

ASSEMBLY, No. 1896

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1996

By Assemblywoman BUONO, Assemblyman BARNES and  
Assemblywoman Weinberg

1 AN ACT concerning the use, possession and purchase of tobacco products  
2 by persons under the age of 18, supplementing chapter 170 of Title  
3 2A of the New Jersey Statutes 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 of  
6 New Jersey:

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8 1. (New Section) a. Any person under the age of 18 who smokes or  
9 carries lighted tobacco in any public place shall be fined \$100 for the first  
10 offense, \$250 for the second offense, and \$500 for the third and each  
11 subsequent offense, or may be ordered to perform community service as  
12 provided in subsection c. of this section.

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

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

32 c. In lieu of the fine provided in subsection a. of this section, the court  
33 may order a person under the age of 18 who smokes or carries lighted  
34 tobacco in any public place to perform community service for a period of  
35 20 hours for the first violation and 30 hours for the second and each  
36 subsequent violation. The community service shall be of such form and

1 on such terms as the court deems appropriate for the circumstances.

2 d. A penalty recovered under the provisions of this section shall be  
3 recovered by and in the name of the local board of health. The penalty  
4 shall be paid into the treasury of the municipality where the violation  
5 occurred, but shall be appropriated to the local board of health for use by  
6 the local health agency. However, a portion of the penalty recovered, in  
7 amounts of \$25 for the first offense, \$50 for the second offense, and \$100  
8 for the third and subsequent offense, shall be used by the local board of  
9 health for the purpose of educating minors on the dangers of smoking.

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

12 2A:170-51. a. Any person who directly or indirectly, acting as agent  
13 or otherwise, distributes for commercial purposes at no cost or at minimal  
14 cost or with coupons or rebate offers or sells, gives or furnishes to a  
15 minor under the age of 18 years, any cigarettes made of tobacco or of any  
16 other matter or substance which can be smoked, or any cigarette paper or  
17 tobacco in any form, including smokeless tobacco, either from a vending  
18 machine or by retail counter sales, is liable to a civil penalty of \$250 for  
19 the first violation, \$500 for the second violation and \$1,000 for the third  
20 and each subsequent violation. In addition, upon the recommendation of  
21 the municipality, following a hearing by the municipality, the Division of  
22 Taxation may suspend or, after a second or subsequent violation, revoke  
23 the license issued under section 202 of P.L.1948, c.65 (C.54:40A-4) of a  
24 retail dealer. The licensee shall be subject to administrative charges based  
25 on a schedule issued by the Director of the Division of Taxation which  
26 may provide for a fine in lieu of the suspension.

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

29 (1) that the purchaser of the tobacco product or person receiving a  
30 promotional sample falsely represented, by producing either a driver's  
31 license or non-driver identification card issued by the Division of Motor  
32 Vehicles, a similar card issued pursuant to the laws of another state or the  
33 federal government or Canada, or a photographic identification card  
34 issued by a county clerk, that he was of legal age to make the purchase or  
35 receive the sample;

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

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

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

1 be ordered by the court to perform community service for a period of 20  
2 hours. The community service shall be of such form and on such terms as  
3 the court deems appropriate for the circumstances.

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

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6 3. This act shall take effect immediately.

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9 STATEMENT

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11 According to a recent survey by the State Department of Health, one-  
12 third of New Jersey high school students smoke at least occasionally.  
13 Moreover, the American Cancer Society has found that 90 percent of all  
14 smokers begin to smoke before they turn 18 years old. Thus, preventing  
15 young people from starting to use tobacco is the key to reducing the death  
16 and disease caused by tobacco use. This bill is intended to help prevent  
17 smoking among minors by prohibiting the possession and purchase of  
18 tobacco products by persons under the age of 18. Nineteen states have  
19 passed such laws that penalize minors for the purchase, use or possession  
20 of tobacco products.

21 This bill prohibits the use or possession of tobacco products in a  
22 public place by persons under the age of 18. A violator would be fined  
23 \$100 for the first offense, \$250 for the second offense, and \$500 for the  
24 third or subsequent offense, or be ordered to perform community service.  
25 In addition, a third or subsequent offender would have his driver's license  
26 suspended or postponed for one year.

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

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35 Prohibits persons under 18 from smoking in public and purchasing  
36 tobacco products.