



January 17, 2020

SENATE BILL No. 1

DIGEST OF SB 1 (Updated January 15, 2020 1:04 pm - DI 107)

Citations Affected: IC 7.1-1; IC 7.1-3; IC 7.1-5; IC 7.1-6; IC 7.1-7; IC 24-3; IC 35-31.5; IC 35-43; IC 35-46.

Synopsis: Tobacco and vaping smoking age. Prohibits a person who is less than 21 years of age from buying or possessing: (1) tobacco; (2) e-liquids; or (3) electronic cigarettes. Makes conforming changes regarding enforcement provisions, sales certificates, prohibition of delivery sales, and notices posted at retail establishments and at vending machines. Provides that a retail establishment that sells an e-liquid to a person less than 21 years of age is subject to a civil judgment for an infraction. Triples the civil judgment for an infraction for: (1) a retail establishment that sells or distributes tobacco, an e-liquid, or an electronic cigarette to a person less than 21 years of age; and (2) certain retail establishments that allow an underage person to enter their establishment. Requires a merchant who mails or ships cigarettes as part of a delivery sale to use a shipping service that requires a customer to present identification if they appear to be less than 30 years of age. Makes technical corrections.

Effective: July 1, 2020.

**Charbonneau, Bray, Ruckelshaus,
Stoops**

January 6, 2020, read first time and referred to Committee on Health and Provider Services.

January 16, 2020, amended, reported favorably — Do Pass.

SB 1—LS 6753/DI 107



January 17, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 1

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 7.1-1-3-25, AS AMENDED BY P.L.176-2015,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 25. (a) "Minor" ~~except as provided in subsection~~
4 ~~(b)~~; means a person less than twenty-one (21) years of age.

5 ~~(b) "Minor"; for purposes of IC 7.1-7; has the meaning set forth in~~
6 ~~IC 7.1-7-2-17.~~

7 SECTION 2. IC 7.1-3-18.5-2, AS AMENDED BY P.L.231-2015,
8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2020]: Sec. 2. (a) A person who desires a certificate must
10 provide the following to the commission:

- 11 (1) The applicant's name and mailing address and the address of
12 the premises for which the certificate is being issued.
- 13 (2) Except as provided in section 6(c) of this chapter, a fee of two
14 hundred dollars (\$200).
- 15 (3) The name under which the applicant transacts or intends to
16 transact business.
- 17 (4) The address of the applicant's principal place of business or

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- 1 headquarters, if any.
- 2 (5) The statement required under section 2.6 of this chapter.
- 3 (b) A separate certificate is required for each location where the
- 4 tobacco products or electronic cigarettes are sold or distributed.
- 5 (c) A certificate holder shall conspicuously display the holder's
- 6 certificate on the holder's premises where the tobacco products or
- 7 electronic cigarettes are sold or distributed.
- 8 (d) Any intentional misstatement or suppression of a material fact
- 9 in an application filed under this section constitutes grounds for denial
- 10 of the certificate.
- 11 (e) A certificate may be issued only to a person who meets the
- 12 following requirements:
- 13 (1) If the person is an individual, the person must be at least
- 14 ~~eighteen (18)~~ **twenty-one (21)** years of age.
- 15 (2) The person must be authorized to do business in Indiana.
- 16 (f) The fees collected under this section shall be deposited in the
- 17 enforcement and administration fund under IC 7.1-4-10.
- 18 SECTION 3. IC 7.1-3-18.5-5, AS AMENDED BY P.L.214-2016,
- 19 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2020]: Sec. 5. (a) Subject to subsection (b), the commission
- 21 may suspend the certificate of a person who fails to pay a civil penalty
- 22 imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11,
- 23 IC 35-46-1-11.2, IC 35-46-1-11.5, IC 35-46-1-11.7, or IC 35-46-1-11.8.
- 24 (b) Before enforcing the imposition of a civil penalty or suspending
- 25 or revoking a certificate under this chapter, the commission shall
- 26 provide written notice of the alleged violation to the certificate holder
- 27 and conduct a hearing. The commission shall provide written notice of
- 28 the civil penalty or suspension or revocation of a certificate to the
- 29 certificate holder.
- 30 (c) Subject to subsection (b), the commission shall revoke the
- 31 certificate of a person upon a finding by a preponderance of the
- 32 evidence that the person:
- 33 (1) has violated IC 35-45-5-3, IC 35-45-5-3.5, IC 35-45-5-4,
- 34 IC 35-46-1-11, IC 35-46-1-11.2, or IC 35-46-1-11.8;
- 35 (2) has committed habitual illegal sale of tobacco as established
- 36 under ~~IC 35-46-1-10.2(h)~~; **IC 35-46-1-10.2(i)**; or
- 37 (3) has committed habitual illegal entrance by a minor as
- 38 established under IC 35-46-1-11.7(f).
- 39 SECTION 4. IC 7.1-3-18.5-8, AS AMENDED BY P.L.214-2016,
- 40 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 41 JULY 1, 2020]: Sec. 8. The commission may mitigate civil penalties
- 42 imposed against a certificate holder for violating IC 35-46-1-10,



1 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.5,
 2 IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the provisions of this
 3 chapter if a certificate holder provides a training program for the
 4 certificate holder's employees that includes at least the following
 5 topics:

6 (1) Laws governing the sale of tobacco products and electronic
 7 cigarettes.

