

SENATE, No. 1231

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1996

By Senator SINAGRA

1 AN ACT concerning the sale and distribution of tobacco products to
2 persons under the age of 18 and amending N.J.S.2A:170-51.

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

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

8 2A:170-51. a. Any person who directly or indirectly, acting as
9 agent or otherwise, distributes for commercial purposes at no cost or
10 at minimal cost or with coupons or rebate offers or sells, gives or
11 furnishes to a minor under the age of 18 years, any cigarettes made of
12 tobacco or of any other matter or substance which can be smoked, or
13 any cigarette paper or tobacco in any form, including smokeless
14 tobacco, either from a vending machine or by retail counter sales, is
15 liable to a civil penalty of \$250 for the first violation, \$500 for the
16 second violation and \$1,000 for the third and each subsequent
17 violation. In addition, upon the recommendation of the municipality,
18 following a hearing by the municipality, the Division of Taxation may
19 suspend or, after a second or subsequent violation, revoke the license
20 issued under section 202 of P.L.1948, c.65 (C.54:40A-4) of a retail
21 dealer. The licensee shall be subject to administrative charges based
22 on a schedule issued by the Director of the Division of Taxation which
23 may provide for a fine in lieu of the suspension.

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

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

34 (2) that the appearance of the purchaser of the tobacco product or

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

Matter underlined thus is new matter.

1 person receiving a promotional sample was such that an ordinary
2 prudent person would believe him to be 21 years of age or older and,
3 therefore, of legal age to make the purchase or receive the sample; and

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

8 c. A person who distributes, sells, gives or furnishes any tobacco
9 product to a person who appears to be under 21 years of age, shall
10 require that the recipient or purchaser produce a photograph
11 identification card which provides proof that the recipient or
12 purchaser is of legal age to make the purchase or receive the sample.

13 d. Notwithstanding the provisions of this section to the contrary,
14 a person may distribute a sample of a tobacco product only in a
15 location where persons under the age of 18 are not permitted access.
16 (cf: P.L.1995, c.304, s.1).

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18 2. Section 2 of P.L.1987, c.423 (C.54:40A-4.1) is amended to read
19 as follows:

20 2. a. Notwithstanding any other provision of law to the contrary,
21 a person to whom a license is issued pursuant to P.L.1948, c.65
22 (C.54:40A-1 et seq.) shall as a condition of the license conspicuously
23 post a legible sign at the point of display of the tobacco products and
24 at the point of sale. The sign, which also shall be posted
25 conspicuously on any licensed cigarette vending machine, shall be at
26 least six inches by three inches in bold letters at least one-quarter inch
27 high and shall read as follows:

28 "A person who sells or offers to sell a tobacco product to a person
29 under 18 years of age shall pay a penalty of up to \$1,000 and may be
30 subject to a license suspension or revocation.

31 [Proof] Photograph proof of age may be required for purchase."

32 b. A person to whom a retail dealer license is issued pursuant to
33 P.L.1948, c.65 (C.54:40A-1 et seq.) shall certify on the application
34 form, in the case of a new license, and on the annual license renewal
35 form, in the case of a renewal of a license, issued by the Division of
36 Taxation in the Department of the Treasury, that the licensee and any
37 employees of the licensee who engage in the retail sale of tobacco
38 products understand the requirements of N.J.S.2A:170-51 regarding
39 the minimum age for sale of tobacco products and the need for persons
40 who appear to be under 21 years of age to produce a photograph
41 identification, and that the licensee and any employees of the licensee
42 will comply with the requirements of that law.

43 (cf: P.L.1995, c.304, s.2)

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45 3. This act shall take effect 30 days after enactment.

STATEMENT

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3 This bill requires a person who appears to be under the age of 21
4 to show a photograph identification which provides proof that the
5 person is of legal age (at least 18 years of age), in order to purchase
6 or receive tobacco products. The bill also provides that samples of
7 tobacco products may only be distributed in locations in which persons
8 under 18 years of age are denied access.

9 The bill also requires a retail dealer of tobacco products to certify
10 on the license application form and on the annual license renewal form
11 issued by the Division of Taxation in the Department of the Treasury,
12 that the retailer and any of his employees who engage in the retail sale
13 of tobacco products understand the requirements of N.J.S.2A:170-51
14 regarding the minimum age for sale of tobacco products and the need
15 for persons who appear to be under 21 years of age to produce a
16 photograph identification, and that the retailer and his employees will
17 comply with the requirements of that law.

18 The requirement to show a photograph identification card, the
19 restriction on the distribution of tobacco product samples and the
20 requirement that retailers certify their knowledge of and compliance
21 with the tobacco age of sale law are for the purpose of preventing
22 minors from having access to and using tobacco products. These
23 provisions are consistent with recent proposals made by Philip Morris
24 USA for curbing use of tobacco products by minors.

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29 Requires persons under 21 to show photograph identification to
30 purchase or obtain tobacco products and requires retail dealers to
31 certify knowledge of age of sale law.