

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 143  
Judiciary Committee Substitute Adopted 3/10/97  
Third Edition Engrossed 3/12/97  
House Committee Substitute Favorable 6/26/97

Short Title: Stop Tobacco Sales to Minors.

(Public)

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Sponsors:

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Referred to:

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February 17, 1997

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

5 The General Assembly of North Carolina enacts:

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

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

8 (1) Distribute. – To sell, furnish, give, or provide tobacco products,  
9 including tobacco product samples, or cigarette wrapping papers to the  
10 ultimate consumer.

11 (2) Proof of age. – A drivers license or other ~~documentary or written evidence~~  
12 photographic identification that includes the bearer's date of birth that  
13 purports to establish that the person is 18 years of age or older.

14 (3) Sample. – A tobacco product distributed to members of the general  
15 public at no cost for the purpose of promoting the product.

16 (4) Tobacco product. – Any product that contains tobacco and is intended  
17 for human consumption."

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

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

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

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

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

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

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

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

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

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

33 "(c) Purchase by persons under the age of 18 years. – If any person under the age of  
34 18 years purchases or accepts receipt, or attempts to purchase or accept receipt, of  
35 tobacco products or cigarette wrapping papers, ~~or presents or offers to any person any~~  
36 ~~purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose~~  
37 ~~of purchasing or receiving any tobacco product,~~ the person shall be guilty of have committed  
38 an infraction as provided in G.S. 14-3.1. and pay the following penalties:

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

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

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

1 If any person presents or offers to any person any purported proof of age which is false,  
2 fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any  
3 tobacco products or cigarette wrapping papers, the person shall have committed an  
4 infraction and pay a penalty of two hundred fifty dollars (\$250.00)."

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

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

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

22 "(b1) Vending machines. – Tobacco products shall not be distributed in vending  
23 machines; provided, however, vending machines distributing tobacco products are  
24 permitted (i) in any establishment which is open only to persons 18 years of age and  
25 older; or (ii) in any establishment if the vending machine is under the continuous control  
26 of the owner or licensee of the premises or an employee thereof and can be operated only  
27 upon activation by the owner, licensee or employee prior to each purchase, and the  
28 vending machine is not accessible to the public when the establishment is closed. The  
29 owner, licensee or employee shall demand proof of age from a prospective purchaser if  
30 the person has reasonable grounds to believe that the prospective purchaser is under 18  
31 years of age. Failure to demand proof of age as required by this subsection is an  
32 infraction with a penalty of two hundred fifty dollars (\$250.00). Proof that the defendant  
33 demanded, was shown, and reasonably relied upon proof of age shall be a defense to any  
34 action brought under this subsection. Vending machines distributing tobacco products in  
35 establishments not meeting the above conditions shall be removed by July 31, 1997. Any  
36 person distributing tobacco products through vending machines in violation of this  
37 subsection shall have committed an infraction 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 Section 6. G.S. 14-313 is amended by adding a new subsection to read:

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

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