8 (2) Methods of recognizing and handling customers who are less
 9 than ~~eighteen (18) years of the legal age to purchase tobacco~~
 10 **products and electronic cigarettes.**

11 (3) Procedures for proper examination of identification cards to
 12 verify that ~~customers are under eighteen (18) years of a customer~~
 13 **is less than the legal age to purchase tobacco products and**
 14 **electronic cigarettes.**

15 SECTION 5. IC 7.1-3-18.5-9, AS AMENDED BY P.L.231-2015,
 16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2020]: Sec. 9. A certificate holder shall exercise due diligence
 18 in the supervision and training of the certificate holder's employees or
 19 agents in the handling and sale of tobacco products and electronic
 20 cigarettes on the holder's retail premises. Proof that employees or
 21 agents of the certificate holder, while in the scope of their employment,
 22 committed at least six (6) violations relating to ~~IC 35-46-1-10.2(a)~~
 23 **IC 35-46-1-10.2(b)** in any one hundred eighty (180) day period shall
 24 be prima facie evidence of a lack of due diligence by the certificate
 25 holder in the supervision and training of the certificate holder's
 26 employees or agents.

27 SECTION 6. IC 7.1-5-12-5, AS AMENDED BY P.L.231-2015,
 28 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (c) and
 30 subject to section 13 of this chapter, smoking may be allowed in the
 31 following:

32 (1) A horse racing facility operated under a permit under
 33 IC 4-31-5 and any other permanent structure on land owned or
 34 leased by the owner of the facility that is adjacent to the facility.

35 (2) A riverboat (as defined in IC 4-33-2-17) and any other
 36 permanent structure that is:

37 (A) owned or leased by the owner of the riverboat; and

38 (B) located on land that is adjacent to:

39 (i) the dock to which the riverboat is moored; or

40 (ii) the land on which the riverboat is situated in the case of
 41 a riverboat described in IC 4-33-2-17(2).

42 (3) A facility that operates under a gambling game license under



- 1 IC 4-35-5 and any other permanent structure on land owned or
 2 leased by the owner of the facility that is adjacent to the facility.
 3 (4) A satellite facility licensed under IC 4-31-5.5.
 4 (5) An establishment owned or leased by a business that meets the
 5 following requirements:
 6 (A) The business was in business and permitted smoking on
 7 December 31, 2012.
 8 (B) The business prohibits entry by an individual who is less
 9 than twenty-one (21) years of age.
 10 (C) The owner or operator of the business holds a beer, liquor,
 11 or wine retailer's permit.
 12 (D) The business limits smoking in the establishment to
 13 smoking with a waterpipe or hookah device.
 14 (E) During the preceding calendar year, at least ten percent
 15 (10%) of the business's annual gross income was from the sale
 16 of loose tobacco for use in a waterpipe or hookah device.
 17 (F) The person in charge of the business posts in the
 18 establishment conspicuous signs that display the message that
 19 cigarette smoking is prohibited.
 20 (6) An establishment owned or leased by a business that meets the
 21 following requirements:
 22 (A) The business prohibits entry by an individual who is less
 23 than twenty-one (21) years of age.
 24 (B) The owner or operator of the business holds a beer, liquor,
 25 or wine retailer's permit.
 26 (C) The business limits smoking in the establishment to cigar
 27 smoking.
 28 (D) During the preceding calendar year, at least ten percent
 29 (10%) of the business's annual gross income was from the sale
 30 of cigars and the rental of onsite humidors.
 31 (E) The person in charge of the business posts in the
 32 establishment conspicuous signs that display the message that
 33 cigarette smoking is prohibited.
 34 (7) A premises owned or leased by and regularly used for the
 35 activities of a business that meets all of the following:
 36 (A) The business is exempt from federal income taxation
 37 under 26 U.S.C. 501(c).
 38 (B) The business:
 39 (i) meets the requirements to be considered a club under
 40 IC 7.1-3-20-1; or
 41 (ii) is a fraternal club (as defined in IC 7.1-3-20-7).
 42 (C) The business provides food or alcoholic beverages only to



