distribute, DISPENSE, or offer for sale A
6 NICOTINE PRODUCT to any person who is under eighteen years of age. ~~any~~
7 ~~cigarettes or tobacco products.~~

8 (b) Before GIVING, selling, DISTRIBUTING, DISPENSING, OR
9 OFFERING TO SELL to ~~any~~ AN individual any ~~cigarette or tobacco~~ NICOTINE
10 product, a person shall request from the individual and examine a
11 government-issued photographic identification that establishes that the
12 individual is eighteen years of age or older; except that, in face-to-face
13 transactions, this requirement ~~shall be~~ IS waived if the individual appears
14 older than thirty years of age.

15 (c) A person who violates paragraph (a) or (b) of this subsection
16 (1) commits a class 2 petty offense and, upon conviction thereof, shall be
17 punished by a fine of two hundred dollars.

18 (d) It ~~shall be~~ IS an affirmative defense to a prosecution under
19 paragraph (a) of this subsection (1) that the person furnishing the ~~cigarette~~
20 ~~or tobacco~~ NICOTINE product was presented with and reasonably relied
21 upon a document that identified the individual receiving the ~~cigarette or~~
22 ~~tobacco~~ NICOTINE product as being eighteen years of age or older.

23 (2) (a) ~~Any~~ A person who is under eighteen years of age and who
24 purchases or attempts to purchase any ~~cigarettes or tobacco products~~
25 NICOTINE PRODUCT commits a class 2 petty offense and, upon conviction
26 thereof, shall be punished by a fine of one hundred dollars; except that,

1 following a conviction or adjudication for a first offense under this
2 subsection (2), the court in lieu of the fine may sentence the person to
3 participate in a tobacco education program. The court may allow a person
4 convicted under this subsection (2) to perform community service and be
5 granted credit against the fine and court costs at the rate of five dollars for
6 each hour of work performed for up to fifty percent of the fine and court
7 costs.

8 (b) It ~~shall~~ IS not ~~be~~ an offense under paragraph (a) of this
9 subsection (2) if the person under eighteen years of age was acting at the
10 direction of an employee of a governmental agency authorized to enforce
11 or ensure compliance with laws relating to the prohibition of the sale of
12 ~~cigarettes and tobacco~~ NICOTINE products to minors.

13 (3) Nothing in this section ~~shall be construed to prohibit any~~
14 PROHIBITS A statutory or home-rule municipality from enacting an
15 ordinance that prohibits a person under eighteen years of age from
16 purchasing any ~~cigarettes or tobacco~~ NICOTINE products or imposes
17 requirements more stringent than provided in this section.

18 (4) (Deleted by amendment, L. 98, p. 1185, § 2, effective July 1,
19 1998.)

20 (5) (a) As used in this section, "~~tobacco~~ "NICOTINE product"
21 means:

22 (I) ~~Any~~ A product that contains nicotine ~~or tobacco or is derived~~
23 ~~from tobacco~~ and is intended to be ingested or inhaled by or applied to the
24 skin of an individual; or

25 (II) ~~Any~~ AN electronic device that can be used to deliver nicotine
26 to the person inhaling from the device, including ~~but not limited to~~ an
27 electronic cigarette, cigar, cigarillo, or pipe.

1 (b) Notwithstanding any provision of paragraph (a) of this
2 subsection (5) to the contrary, "~~tobacco~~ "NICOTINE product" does not
3 mean ~~any~~ A product that the food and drug administration of the United
4 States department of health and human services has approved as a
5 tobacco use cessation product.

6 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-35-501 as
7 follows:

8 **24-35-501. Legislative declaration.** (1) The general assembly
9 finds that:

10 (a) The use of ~~tobacco~~ NICOTINE PRODUCTS creates dangerous
11 risks to the health of the people of the state of Colorado;

12 (b) Studies have shown that most people who use ~~tobacco~~
13 NICOTINE PRODUCTS started using ~~it when they were minors~~ THEM BEFORE
14 THE AGE OF EIGHTEEN; and

15 (c) The costs of health care for persons suffering from diseases
16 caused by the use of ~~tobacco~~ NICOTINE PRODUCTS are borne by all of the
17 people of the state of Colorado.

