

1 State of Arkansas
2 92nd General Assembly
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4

A Bill

HOUSE BILL 1519

5 By: Representatives L. Johnson, F. Allen, Bentley, Breaux, Cloud, Coleman, Cozart, Evans, Hillman,
6 Kelly, Love, Magie, Richardson, S. Smith
7 By: Senators Irvin, Bledsoe, J. English, K. Hammer
8

For An Act To Be Entitled

9
10 AN ACT TO PROHIBIT THE SALE OF TOBACCO PRODUCTS,
11 VAPOR PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, E-
12 LIQUID PRODUCTS, AND CIGARETTE PAPERS TO A PERSON
13 UNDER TWENTY-ONE (21) YEARS OF AGE; AND FOR OTHER
14 PURPOSES.
15

Subtitle

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17
18 TO PROHIBIT THE SALE OF TOBACCO PRODUCTS,
19 VAPOR PRODUCTS, ALTERNATIVE NICOTINE
20 PRODUCTS, E-LIQUID PRODUCTS, AND
21 CIGARETTE PAPERS TO A PERSON UNDER
22 TWENTY-ONE (21) YEARS OF AGE.
23

24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 5-27-227(b)(1)(B), concerning the
28 prohibition of minors purchasing, using, or possessing tobacco products,
29 vapor products, alternative nicotine products, e-liquid products, and
30 cigarette papers, is amended to read as follows:

31 (B) For the purpose of obtaining or attempting to obtain
32 tobacco in any form, a vapor product, alternative nicotine product, e-liquid
33 product, any component of a vapor product, alternative nicotine product, or
34 e-liquid product, or cigarette papers, falsely represent himself or herself
35 to be ~~eighteen (18)~~ twenty-one (21) years of age or older by displaying proof
36 of age that is false, fraudulent, or not actually proof of the minor's age.



1
2 SECTION 2. Arkansas Code § 5-27-227, concerning the prohibition of
3 minors purchasing, using, or possessing tobacco products, vapor products,
4 alternative nicotine products, e-liquid products, and cigarette papers, is
5 amended to add an additional subsection to read as follows:

6 (m)(1) As used in this section, "minor" means a person who is under
7 twenty-one (21) years of age.

8 (2) "Minor" does not include a person who is under twenty-one
9 (21) years of age if the person presents a military identification card
10 establishing that he or she is a member of the United States Armed Forces.

11
12 SECTION 3. Arkansas Code § 5-78-102 is amended to read as follows:

13 5-78-102. Possession of cigarette or tobacco product, vapor product,
14 alternative nicotine product, or e-liquid product by minor – Confiscation –
15 Additional punishment – Definition.

16 (a)(1) As used in this section, "minor" means a person who is under
17 twenty-one (21) years of age.

18 (2) "Minor" does not include a person who is under twenty-one
19 (21) years of age if the person presents a military identification card
20 establishing that he or she is a member of the United States Armed Forces.

21 (b) A cigarette or tobacco product, vapor product, alternative
22 nicotine product, or e-liquid product, or a component of a vapor product,
23 alternative nicotine product, or e-liquid product found in the possession of
24 a ~~person under eighteen (18) years of age~~ minor may be confiscated by a
25 certified law enforcement officer or a school official and immediately
26 destroyed.

27 ~~(b)(c)~~ (c) If a minor who is found by a court to be in violation of any
28 criminal statute is also found to have been in possession of a cigarette or
29 tobacco product, vapor product, alternative nicotine product, or e-liquid
30 product, or a component of a vapor product, alternative nicotine product, or
31 e-liquid product at the time of the violation of the criminal statute, the
32 court may order the minor to perform up to three (3) hours of community
33 service and to enroll in a tobacco education program, in addition to any
34 other punishment imposed by the court for the violation of the criminal
35 statute.

36 ~~(e)(1)~~ (d)(1) Any additional punishment ordered by the court under

1 subsection ~~(b)~~ (c) of this section is not a criminal offense and shall not be
2 recorded as a criminal offense in the records of this state.

3 (2) All records of a proceeding under this section shall be
4 permanently expunged from any record created or maintained by any agency,
5 department, county, or municipality.

6
7 SECTION 4. Arkansas Code § 26-57-256(f)-(h), concerning the powers of
8 the Arkansas Tobacco Control Board, are amended to read as follows:

9 (f) The board may consider the following factors when reviewing a
10 possible violation:

11 (1) The business has adopted and enforced a written policy
12 against selling cigarettes, tobacco products, vapor products, alternative
13 nicotine products, or e-liquid products to ~~persons less than eighteen (18)~~
14 ~~years of age~~ minors;

15 (2) The business has informed its employees of the applicable
16 laws regarding the sale of cigarettes, tobacco products, vapor products,
17 alternative nicotine products, or e-liquid products to ~~persons less than~~
18 ~~eighteen (18) years of age~~ minors;

19 (3) The business required employees to verify the age of
20 cigarette, tobacco product, vapor product, alternative nicotine product, e-
21 liquid product, or e-liquid customers by way of photographic identification;

22 (4) The business has established and imposed disciplinary
23 sanctions for noncompliance; and

24 (5) The appearance of the purchaser of the tobacco in any form,
25 vapor products, alternative nicotine product, or cigarette papers was such
26 that an ordinary prudent person would believe him or her to be of legal age
27 to make the purchase.

28 (g)(1) A penalty under subsection (d) of this section for a violation
29 of § 5-27-227 shall not be imposed upon a retailer or agent or employee of a
30 retailer who can establish an affirmative defense that before the date of the
31 violation the retailer or agent or employee of the retailer furnishing the
32 tobacco in any form, vapor products, alternative nicotine products, e-liquid
33 products, or cigarette papers reasonably relied upon proof of age that
34 identified the person receiving the tobacco in any form, vapor products,
35 alternative nicotine products, e-liquid products, or cigarette papers as
36 ~~being eighteen (18) years of age or older~~ not being a minor.

1 (2) As used in this section, "proof of age" means any document
 2 issued by a governmental agency containing a description of the person or the
 3 person's photograph, or both, and giving the person's date of birth and
 4 includes without limitation a passport, military identification card, or
 5 driver's license.

6 (h) Any cigarettes, tobacco products, vapor products, alternative
 7 nicotine products, or e-liquid products found in the possession of a ~~person~~
 8 ~~less than eighteen (18) years of age~~ minor may be confiscated.

9
 10 SECTION 5. Arkansas Code § 26-57-256, concerning the powers of the
 11 Arkansas Tobacco Control Board, is amended to add an additional subsection to
 12 read as follows:

13 (1)(1) As used in this section, "minor" means a person who is under
 14 twenty-one (21) years of age.

15 (2) "Minor" does not include a person who is under twenty-one
 16 (21) years of age if the person presents a military identification card
 17 establishing that he or she is a member of the United States Armed Forces.

18
 19 SECTION 6. Arkansas Code § 26-57-259(c), concerning nonpreemption of
 20 the Arkansas Tobacco Control Board, is amended to read as follows:

21 (c) Nothing in this act nor any rule of the board shall be construed
 22 or interpreted so as to require any state, county, municipal, or other local
 23 authority to exhaust any administrative remedies through the board, including
 24 without limitation the right to seize and forward to the board the state
 25 license of any vendor or retailer found to have illegally sold tobacco
 26 products, vapor products, alternative nicotine products, or e-liquid products
 27 to a ~~person less than eighteen (18) years of age~~ minor as defined in § 26-57-
 28 256, provided that the vendor or retailer shall be given a hearing before the
 29 board at the board's next regularly scheduled meeting.