- 1 its bona fide members and their guests.
 2 (D) The business:
 3 (i) provides a separate, enclosed, designated smoking room
 4 or area that is adequately ventilated to prevent migration of
 5 smoke to nonsmoking areas of the premises;
 6 (ii) allows smoking only in the room or area described in
 7 item (i);
 8 (iii) does not allow an individual who is less than ~~eighteen~~
 9 ~~(18)~~ **twenty-one (21)** years of age to enter into the room or
 10 area described in item (i); and
 11 (iv) allows a guest in the smoking room or area described in
 12 item (i) only when accompanied by a bona fide member of
 13 the business.
- 14 (8) A retail tobacco store used primarily for the sale of tobacco
 15 products and tobacco accessories that meets the following
 16 requirements:
 17 (A) The owner or operator of the store holds a valid tobacco
 18 sales certificate issued under IC 7.1-3-18.5.
 19 (B) The store prohibits entry by an individual who is less than
 20 ~~eighteen (18)~~ **twenty-one (21)** years of age.
 21 (C) The sale of products other than tobacco products and
 22 tobacco accessories is merely incidental.
 23 (D) The sale of tobacco products accounts for at least
 24 eighty-five percent (85%) of the store's annual gross sales.
 25 (E) Food or beverages are not sold in a manner that requires
 26 consumption on the premises, and there is not an area set aside
 27 for customers to consume food or beverages on the premises.
- 28 (9) A bar or tavern:
 29 (A) for which a permittee holds:
 30 (i) a beer retailer's permit under IC 7.1-3-4;
 31 (ii) a liquor retailer's permit under IC 7.1-3-9; or
 32 (iii) a wine retailer's permit under IC 7.1-3-14;
 33 (B) that does not employ an individual who is less than
 34 eighteen (18) years of age;
 35 (C) that does not allow an individual who:
 36 (i) is less than twenty-one (21) years of age; and
 37 (ii) is not an employee of the bar or tavern;
 38 to enter any area of the bar or tavern; and
 39 (D) that is not located in a business that would otherwise be
 40 subject to this chapter.
- 41 (10) A cigar manufacturing facility that does not offer retail sales.
 42 (11) A premises of a cigar specialty store to which all of the



- 1 following apply:
- 2 (A) The owner or operator of the store holds a valid tobacco
- 3 sales certificate issued under IC 7.1-3-18.5.
- 4 (B) The sale of tobacco products and tobacco accessories
- 5 account for at least fifty percent (50%) of the store's annual
- 6 gross sales.
- 7 (C) The store has a separate, enclosed, designated smoking
- 8 room that is adequately ventilated to prevent migration of
- 9 smoke to nonsmoking areas.
- 10 (D) Smoking is allowed only in the room described in clause
- 11 (C).
- 12 (E) Individuals who are less than ~~eighteen (18)~~ **twenty-one**
- 13 **(21)** years of age are prohibited from entering into the room
- 14 described in clause (C).
- 15 (F) Cigarette smoking is not allowed on the premises of the
- 16 store.
- 17 (G) The owner or operator of the store posts a conspicuous
- 18 sign on the premises of the store that displays the message that
- 19 cigarette smoking is prohibited.
- 20 (H) The store does not prepare any food or beverage that
- 21 would require a certified food handler under IC 16-42-5.2.
- 22 (12) The premises of a business that is located in the business
- 23 owner's private residence (as defined in IC 3-5-2-42.5) if the only
- 24 employees of the business who work in the residence are the
- 25 owner and other individuals who reside in the residence.
- 26 (b) The owner, operator, manager, or official in charge of an
- 27 establishment or premises in which smoking is allowed under this
- 28 section shall post conspicuous signs in the establishment that read
- 29 "WARNING: Smoking Is Allowed In This Establishment" or other
- 30 similar language.
- 31 (c) This section does not allow smoking in the following enclosed
- 32 areas of an establishment or premises described in subsection (a)(1)
- 33 through (a)(11):
- 34 (1) Any hallway, elevator, or other common area where an
- 35 individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years
- 36 of age is permitted.
- 37 (2) Any room that is intended for use by an individual who is less
- 38 than ~~eighteen (18)~~ **twenty-one (21)** years of age.
- 39 (d) The owner, operator, or manager of an establishment or premises
- 40 that is listed under subsection (a) and that allows smoking shall provide
- 41 a verified statement to the commission that states that the establishment
- 42 or premises qualifies for the exemption. The commission may require



1 the owner, operator, or manager of an establishment or premises to
 2 provide documentation or additional information concerning the
 3 exemption of the establishment or premises.

4 SECTION 7. IC 7.1-6-2-2 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. The division of
 6 mental health and addiction established under IC 12-21 shall
 7 coordinate the conduct of random unannounced inspections at locations
 8 where tobacco products, **e-liquids, or electronic cigarettes** are sold or
 9 distributed to ensure compliance with this article. Only the
 10 commission, an Indiana law enforcement agency, the office of the
 11 sheriff of a county, or an organized police department of a municipal
 12 corporation may conduct the random unannounced inspections. These
 13 entities may use retired or off-duty law enforcement officers to conduct
 14 inspections under this section.

15 SECTION 8. IC 7.1-6-2-4, AS AMENDED BY P.L.20-2013,
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2020]: Sec. 4. (a) An enforcement officer vested with full
 18 police powers and duties may engage a person less than ~~eighteen (18)~~
 19 **twenty-one (21)** years of age as part of an enforcement action under
 20 this article if the initial or contemporaneous receipt or purchase of a
 21 tobacco product, **e-liquid**, or electronic cigarette by a person less than
 22 ~~eighteen (18)~~ **twenty-one (21)** years of age occurs under the direction
 23 of an enforcement officer vested with full police powers and duties and
 24 is part of the enforcement action.

25 (b) An enforcement officer vested with full police powers and duties
 26 shall not:

27 (1) recruit or attempt to recruit a person less than ~~eighteen (18)~~
 28 **twenty-one (21)** years of age to participate in an enforcement
 29 action under subsection (a) at the scene of a violation of section
 30 2 of this chapter; or

31 (2) allow a person less than ~~eighteen (18)~~ **twenty-one (21)** years
 32 of age to purchase or receive a tobacco product, **e-liquid**, or
 33 electronic cigarette as part of an enforcement action under
 34 subsection (a) without the written permission of the person's
 35 parents or legal guardians.

