

HOUSE BILL No. 1557

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3-18.5-12; IC 7.1-6-2-3; IC 35-46-1-10.

Synopsis: Tobacco offenses. Raises the penalty from a Class C infraction to a Class B infraction if a person sells cigarettes other than in an unopened package. Raises the penalty from a Class C infraction to a Class B infraction if a person sells or distributes tobacco or an electronic cigarette to a person less than 18 years of age. Requires the alcohol and tobacco commission to revoke a tobacco sales certificate if a certificate holder has three violations of certain tobacco offenses.

Effective: July 1, 2019.

Smith V

January 17, 2019, read first time and referred to Committee on Public Policy.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1557

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-3-18.5-12 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 12. The commission shall revoke**
4 **a certificate holder's certificate if the certificate holder is found to**
5 **have committed three (3) infractions under:**

6 (1) **IC 7.1-6-2-3;**

7 (2) **IC 35-46-1-10; or**

8 (3) **a combination of both IC 7.1-6-2-3 and IC 35-46-1-10.**

9 SECTION 2. IC 7.1-6-2-3 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) It is unlawful for
11 a person to sell cigarettes other than in an unopened package
12 originating with the manufacturer that bears the health warning
13 required by federal law.

14 (b) A person who violates this section commits a ~~Class C~~ **Class B**
15 **infraction.**

16 (c) **Upon the determination of a violation of this section, the**
17 **court shall notify the alcohol and tobacco commission that the**



1 **person violated this section and holds a tobacco sales certificate.**

2 SECTION 3. IC 35-46-1-10, AS AMENDED BY P.L.20-2013,
3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2019]: Sec. 10. (a) A person who knowingly:

5 (1) sells or distributes tobacco or an electronic cigarette to a
6 person less than eighteen (18) years of age; or

7 (2) purchases tobacco or an electronic cigarette for delivery to
8 another person who is less than eighteen (18) years of age;

9 commits a ~~Class C~~ **Class B** infraction. For a sale to take place under
10 this section, the buyer must pay the seller for the tobacco product or the
11 electronic cigarette.

12 (b) It is not a defense that the person to whom the tobacco or
13 electronic cigarette was sold or distributed did not smoke, chew, inhale,
14 or otherwise consume the tobacco or the electronic cigarette.

15 (c) The following defenses are available to a person accused of
16 selling or distributing tobacco or an electronic cigarette to a person
17 who is less than eighteen (18) years of age:

18 (1) The buyer or recipient produced a driver's license bearing the
19 purchaser's or recipient's photograph, showing that the purchaser
20 or recipient was of legal age to make the purchase.

21 (2) The buyer or recipient produced a photographic identification
22 card issued under IC 9-24-16-1, or a similar card issued under the
23 laws of another state or the federal government, showing that the
24 purchaser or recipient was of legal age to make the purchase.

25 (3) The appearance of the purchaser or recipient was such that an
26 ordinary prudent person would believe that the purchaser or
27 recipient was not less than the age that complies with regulations
28 promulgated by the federal Food and Drug Administration.

29 (d) It is a defense that the accused person sold or delivered the
30 tobacco or electronic cigarette to a person who acted in the ordinary
31 course of employment or a business concerning tobacco or electronic
32 cigarettes:

33 (1) agriculture;

34 (2) processing;

35 (3) transporting;

36 (4) wholesaling; or

37 (5) retailing.

38 (e) As used in this section, "distribute" means to give tobacco or an
39 electronic cigarette to another person as a means of promoting,
40 advertising, or marketing the tobacco or electronic cigarette to the
41 general public.

42 (f) Unless the person buys or receives tobacco or an electronic



1 cigarette under the direction of a law enforcement officer as part of an
2 enforcement action, a person who sells or distributes tobacco or an
3 electronic cigarette is not liable for a violation of this section unless the
4 person less than eighteen (18) years of age who bought or received the
5 tobacco or electronic cigarette is issued a citation or summons under
6 section 10.5 of this chapter.

7 (g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
8 this section must be deposited in the Richard D. Doyle youth tobacco
9 education and enforcement fund (IC 7.1-6-2-6).

10 **(h) Upon the determination of a violation of this section, the**
11 **court shall notify the alcohol and tobacco commission that the**
12 **person violated this section and holds a tobacco sales certificate.**