18 (2) The general assembly also recognizes that:

19 (a) Federal regulations now require states, through designated
20 state agencies, to develop programs to reduce the use of ~~tobacco~~ NICOTINE
21 PRODUCTS by minors as demonstrated by random inspection of businesses
22 that sell ~~tobacco~~ NICOTINE PRODUCTS at retail.

23 (b) ~~As of January 1, 1998, there is no state agency specifically~~
24 ~~assigned the responsibility of enforcing the statutes of the state of~~
25 ~~Colorado prohibiting the sale of tobacco to minors or coordinating the~~
26 ~~inspection of businesses that sell tobacco;~~

27 (c) ~~The liquor enforcement division of the department of revenue~~

1 ~~has experience in enforcing laws relating to the sale of liquor to minors;~~
2 ~~and~~

3 ~~(d) The liquor enforcement division would be the most~~
4 ~~cost-effective state agency to enforce state laws relating to the sale of~~
5 ~~tobacco to minors.~~

6 **SECTION 3.** In Colorado Revised Statutes, 24-35-502, **amend**
7 **(5); repeal (6); and add (4.5)** as follows:

8 **24-35-502. Definitions.** As used in this part 5, unless the context
9 otherwise requires:

10 (4.5) "NICOTINE PRODUCT" HAS THE MEANING SET FORTH IN
11 SECTION 18-13-121, C.R.S.

12 (5) "Retailer" means a business of any kind at a specific location
13 that sells ~~cigarettes or tobacco~~ NICOTINE products to a user or consumer.

14 ~~(6) "Tobacco product" has the same meaning as provided in~~
15 ~~section 18-13-121, C.R.S.~~

16 **SECTION 4.** In Colorado Revised Statutes, 24-35-503, **amend**
17 **(1), (2) introductory portion, and (3)** as follows:

18 **24-35-503. Sale of nicotine products to minors or in vending**
19 **machines prohibited - warning sign - small quantity sales prohibited.**

20 (1) No retailer shall sell or permit the sale of ~~cigarettes or tobacco~~
21 NICOTINE products to a minor; except that it ~~shall~~ IS not be a violation if
22 the retailer establishes that the person selling the ~~cigarette or tobacco~~
23 NICOTINE product was presented with and reasonably relied upon a
24 photographic identification that identified the person purchasing the
25 ~~cigarette or tobacco~~ NICOTINE product as being eighteen years of age or
26 older.

27 (2) No retailer shall sell or offer to sell any ~~cigarettes or tobacco~~

1 NICOTINE products by use of a vending machine or other coin-operated
2 machine; except that cigarettes may be sold at retail through vending
3 machines only in:

4 (3) Any person who sells or offers to sell ~~any cigarettes or tobacco~~
5 NICOTINE products shall display a warning sign as specified in this
6 subsection (3). The warning sign ~~shall~~ MUST be displayed in a prominent
7 place in the building and on any vending or coin-operated machine at all
8 times, ~~shall~~ MUST have a minimum height of three inches and a width of
9 six inches, and ~~shall~~ MUST read as follows:

10 WARNING

11 IT IS ILLEGAL FOR ANY PERSON UNDER
12 EIGHTEEN YEARS OF AGE TO PURCHASE
13 ~~CIGARETTES AND TOBACCO~~ NICOTINE
14 PRODUCTS, AND, UPON CONVICTION, A \$100.00
15 FINE MAY BE IMPOSED.

16 **SECTION 5.** In Colorado Revised Statutes, **amend** 24-35-504 as
17 follows:

18 **24-35-504. Enforcement authority - designation of agency -**
19 **coordination - sharing of information.** (1) The division ~~shall have~~ HAS
20 the power to enforce all state statutes relating to the prohibition of the sale
21 of ~~cigarettes and tobacco~~ NICOTINE products to minors. The division is
22 designated as the lead state agency for the enforcement of state statutes
23 in compliance with federal laws relating to the prohibition of the sale of
24 ~~cigarettes and tobacco~~ NICOTINE products to minors.

25 (2) The division shall coordinate the enforcement of state laws
26 relating to the prohibition of the sale of ~~cigarettes and tobacco~~ NICOTINE
27 products to minors by multiple state agencies to avoid duplicative

1 inspections of the same retailer by multiple state agencies.