36 SECTION 9. IC 7.1-7-2-6.3, AS ADDED BY P.L.206-2017,
 37 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2020]: Sec. 6.3. "Delivery sale" means a sale of ~~e-liquids~~ **an**
 39 **e-liquid** to a purchaser in Indiana in which the purchaser submits the
 40 order for the sale:

41 (1) by telephone;

42 (2) over the Internet; or



1 (3) through the mail or another delivery system;
 2 and the ~~e-liquids~~ **e-liquid** is shipped through a delivery service.
 3 "Delivery sale" does not include a sale of ~~e-liquids~~ **an e-liquid** not for
 4 personal consumption to a person who is a retailer.

5 SECTION 10. IC 7.1-7-2-17 IS REPEALED [EFFECTIVE JULY
 6 1, 2020]. Sec. 17. "Minor" means an individual who is less than
 7 eighteen (18) years of age.

8 SECTION 11. IC 7.1-7-4-1, AS AMENDED BY P.L.206-2017,
 9 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 1. (a) A manufacturer of e-liquid may not mix,
 11 bottle, package, or sell e-liquid to retailers, consumers, or distributors
 12 in Indiana without a permit issued by the commission under this article.

13 (b) ~~All e-liquids~~ **An e-liquid** manufactured by an e-liquids
 14 manufacturer approved by the commission under this article before
 15 July 1, 2017, may be distributed and sold for retail until the expiration
 16 date of the ~~e-liquids~~ **e-liquid**.

17 (c) A manufacturing permit issued by the commission is valid for
 18 five (5) years. A manufacturing permit issued by the commission under
 19 this article before July 1, 2017, does not expire before July 1, 2020.

20 (d) An initial application for a manufacturing permit must include
 21 the following:

- 22 (1) The name, telephone number, and address of the applicant.
- 23 (2) The name, telephone number, and address of the
 24 manufacturing facility.
- 25 (3) The name, telephone number, title, and address of the person
 26 responsible for the manufacturing facility.
- 27 (4) Verification that the facility will comply with applicable
 28 tobacco products good manufacturing practices promulgated
 29 under 21 U.S.C. 387f(e) of the federal Food, Drug, and Cosmetic
 30 Act.
- 31 (5) Verification that the manufacturer will comply with the
 32 applicable ingredient listing required by 21 U.S.C. 387d(a)(1) of
 33 the federal Food, Drug, and Cosmetic Act.
- 34 (6) Written consent allowing the state police department to
 35 conduct a state or national criminal history background check on
 36 any person listed on the application.
- 37 (7) A nonrefundable initial application fee of one thousand dollars
 38 (\$1,000).

39 (e) The fees collected under subsection (d)(7) shall be deposited in
 40 the enforcement and administration fund established under IC 7.1-4-10.

41 SECTION 12. IC 7.1-7-5.5-1, AS ADDED BY P.L.206-2017,
 42 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 1. A retailer may not make a delivery sale of
 2 e-liquid to a ~~minor~~ **an individual who does not meet the minimum**
 3 **age requirement** as set forth in IC 7.1-7-6-5.

4 SECTION 13. IC 7.1-7-5.5-2, AS ADDED BY P.L.206-2017,
 5 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]: Sec. 2. A retailer may not ship ~~e-liquids~~ **an e-liquid**
 7 without first making a good faith effort to verify the age of the
 8 purchaser of the ~~e-liquids~~ **e-liquid** as set forth in IC 7.1-7-6-6.

9 SECTION 14. IC 7.1-7-5.5-3, AS ADDED BY P.L.206-2017,
 10 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2020]: Sec. 3. (a) Before ~~e-liquids~~ **are an e-liquid** is shipped
 12 in a delivery sale, a retailer must be fully paid for the purchase and
 13 shall accept payment from the purchaser:

- 14 (1) by a check drawn on an account in the purchaser's name;
- 15 (2) by a credit card issued in the purchaser's name; or
- 16 (3) by a debit card issued in the purchaser's name.

17 (b) A retailer may ship ~~e-liquids~~ **an e-liquid** only to a purchaser.

18 SECTION 15. IC 7.1-7-5.5-5, AS ADDED BY P.L.206-2017,
 19 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2020]: Sec. 5. A retailer who ships ~~e-liquids~~ **an e-liquid** from
 21 a delivery sale order shall include as part of the shipping documents a
 22 document with the following statement: "E-LIQUIDS: Indiana law
 23 prohibits the sale of this product to a person who is less than ~~18~~ **21**
 24 years of age."

