

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 440

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO TOBACCO PRODUCTS AND ELECTRONIC SMOKING DEVICES; AMENDING SECTION 39-5705, IDAHO CODE, TO PROVIDE PENALTIES; AMENDING SECTION 39-5711, IDAHO CODE, TO REVISE A PROVISION REGARDING THE REMITTANCE OF FINES AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-5705, Idaho Code, be, and the same is hereby amended to read as follows:

39-5705. SALE OR DISTRIBUTION OF TOBACCO PRODUCTS OR ELECTRONIC SMOKING DEVICES TO A MINOR. (1) It shall be unlawful to sell, distribute, or offer tobacco products or electronic smoking devices to a minor.

(2) It shall be an affirmative defense that the seller of a tobacco product or an electronic smoking device to a minor in violation of this section had requested, examined, and reasonably relied upon a photographic identification from such person establishing that the person is at least twenty-one (21) years of age prior to selling such person a tobacco product or an electronic smoking device. The failure of a seller to request and examine photographic identification from a person under twenty-one (21) years of age prior to the sale of a tobacco product or an electronic smoking device to such person shall be construed against the seller and form a conclusive basis for the seller's violation of this section.

(3) A person who violates the provisions of subsection (1) of this section shall be guilty of a misdemeanor and upon conviction may be punished by a fine of no less than five hundred dollars (\$500) and no more than one thousand dollars (\$1,000) per violation, or by imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment. A second or subsequent violation of this section by the same defendant shall constitute a misdemeanor, and upon conviction the defendant shall be punished by a fine of no less than one thousand dollars (\$1,000) and no more than two thousand dollars (\$2,000) per violation, or imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment. Notwithstanding the provisions of section 19-4705, Idaho Code, moneys received pursuant to such fines shall be deposited in the prevention of minors' access to tobacco products or electronic smoking devices fund, as created in section 39-5711, Idaho Code.

SECTION 2. That Section 39-5711, Idaho Code, be, and the same is hereby amended to read as follows:

39-5711. FUNDING AND CREATION OF PREVENTION OF MINORS' ACCESS TO TOBACCO PRODUCTS OR ELECTRONIC SMOKING DEVICES FUND. There is hereby created

1 the prevention of minors' access to tobacco products or electronic smoking
2 devices fund in the state treasury. Moneys in the fund shall be used to fund
3 the administration, inspections and enforcement of this chapter. Moneys in
4 the fund may be expended only pursuant to appropriation. The fund shall con-
5 sist of:

6 (1) The current federal funds that are available for inspections or for
7 the prevention of minors' access to tobacco products or electronic smoking
8 devices, which shall be utilized by the department;

9 (2) The fines from the ~~civil~~ penalties pursuant to sections 39-5705 and
10 39-5708, Idaho Code; and

11 (3) Moneys from any other source.

12 SECTION 3. An emergency existing therefor, which emergency is hereby
13 declared to exist, this act shall be in full force and effect on and after
14 July 1, 2024.