2 (3) (a) The division shall work with the department of human
3 services and the department of public health and environment to ensure
4 compliance with federal regulations for continued receipt of all federal
5 funds contingent upon compliance with laws related to the prohibition of
6 the sale of ~~cigarettes and tobacco~~ NICOTINE products to minors.

7 (b) The division shall perform at least the minimum number of
8 random inspections of businesses that sell ~~cigarettes and tobacco~~
9 NICOTINE products at retail as required by federal regulations.

10 (c) In order to pay for the inspections required by paragraph (b)
11 of this subsection (3), the division shall apply for a grant from the tobacco
12 education, prevention, and cessation program established in part 8 of
13 article 3.5 of title 25, C.R.S.

14 (4) In order to enforce laws relating to the prohibition of the sale
15 of ~~cigarettes and tobacco~~ NICOTINE products to ~~persons under eighteen~~
16 ~~years of age~~ MINORS, the department of revenue ~~is authorized to~~ MAY
17 share information on the identification and address of retailers that sell
18 ~~cigarettes and tobacco~~ NICOTINE products with any state agency
19 responsible for the enforcement of laws relating to the prohibition of the
20 sale of ~~cigarettes and tobacco~~ NICOTINE products to minors.

21 **SECTION 6.** In Colorado Revised Statutes, 24-35-505, **amend**
22 (1) and (7) as follows:

23 **24-35-505. Hearings.** (1) Subject to the limitations contained in
24 section 24-35-506, the division, on its own motion or on a complaint from
25 another governmental agency responsible for the enforcement of laws
26 relating to the prohibition of the sale of ~~cigarettes and tobacco~~ NICOTINE
27 products to minors, ~~shall have~~ HAS the power to penalize retailers for

1 violations of section 24-35-503.

2 (7) Any fines collected for violations of section 24-35-503 shall
3 be forwarded to the state treasurer, who shall credit ~~the same~~ THEM to the
4 ~~tobacco~~ NICOTINE PRODUCT use prevention fund created in section
5 24-35-507.

6 **SECTION 7.** In Colorado Revised Statutes, 24-35-506, **amend**
7 (2) as follows:

8 **24-35-506. Limitation on fines.** (2) Notwithstanding ~~the~~
9 ~~provisions of~~ subsection (1) of this section, no fine for a violation of
10 section 24-35-503 (1) shall be imposed upon a retailer that can establish
11 an affirmative defense to the satisfaction of the division or the hearing
12 officer that, prior to the date of the violation, it:

13 (a) Had adopted and enforced a written policy against selling
14 ~~cigarettes or tobacco~~ NICOTINE products to persons under ~~the age of~~
15 eighteen years OF AGE;

16 (b) Had informed its employees of the applicable laws regarding
17 the sale of ~~cigarettes and tobacco~~ NICOTINE products to persons under ~~the~~
18 ~~age of~~ eighteen years OF AGE;

19 (c) Required employees to verify the age of ~~cigarette or tobacco~~
20 NICOTINE product customers by way of photographic identification; and

21 (d) Had established and imposed disciplinary sanctions for
22 noncompliance.

23 **SECTION 8.** In Colorado Revised Statutes, **amend** 24-35-507 as
24 follows:

25 **24-35-507. Nicotine product use prevention fund - grants.**

26 (1) There is hereby created in the state treasury the ~~tobacco~~ NICOTINE
27 PRODUCT use prevention fund, referred to in this section as the "fund".

1 Moneys in the fund ~~shall be~~ ARE subject to annual appropriation by the
2 general assembly. Any interest derived from the deposit and investment
3 of moneys in the fund ~~shall be credited to~~ REMAINS IN the fund. Any
4 unexpended or unencumbered moneys remaining in the fund at the end
5 of any fiscal year ~~shall~~ remain in the fund and ~~shall~~ DO not revert or ~~be~~
6 ~~transferred~~ TRANSFER to the general fund or any other fund of the state.

7 (2) Subject to annual appropriations by the general assembly, the
8 department of human services may make grants from the fund to
9 programs designed to develop training materials for retailers related to the
10 prohibition of the sale of ~~cigarettes and tobacco~~ NICOTINE products to
11 minors or to programs designed to prevent the use of ~~cigarettes and~~
12 ~~tobacco~~ NICOTINE products by minors.

13 **SECTION 9. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.