25 SECTION 16. IC 7.1-7-6-2 IS REPEALED [EFFECTIVE JULY 1,
 26 2020]. Sec. 2: (a) ~~This subsection does not apply to a delivery sale as~~
 27 ~~defined in IC 7.1-7-2-6.3. If a retailer:~~

- 28 (1) knowingly and intentionally sells e-liquid to a minor; or
- 29 (2) knowingly, intentionally, or negligently fails to verify the age
 30 of a person who appears to be less than twenty-seven (27) years
 31 of age by checking a government issued identification and sells
 32 the person e-liquid;

33 ~~the retailer commits a Class C infraction. For a sale to take place under~~
 34 ~~this section, the buyer must pay the retail establishment for the e-liquid.~~

35 (b) ~~Notwithstanding IC 34-28-5-4(c), a civil judgment for an~~
 36 ~~infraction committed under this section must be imposed as follows:~~

- 37 (1) ~~If the retail establishment at that specific business location has~~
 38 ~~not been issued a citation or summons for a violation of this~~
 39 ~~section in the previous one hundred eighty (180) days, a civil~~
 40 ~~penalty of up to two hundred dollars (\$200).~~
- 41 (2) ~~If the retail establishment at that specific business location has~~
 42 ~~had one (1) citation or summons issued for a violation of this~~



1 section in the previous one hundred eighty (180) days; a civil
2 penalty of up to four hundred dollars (\$400):

3 (3) If the retail establishment at that specific business location has
4 had two (2) citations or summonses issued for a violation of this
5 section in the previous one hundred eighty (180) days; a civil
6 penalty of up to seven hundred dollars (\$700):

7 (4) If the retail establishment at that specific business location has
8 had three (3) or more citations or summonses issued for a
9 violation of this section in the previous one hundred eighty (180)
10 days; a civil penalty of up to one thousand dollars (\$1,000):

11 A retail establishment may not be issued a citation or summons for a
12 violation of this section more than once every twenty-four (24) hours
13 for each specific business location:

14 (c) It is not a defense that the person to whom e-liquid was sold or
15 distributed did not inhale or otherwise consume e-liquid:

16 (d) The following defenses are available to a retail establishment
17 accused of selling or distributing e-liquid to a person who is less than
18 eighteen (18) years of age:

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

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

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

30 (e) It is a defense that the accused retail establishment sold or
31 delivered e-liquid to a person who acted in the ordinary course of
32 employment or a business concerning e-liquid:

33 (1) agriculture;

34 (2) processing;

35 (3) transporting;

36 (4) wholesaling; or

37 (5) retailing:

38 (f) As used in this section, "distribute" means to give e-liquid to
39 another person as a means of promoting, advertising, or marketing
40 e-liquid to the general public:

41 (g) Unless a person buys or receives e-liquid under the direction of
42 a law enforcement officer as part of an enforcement action; a retail



1 establishment that sells or distributes e-liquid is not liable for a
 2 violation of this section unless the person less than eighteen (18) years
 3 of age who bought or received the e-liquid is issued a citation or
 4 summons in violation of this article.

5 (h) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 6 this section must be deposited in the Richard D. Doyle youth tobacco
 7 education and enforcement fund (IC 7-1-6-2-6).

8 (i) A person who violates subsection (a) at least six (6) times in any
 9 one hundred eighty (180) day period commits habitual illegal sale of
 10 e-liquid; a Class B infraction.

11 SECTION 17. IC 7.1-7-6-2.1 IS ADDED TO THE INDIANA
 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2020]: **Sec. 2.1. A person who sells or**
 14 **distributes an e-liquid to a person under twenty-one (21) years of**
 15 **age may be in violation of IC 35-46-1.**

16 SECTION 18. IC 7.1-7-6-5, AS ADDED BY P.L.206-2017,
 17 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 5. A person who knowingly or intentionally makes
 19 a delivery sale of ~~e-liquids~~ **an e-liquid to a minor an individual who**
 20 **is less than twenty-one (21) years of age** commits a Class C
 21 infraction.

22 SECTION 19. IC 7.1-7-6-6, AS ADDED BY P.L.206-2017,
 23 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2020]: Sec. 6. (a) As used in this section, "good faith effort to
 25 verify the age of a ~~the~~ purchaser of ~~e-liquids~~ **e-liquid"** means:

26 (1) verifying the age of the purchaser in a commercially available
 27 database; or

28 (2) obtaining a photocopy of a government issued identification;
 29 that indicates the birth date or age of the purchaser.

30 (b) A person who knowingly or intentionally ships ~~e-liquids~~ **an**
 31 **e-liquid** without first making a good faith effort to verify the age of the
 32 purchaser of the ~~e-liquids~~ **e-liquid** commits a Class C infraction.

33 SECTION 20. IC 24-3-5-4, AS AMENDED BY P.L.160-2005,
 34 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2020]: Sec. 4. Subject to section 4.5 of this chapter, a
 36 merchant may not mail or ship cigarettes as part of a delivery sale
 37 unless, before mailing or shipping the cigarettes, the merchant:

38 (1) obtains from the prospective customer a written statement
 39 signed by the prospective customer under penalty of perjury:

40 (A) providing the prospective customer's address and date of
 41 birth;

42 (B) advising the prospective customer that:



- 1 (i) signing another person's name to the statement required
- 2 under this subdivision may subject the person to a civil
- 3 monetary penalty of not more than one thousand dollars
- 4 (\$1,000); and
- 5 (ii) purchasing cigarettes by a person less than ~~eighteen (18)~~
- 6 **twenty-one (21)** years of age is a Class C infraction under
- 7 IC 35-46-1-10.5;
- 8 (C) confirming that the cigarette order was placed by the
- 9 prospective customer;
- 10 (D) providing a warning under 15 U.S.C. 1333(a)(1); and
- 11 (E) stating the sale of cigarettes by delivery sale is a taxable
- 12 event for purposes of IC 6-7-1;
- 13 (2) makes a good faith effort to verify the information in the
- 14 written statement obtained under subdivision (1) by using a
- 15 federal or commercially available data base; and
- 16 (3) receives payment for the delivery sale by a credit or debit card
- 17 issued in the name of the prospective purchaser.

