

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 328
Committee Substitute Favorable 3/26/97

Short Title: Stop Tobacco Sales to Minors.

(Public)

Sponsors:

Referred to:

February 26, 1997

A BILL TO BE ENTITLED
AN ACT TO PROHIBIT THE SALE OR PURCHASE OF TOBACCO PRODUCTS TO
PERSONS LESS THAN EIGHTEEN YEARS OF AGE AND TO REQUIRE THAT
CERTAIN PERSONS BE TRAINED REGARDING THESE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-313(a) reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

- (1) Distribute. – To sell, furnish, give, or provide tobacco products, including tobacco product samples, or cigarette wrapping papers to the ultimate consumer.
- (2) Proof of age. – A drivers license or other ~~documentary or written evidence~~ photographic identification that includes the bearer's date of birth that purports to establish that the person is 18 years of age or older.
- (3) Sample. – A tobacco product distributed to members of the general public at no cost for the purpose of promoting the product.
- (4) Tobacco product. – Any product that contains tobacco and is intended for human consumption."

Section 2. G.S. 14-313(b) reads as rewritten:

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1 "(b) Sale or distribution to persons under the age of 18 years. – If any person shall
2 ~~knowingly~~ distribute, or ~~knowingly~~ aid, assist, or abet any other person in distributing
3 tobacco products or cigarette wrapping papers to any person under the age of 18 years, or
4 if any person shall ~~knowingly~~ purchase tobacco products or cigarette wrapping papers on
5 behalf of a person, less than 18 years, the person shall ~~be guilty of a Class 2 misdemeanor;~~
6 have committed an infraction and pay the following penalties:

7 (1) Twenty-five dollars (\$25.00) upon the first violation.

8 (2) One hundred dollars (\$100.00) upon the second violation.

9 (3) Three hundred dollars (\$300.00) upon the third and subsequent
10 violation.

11 ~~provided, however, that it~~ It shall not be unlawful to distribute tobacco products or cigarette
12 wrapping papers to an employee when required in the performance of the employee's
13 duties. Retail distributors of tobacco products shall prominently display near the point of
14 sale a sign in letters at least five-eighths of an inch high which states the following:

15 **N.C. LAW STRICTLY PROHIBITS**
16 **THE PURCHASE OF TOBACCO PRODUCTS**
17 **BY PERSONS UNDER THE AGE OF 18.**
18 **PROOF OF AGE REQUIRED.**

19 Failure to post the required sign shall be an infraction with a penalty of twenty-five
20 dollars (\$25.00) for the first violation and seventy-five dollars (\$75.00) for each
21 succeeding violation.

22 A person engaged in the sale of tobacco products shall demand proof of age from a
23 prospective purchaser if the person has reasonable grounds to believe that the prospective
24 purchaser is under 18 years of age. Failure to demand proof of age as required by this
25 subsection is ~~a Class 2 misdemeanor.~~ an infraction with a penalty of two hundred fifty
26 dollars (\$250.00). Proof that the defendant demanded, was shown, and reasonably relied
27 upon proof of age in the case of a retailer, or any other documentary or written evidence
28 of age in the case of a nonretailer, shall be a defense to any action brought under this
29 subsection. Retail distributors of tobacco products shall train their sales employees in the
30 requirements of this law."

31 Section 3. G.S. 14-313(c) reads as rewritten:

32 "(c) Purchase by persons under the age of 18 years. – If any person under the age of
33 18 years purchases or accepts receipt, or attempts to purchase or accept receipt, of
34 tobacco products or cigarette wrapping papers, ~~or presents or offers to any person any~~
35 ~~purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose~~
36 ~~of purchasing or receiving any tobacco product,~~ the person shall be guilty of have committed
37 an infraction as provided in G.S. 14-3-1. and pay the following penalties:

38 (1) Twenty-five dollars (\$25.00) upon the first violation.

39 (2) One hundred dollars (\$100.00) upon the second violation.

40 (3) Three hundred dollars (\$300.00) upon the third and subsequent
41 violation.

42 If any person presents or offers to any person any purported proof of age which is false,
43 fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any

1 tobacco products or cigarette wrapping papers, the person shall have committed an
2 infraction and pay a penalty of two hundred fifty dollars (\$250.00)."

3 Section 4. G.S. 14-313(d) reads as rewritten:

4 "(d) Send or assist person less than 18 years to purchase or receive tobacco product.
5 – If any person shall ~~knowingly~~ send or assist a person less than 18 years of age to
6 purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or
7 cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided,
8 however, persons under the age of 18 may be enlisted by police or local sheriffs'
9 departments to test compliance if the testing is under the direct supervision of that law
10 enforcement department and written parental consent is provided; provided further, that
11 the Department of Human Resources shall have the authority, pursuant to a written plan
12 prepared by the Secretary of Human Resources, to use persons under 18 years of age in
13 annual, random, unannounced inspections, provided that prior written parental consent is
14 given for the involvement of these persons and that the inspections are conducted for the
15 sole purpose of preparing a scientifically and methodologically valid statistical study of
16 the extent of success the State has achieved in reducing the availability of tobacco
17 products to persons under the age of 18, and preparing any report to the extent required
18 by section 1926 of the federal Public Health Service Act (42 USC § 300x-26)."

19 Section 5. G.S. 14-313 is amended by adding a new subsection to read:

20 "(b1) Vending machines. – Tobacco products shall not be distributed in vending
21 machines; provided, however, vending machines distributing tobacco products are
22 permitted (i) in any establishment which is open only to persons 18 years of age and
23 older; or (ii) in any establishment if the vending machine is under the continuous control
24 of the owner or licensee of the premises or an employee thereof and can be operated only
25 upon activation by the owner, licensee or employee prior to each purchase and the
26 vending machine is not accessible to the public when the establishment is closed. The
27 owner, licensee or employee shall demand proof of age from a prospective purchaser if
28 the person has reasonable grounds to believe that the prospective purchaser is under 18
29 years of age. Failure to demand proof of age as required by this subsection is an
30 infraction with a penalty of two hundred fifty dollars (\$250.00). Proof that the defendant
31 demanded, was shown, and reasonably relied upon proof of age shall be a defense to any
32 action brought under this subsection. Vending machines distributing tobacco products in
33 establishments not meeting the above conditions shall be removed by July 31, 1997. Any
34 person distributing tobacco products through vending machines in violation of this
35 subsection shall have committed an infraction and pay the following penalties:

36 (1) Twenty-five dollars (\$25.00) upon the first violation.

37 (2) One hundred dollars (\$100.00) upon the second violation.

38 (3) Three hundred dollars (\$300.00) upon the third and subsequent
39 violation."

40 Section 6. G.S. 14-313 is amended by adding a new subsection to read:

41 "(b2) Out-of-package sales. – If any person engaged in the sale of cigarettes shall sell
42 cigarettes other than in unopened packages originating with the manufacturer, the person
43 shall be guilty of a Class 2 misdemeanor."

1 Section 7. This act becomes effective August 1, 1997, and applies to violations
2 committed on or after that date.