

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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
Public Health Care & Human Services

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.

SENATE
3rd Reading Unamended
February 24, 2014

SENATE
Amended 2nd Reading
February 21, 2014

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 cigarettes, tobacco products, or nicotine**
5 **products to minors.** (1) (a) A person shall not give, sell, distribute,
6 DISPENSE, or offer for sale A CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
7 PRODUCT to any person who is under eighteen years of age. ~~any cigarettes~~
8 ~~or tobacco products.~~

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

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

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

25 (2) (a) ~~Any~~ A person who is under eighteen years of age and who
26 purchases or attempts to purchase any cigarettes, ~~or~~ tobacco PRODUCTS,

1 OR NICOTINE products commits a class 2 petty offense and, upon
2 conviction thereof, shall be punished by a fine of one hundred dollars;
3 except that, following a conviction or adjudication for a first offense
4 under this subsection (2), the court in lieu of the fine may sentence the
5 person to participate in a tobacco education program. The court may
6 allow a person convicted under this subsection (2) to perform community
7 service and be granted credit against the fine and court costs at the rate of
8 five dollars for each hour of work performed for up to fifty percent of the
9 fine and court costs.

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

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

20 (3.5) NOTHING IN THIS SECTION AFFECTS FEDERAL LAWS
21 CONCERNING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS,
22 AS THEY APPLY TO MILITARY BASES AND INDIAN RESERVATIONS WITHIN
23 THE STATE.

24 (4) (Deleted by amendment, L. 98, p. 1185, § 2, effective July 1,
25 1998.)

26 (5) (a) As used in this section, "CIGARETTE, tobacco PRODUCT, OR
27 NICOTINE product" means:

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

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

7 (b) Notwithstanding any provision of paragraph (a) of this
8 subsection (5) to the contrary, "CIGARETTE, tobacco PRODUCT, OR
9 NICOTINE product" does not mean ~~any~~ A product that the food and drug
10 administration of the United States department of health and human
11 services has approved as a tobacco use cessation product.

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

14 **24-35-501. Legislative declaration.** (1) The general assembly
15 finds that:

16 (a) The use of CIGARETTES, tobacco PRODUCTS, OR NICOTINE
17 PRODUCTS creates dangerous risks to the health of the people of the state
18 of Colorado;

19 (b) Studies have shown that most people who use CIGARETTES,
20 tobacco PRODUCTS, OR NICOTINE PRODUCTS started using ~~it when they~~
21 ~~were minors~~ THEM BEFORE THE AGE OF EIGHTEEN; and

22 (c) The costs of health care for persons suffering from diseases
23 caused by the use of CIGARETTES, tobacco PRODUCTS, OR NICOTINE
24 PRODUCTS are borne by all ~~of the~~ people of the state of Colorado.

25 (2) The general assembly also recognizes that:

26 (a) Federal regulations now require states, through designated
27 state agencies, to develop programs to reduce the use of CIGARETTES,

1 tobacco PRODUCTS, OR NICOTINE PRODUCTS by minors as demonstrated
2 by random inspection of businesses that sell CIGARETTES, tobacco
3 PRODUCTS, OR NICOTINE PRODUCTS at retail.

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

8 (c) ~~The liquor enforcement division of the department of revenue~~
9 ~~has experience in enforcing laws relating to the sale of liquor to minors;~~
10 and

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

14 **SECTION 3.** In Colorado Revised Statutes, **amend** 24-35-502 as
15 follows:

16 **24-35-502. Definitions.** As used in this part 5, unless the context
17 otherwise requires:

18 (1) "CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT" HAS
19 THE SAME MEANING AS PROVIDED IN SECTION 18-13-121, C.R.S.

20 (1) (2) "Department" means the department of revenue.

21 (2) (3) "Division" means the division of liquor enforcement within
22 the department.

23 (3) (4) "Hearing officer" means a person designated by the
24 executive director of the department to conduct hearings held pursuant to
25 section 24-35-505.

26 (4) (5) "Minor" means a person under eighteen years of age.

27 (5) (6) "Retailer" means a business of any kind at a specific

1 location that sells cigarettes, or tobacco products, OR NICOTINE PRODUCTS
2 to a user or consumer.

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

5 SECTION 4. In Colorado Revised Statutes, 24-35-503, amend
6 (1), (2) introductory portion, and (3) as follows:

7 24-35-503. Sale of cigarettes, tobacco products, or nicotine
8 products to minors or in vending machines prohibited - warning sign
9 - small quantity sales prohibited. (1) No retailer shall sell or permit the
10 sale of cigarettes, or tobacco PRODUCTS, OR NICOTINE products to a
11 minor; except that it shall IS not be a violation if the retailer establishes
12 that the person selling the cigarette, or tobacco PRODUCT, OR NICOTINE
13 product was presented with and reasonably relied upon a photographic
14 identification that identified the person purchasing the cigarette, or
15 tobacco PRODUCT, OR NICOTINE product as being eighteen years of age or
16 older.