18 SECTION 21. IC 24-3-5-5, AS AMENDED BY P.L.160-2005,
 19 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2020]: Sec. 5. (a) A merchant who mails or ships cigarettes as
 21 part of a delivery sale shall:

- 22 (1) use a mailing or shipping service that requires the customer or
- 23 a person at least ~~eighteen (18)~~ **twenty-one (21)** years of age who
- 24 is designated by the customer to:
 - 25 (A) sign to accept delivery of the cigarettes; and
 - 26 (B) present a valid operator's license issued under IC 9-24-3 or
 - 27 an identification card issued under IC 9-24-16 if the customer
 - 28 or the customer's designee, in the opinion of the delivery agent
 - 29 or employee of the mailing or shipping service, appears to be
 - 30 less than ~~twenty-seven (27)~~ **thirty (30)** years of age;
- 31 (2) provide to the mailing or shipping service used under
- 32 subdivision (1) proof of compliance with section 6(a) of this
- 33 chapter; and
- 34 (3) include the following statement in bold type or capital letters
- 35 on an invoice or shipping document:
 - 36 INDIANA LAW PROHIBITS THE MAILING OR SHIPPING
 - 37 OF CIGARETTES TO A PERSON LESS THAN ~~EIGHTEEN~~
 - 38 **(18) TWENTY-ONE (21)** YEARS OF AGE AND
 - 39 REQUIRES PAYMENT OF ALL APPLICABLE TAXES.
- 40 (b) The commission may impose a civil penalty of not more than
- 41 one thousand dollars (\$1,000) if a mailing or shipping service:
 - 42 (1) delivers cigarettes as part of a delivery sale without first



1 receiving proof from the merchant of compliance with section
 2 6(a) of this chapter; or
 3 (2) fails to obtain a signature and proof of identification of the
 4 customer or the customer's designee under subsection (a)(1).
 5 The commission shall deposit amounts collected under this subsection
 6 into the **Richard D. Doyle** youth tobacco education and enforcement
 7 fund established by IC 7.1-6-2-6.
 8 (c) The following apply to a merchant that mails or ships cigarettes
 9 as part of a delivery sale without using a third party service as required
 10 by subsection (a)(1):
 11 (1) The merchant shall require the customer or a person at least
 12 ~~eighteen (18)~~ **twenty-one (21)** years of age who is designated by
 13 the customer to:
 14 (A) sign to accept delivery of the cigarettes; and
 15 (B) present a valid operator's license issued under IC 9-24-3 or
 16 identification card issued under IC 9-24-16 if the customer or
 17 the customer's designee, in the opinion of the merchant or the
 18 merchant's employee making the delivery, appears to be less
 19 than twenty-seven (27) years of age.
 20 (2) The commission may impose a civil penalty of not more than
 21 one thousand dollars (\$1,000) if the merchant:
 22 (A) delivers the cigarettes without first complying with section
 23 6(a) of this chapter; or
 24 (B) fails to obtain a signature and proof of identification of the
 25 customer or the customer's designee under subdivision (1).
 26 The commission shall deposit amounts collected under this
 27 subdivision into the **Richard D. Doyle** youth tobacco education
 28 and enforcement fund established by IC 7.1-6-2-6.
 29 SECTION 22. IC 24-3-5-8, AS AMENDED BY P.L.160-2005,
 30 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2020]: Sec. 8. The commission may impose a civil penalty of
 32 not more one thousand dollars (\$1,000) on a:
 33 (1) customer who signs another person's name to a statement
 34 required under section 4(1) of this chapter; or
 35 (2) merchant who sells cigarettes by delivery sale to a person less
 36 than ~~eighteen (18)~~ **twenty-one (21)** years of age.
 37 The commission shall deposit amounts collected under this section into
 38 the **Richard D. Doyle** youth tobacco education and enforcement fund
 39 established by IC 7.1-6-2-6.
 40 SECTION 23. IC 35-31.5-2-100, AS AMENDED BY P.L.185-2019,
 41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2020]: Sec. 100. (a) "Distribute", for purposes of



