

ASSEMBLY, No. 1547

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Assemblywomen **TURNER, BUONO** and Assemblyman
Barnes

1 **AN ACT** concerning the use, possession and purchase of tobacco
2 products by persons under the age of 18, supplementing P.L.1978,
3 c.95 (C.2C:33-13) and amending N.J.S.2A:170-51.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. (New Section) a. Any person under the age of 18 who smokes
9 or carries lighted tobacco in any public place shall be fined \$100 for
10 the first offense, \$250 for the second offense, and \$500 for the third
11 and each subsequent offense.

12 b. When a person under the age of 18 is convicted of a third
13 offense, the court shall also suspend or postpone the driving privilege
14 of the defendant for one year. Upon the conviction of any person for
15 their third offense under this section, the court shall forward a report
16 to the Division of Motor Vehicles stating the first and last day of the
17 suspension or postponement period imposed by the court pursuant to
18 this section. If a person at the time of the imposition of a sentence is
19 less than 17 years of age, the period of license postponement,
20 including a suspension or postponement of the privilege of operating
21 a motorized bicycle, shall commence on the day the sentence is
22 imposed and shall run for a period of one year after the person reaches
23 the age of 17 years.

24 If a person at the time of the imposition of a sentence has a valid
25 driver's license issued by this State, the court shall immediately collect
26 the license and forward it to the division along with the report. If for
27 any reason the license cannot be collected, the court shall include in
28 the report the complete name, address, date of birth, eye color, and
29 sex of the person as well as the first and last date of the license
30 suspension period imposed by the court.

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32 2. N.J.S.2A:170-51 is amended to read as follows:

33 2A:170-51. a. Any person who directly or indirectly, acting as

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 agent or otherwise, distributes for commercial purposes at no cost or
2 at minimal cost or with coupons or rebate offers or sells, gives or
3 furnishes to a minor under the age of 18 years, any cigarettes made of
4 tobacco or of any other matter or substance which can be smoked, or
5 any cigarette paper or tobacco in any form, including smokeless
6 tobacco, either from a vending machine or by retail counter sales, is
7 liable to a civil penalty of \$250 for the first violation, \$500 for the
8 second violation and \$1,000 for the third and each subsequent
9 violation. In addition, upon the recommendation of the municipality,
10 following a hearing by the municipality, the Division of Taxation may
11 suspend or, after a second or subsequent violation, revoke the license
12 issued under section 202 of P.L.1948, c.65 (C.54:40A-4) of a retail
13 dealer. The licensee shall be subject to administrative charges based
14 on a schedule issued by the Director of the Division of Taxation which
15 may provide for a fine in lieu of the suspension.

16 b. The establishment of all of the following shall constitute a
17 defense to any prosecution brought pursuant to subsection a. of this
18 section:

19 (1) that the purchaser of the tobacco product or person receiving
20 a promotional sample falsely represented, by producing either a
21 driver's license or non-driver identification card issued by the Division
22 of Motor Vehicles, a similar card issued pursuant to the laws of
23 another state or the federal government or Canada, or a photographic
24 identification card issued by a county clerk, that he was of legal age to
25 make the purchase or receive the sample;

26 (2) that the appearance of the purchaser of the tobacco product or
27 person receiving a promotional sample was such that an ordinary
28 prudent person would believe him to be of legal age to make the
29 purchase or receive the sample; and

30 (3) that the sale or distribution was made in good faith, relying
31 upon the production of the identification in paragraph (1), the minor's
32 appearance, and in the reasonable belief that the purchaser or recipient
33 was actually of legal age to make the purchase or receive the sample.

34 c. Any person under the age of 18 years who purchases, attempts
35 to purchase, or misrepresents his age for the purpose of purchasing a
36 tobacco product shall be punished by a fine of not more than \$100.

37 (cf: P.L.1995, c.304, s.1)

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39 3. This act shall take effect immediately.

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STATEMENT

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44 According to a recent survey by the State Department of Health,
45 one-third of New Jersey high school students smoke at least
46 occasionally. Moreover, the American Cancer Society has found that

1 90 percent of all smokers begin to smoke before they turn 18 years
2 old. Thus, preventing young people from starting to use tobacco is the
3 key to reducing the death and disease caused by tobacco use. This bill
4 is intended to help prevent smoking among minors by prohibiting the
5 possession and purchase of tobacco products by persons under the age
6 of 18. Nineteen states have passed such laws that penalize minors for
7 the purchase, use or possession of tobacco products.

8 This bill prohibits the use or possession of tobacco products by
9 persons under the age of 18. A violator would be fined \$100 for the
10 first offense, \$250 for the second offense, and \$500 for the third or
11 subsequent offense. In addition, a third or subsequent offender would
12 have his driver's license suspended or postponed for one year.

13 This bill also makes it unlawful for a person less than 18 years of
14 age to purchase, attempt to purchase, or misrepresent his age for the
15 purpose of purchasing tobacco products. A fine of not more than
16 \$100 would be imposed for this violation.

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21 Prohibits persons under 18 from smoking in public and purchasing
22 tobacco products.