17 (2) No retailer shall sell or offer to sell any cigarettes, or tobacco
18 PRODUCTS, OR NICOTINE products by use of a vending machine or other
19 coin-operated machine; except that cigarettes may be sold at retail
20 through vending machines only in:

21 (3) Any person who sells or offers to sell any cigarettes, or
22 tobacco PRODUCTS, OR NICOTINE products shall display a warning sign as
23 specified in this subsection (3). The warning sign shall MUST be displayed
24 in a prominent place in the building and on any vending or coin-operated
25 machine at all times, shall MUST have a minimum height of three inches
26 and a width of six inches, and shall MUST read as follows:

27 WARNING

1 IT IS ILLEGAL FOR ANY PERSON UNDER
2 EIGHTEEN YEARS OF AGE TO PURCHASE
3 CIGARETTES, ~~AND~~ TOBACCO PRODUCTS, OR
4 NICOTINE PRODUCTS, AND, UPON CONVICTION, A
5 \$100.00 FINE MAY BE IMPOSED.

6 (5) NOTHING IN THIS SECTION AFFECTS FEDERAL LAWS
7 CONCERNING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS,
8 AS THEY APPLY TO MILITARY BASES AND INDIAN RESERVATIONS WITHIN
9 THE STATE.

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

12 **24-35-504. Enforcement authority - designation of agency -**
13 **coordination - sharing of information.** (1) The division ~~shall have~~ HAS
14 the power to enforce all state statutes relating to the prohibition of the sale
15 of cigarettes, ~~and~~ tobacco PRODUCTS, OR NICOTINE products to minors.
16 The division is designated as the lead state agency for the enforcement of
17 state statutes in compliance with federal laws relating to the prohibition
18 of the sale of cigarettes, ~~and~~ tobacco PRODUCTS, OR NICOTINE products to
19 minors.

20 (2) The division shall coordinate the enforcement of state laws
21 relating to the prohibition of the sale of cigarettes, ~~and~~ tobacco
22 PRODUCTS, OR NICOTINE products to minors by multiple state agencies to
23 avoid duplicative inspections of the same retailer by multiple state
24 agencies.

25 (3) (a) The division shall work with the department of human
26 services and the department of public health and environment to ensure
27 compliance with federal regulations for continued receipt of all federal

1 funds contingent upon compliance with laws related to the prohibition of
2 the sale of cigarettes, and tobacco PRODUCTS, OR NICOTINE products to
3 minors.

4 (b) The division shall perform at least the minimum number of
5 random inspections of businesses that sell cigarettes, and tobacco
6 PRODUCTS, OR NICOTINE products at retail as required by federal
7 regulations.

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

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

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

22 **24-35-505. Hearings.** (1) Subject to the limitations contained in
23 section 24-35-506, the division, on its own motion or on a complaint from
24 another governmental agency responsible for the enforcement of laws
25 relating to the prohibition of the sale of cigarettes, and tobacco
26 PRODUCTS, OR NICOTINE products to minors, ~~shall have~~ HAS the power to
27 penalize retailers for violations of section 24-35-503.

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

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

7 **24-35-506. Limitation on fines.** (2) Notwithstanding ~~the~~
8 ~~provisions of~~ subsection (1) of this section, no fine for a violation of
9 section 24-35-503 (1) shall be imposed upon a retailer that can establish
10 an affirmative defense to the satisfaction of the division or the hearing
11 officer that, prior to the date of the violation, it:

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

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

18 (c) Required employees to verify the age of cigarette, or tobacco
19 PRODUCT, OR NICOTINE product customers by way of photographic
20 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. Cigarette, tobacco product, and nicotine product**
26 **use by minors prevention fund - grants.** (1) There is hereby created in
27 the state treasury the CIGARETTE, tobacco PRODUCT, AND NICOTINE

1 PRODUCT use BY MINORS prevention fund, referred to in this section as the
2 "fund". Moneys in the fund ~~shall be~~ ARE subject to annual appropriation
3 by the general assembly. Any interest derived from the deposit and
4 investment of moneys in the fund ~~shall be credited to~~ REMAINS IN the
5 fund. Any unexpended or unencumbered moneys remaining in the fund
6 at the end of any fiscal year ~~shall~~ remain in the fund and ~~shall~~ DO not
7 revert or ~~be transferred~~ TRANSFER to the general fund or any other fund
8 of the state.

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

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