- 1 IC 35-45-4-8, has the meaning set forth in IC 35-45-4-8.
- 2 (b) "Distribute", for purposes of IC 35-46-1-10, has the meaning set
3 forth in ~~IC 35-46-1-10(e)~~. **IC 35-46-1-10(f)**.
- 4 (c) "Distribute", for purposes of IC 35-46-1-10.2, has the meaning
5 set forth in ~~IC 35-46-1-10.2(e)~~. **IC 35-46-1-10.2(f)**.
- 6 (d) "Distribute", for purposes of IC 35-47.5, has the meaning set
7 forth in IC 35-47.5-2-6.
- 8 (e) "Distribute", for purposes of IC 35-48, has the meaning set forth
9 in IC 35-48-1-14.
- 10 (f) "Distribute", for purposes of IC 35-49, has the meaning set forth
11 in IC 35-49-1-2.
- 12 SECTION 24. IC 35-31.5-2-107.5 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2020]: **Sec. 107.5. "E-liquid," for purposes**
15 **of IC 35-46-1, has the meaning set forth in IC 35-46-1-1.4.**
- 16 SECTION 25. IC 35-43-5-3.8, AS AMENDED BY P.L.158-2013,
17 SECTION 473, IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2020]: Sec. 3.8. (a) A person who knowingly or
19 intentionally obtains, possesses, transfers, or uses the synthetic
20 identifying information:
- 21 (1) with intent to harm or defraud another person;
22 (2) with intent to assume another person's identity; or
23 (3) with intent to profess to be another person;
24 commits synthetic identity deception, a Level 6 felony.
- 25 (b) The offense under subsection (a) is a Level 5 felony if:
- 26 (1) a person obtains, possesses, transfers, or uses the synthetic
27 identifying information of more than one hundred (100) persons;
28 or
29 (2) the fair market value of the fraud or harm caused by the
30 offense is at least fifty thousand dollars (\$50,000).
- 31 (c) The conduct prohibited in subsections (a) and (b) does not apply
32 to:
- 33 (1) a person less than twenty-one (21) years of age who uses the
34 synthetic identifying information of another person to acquire:
- 35 (A) an alcoholic beverage (as defined in IC 7.1-1-3-5); or
36 (B) a cigarette, e-liquid, or tobacco product (as defined in
37 IC 6-7-2-5); or
- 38 (2) a minor (as defined in IC 35-49-1-4) who uses the synthetic
39 identifying information of another person to acquire:
- 40 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
41 (B) (A) a periodical, a videotape, or other communication
42 medium that contains or depicts nudity (as defined in



1 IC 35-49-1-5);
 2 ~~(C)~~ **(B)** admittance to a performance (live or on film) that
 3 prohibits the attendance of the minor based on age; or
 4 ~~(D)~~ **(C)** an item that is prohibited by law for use or
 5 consumption by a minor.
 6 (d) It is not a defense in a prosecution under subsection (a) or (b)
 7 that no person was harmed or defrauded.
 8 SECTION 26. IC 35-46-1-1.4 IS ADDED TO THE INDIANA
 9 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 10 [EFFECTIVE JULY 1, 2020]: **Sec. 1.4. As used in this chapter,**
 11 **"e-liquid" has the meaning set forth in IC 7.1-7-2-10.**
 12 SECTION 27. IC 35-46-1-10, AS AMENDED BY P.L.20-2013,
 13 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2020]: Sec. 10. (a) **A person may not be charged with a**
 15 **violation under this section and a violation under IC 7.1-7-6-5.**
 16 (b) A person who knowingly:
 17 (1) sells or distributes tobacco, **an e-liquid**, or an electronic
 18 cigarette to a person less than ~~eighteen (18)~~ **twenty-one (21)**
 19 years of age; or
 20 (2) purchases tobacco, **an e-liquid**, or an electronic cigarette for
 21 delivery to another person who is less than ~~eighteen (18)~~
 22 **twenty-one (21)** years of age;
 23 commits a Class C infraction. For a sale to take place under this
 24 section, the buyer must pay the seller for the tobacco product, **the**
 25 **e-liquid**, or the electronic cigarette.
 26 ~~(b)~~ **(c)** It is not a defense that the person to whom the tobacco, **the**
 27 **e-liquid**, or electronic cigarette was sold or distributed did not smoke,
 28 chew, inhale, or otherwise consume the tobacco, **e-liquid**, or the
 29 electronic cigarette.
 30 ~~(c)~~ **(d)** The following defenses are available to a person accused of
 31 selling or distributing tobacco, **an e-liquid**, or an electronic cigarette
 32 to a person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of
 33 age:
 34 (1) The buyer or recipient produced a driver's license bearing the
 35 purchaser's or recipient's photograph, showing that the purchaser
 36 or recipient was of legal age to make the purchase.
 37 (2) The buyer or recipient produced a photographic identification
 38 card issued under IC 9-24-16-1, or a similar card issued under the
 39 laws of another state or the federal government, showing that the
 40 purchaser or recipient was of legal age to make the purchase.
 41 (3) The appearance of the purchaser or recipient was such that an
 42 ordinary prudent person would believe that the purchaser or



1 recipient was not less than ~~the age that complies with regulations~~
 2 **thirty (30) years of age.** promulgated by the federal Food and
 3 Drug Administration.

4 ~~(d)~~ **(e)** It is a defense that the accused person sold or delivered the
 5 tobacco, **e-liquid**, or electronic cigarette to a person who acted in the
 6 ordinary course of employment or a business concerning tobacco, **an**
 7 **e-liquid**, or electronic cigarettes **including the following activities:**

- 8 (1) agriculture;
 9 (2) processing;
 10 (3) transporting;
 11 (4) wholesaling; or
 12 (5) retailing.

13 ~~(e)~~ **(f)** As used in this section, "distribute" means to give tobacco, **an**
 14 **e-liquid**, or an electronic cigarette to another person as a means of
 15 promoting, advertising, or marketing the tobacco, **e-liquid**, or
 16 electronic cigarette to the general public.

17 ~~(f)~~ **(g)** Unless the person buys or receives tobacco, **an e-liquid**, or
 18 an electronic cigarette under the direction of a law enforcement officer
 19 as part of an enforcement action, a person who sells or distributes
 20 tobacco, **an e-liquid**, or an electronic cigarette is not liable for a
 21 violation of this section unless the person less than ~~eighteen (18)~~
 22 **twenty-one (21)** years of age who bought or received the tobacco,
 23 **e-liquid**, or electronic cigarette is issued a citation or summons under
 24 section 10.5 of this chapter.

25 ~~(g)~~ **(h)** Notwithstanding IC 34-28-5-5(c), civil penalties collected
 26 under this section must be deposited in the Richard D. Doyle youth
 27 tobacco education and enforcement fund (IC 7.1-6-2-6).

28 SECTION 28. IC 35-46-1-10.2, AS AMENDED BY P.L.20-2013,
 29 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2020]: Sec. 10.2. (a) **A person may not be charged with a**
 31 **violation under this section and a violation under IC 7.1-7-6-5.**

32 **(b)** A retail establishment that:

- 33 **(1)** sells or distributes tobacco, **an e-liquid**, or an electronic
 34 cigarette to a person less than ~~eighteen (18)~~ **twenty-one (21)**
 35 years of age; **or**
 36 **(2) fails to verify the age of a person who appears to be less**
 37 **than thirty (30) years of age by checking a government issued**
 38 **identification and sells the person tobacco, an e-liquid, or an**
 39 **electronic cigarette;**

40 commits a Class C infraction. For a sale to take place under this
 41 section, the buyer must pay the retail establishment for the tobacco
 42 product, **an e-liquid**, or electronic cigarette.



- 1 (c) Notwithstanding IC 34-28-5-4(c), a civil judgment for an
- 2 infraction committed under this section must be imposed as follows:
- 3 (1) If the retail establishment at that specific business location has
- 4 not been issued a citation or summons for a violation of this
- 5 section in the previous one hundred eighty (180) days, a civil
- 6 penalty of up to ~~two six~~ hundred dollars (~~\$200~~). **(\$600).**
- 7 (2) If the retail establishment at that specific business location has
- 8 had one (1) citation or summons issued for a violation of this
- 9 section in the previous one hundred eighty (180) days, a civil
- 10 penalty of up to ~~four one thousand two~~ hundred dollars (~~\$400~~).
- 11 **(\$1,200).**
- 12 (3) If the retail establishment at that specific business location has
- 13 had two (2) citations or summonses issued for a violation of this
- 14 section in the previous one hundred eighty (180) days, a civil
- 15 penalty of up to ~~seven two thousand one~~ hundred dollars (~~\$700~~).
- 16 **(\$2,100).**
- 17 (4) If the retail establishment at that specific business location has
- 18 had three (3) or more citations or summonses issued for a
- 19 violation of this section in the previous one hundred eighty (180)
- 20 days, a civil penalty of up to ~~one three~~ thousand dollars (~~\$1,000~~).
- 21 **(\$3,000).**
- 22 A retail establishment may not be issued a citation or summons for a
- 23 violation of this section more than once every twenty-four (24) hours
- 24 for each specific business location.
- 25 ~~(b)~~ **(d)** It is not a defense that the person to whom the tobacco, **an**
- 26 **e-liquid**, or electronic cigarette was sold or distributed did not smoke,
- 27 chew, inhale, or otherwise consume the tobacco, **e-liquid**, or electronic
- 28 cigarette.
- 29 ~~(e)~~ **(e)** The following defenses are available to a retail establishment
- 30 accused of selling or distributing tobacco, **an e-liquid**, or an electronic
- 31 cigarette to a person who is less than ~~eighteen (18)~~ **twenty-one (21)**
- 32 years of age:
- 33 (1) The buyer or recipient produced a driver's license bearing the
- 34 purchaser's or recipient's photograph showing that the purchaser
- 35 or recipient was of legal age to make the purchase.
- 36 (2) The buyer or recipient produced a photographic identification
- 37 card issued under IC 9-24-16-1 or a similar card issued under the
- 38 laws of another state or the federal government showing that the
- 39 purchaser or recipient was of legal age to make the purchase.
- 40 (3) The appearance of the purchaser or recipient was such that an
- 41 ordinary prudent person would believe that the purchaser or
- 42 recipient was not less than ~~the age that complies with regulations~~



1 **thirty (30) years of age. promulgated by the federal Food and**
 2 **Drug Administration.**

3 ~~(d)~~ **(f)** It is a defense that the accused retail establishment sold or
 4 delivered the tobacco, **e-liquid**, or electronic cigarette to a person who
 5 acted in the ordinary course of employment or a business concerning
 6 tobacco, **an e-liquid**, or electronic cigarettes **for the following**
 7 **activities:**

- 8 (1) Agriculture.
 9 (2) Processing.
 10 (3) Transporting.
 11 (4) Wholesaling, ~~or~~
 12 (5) Retailing.

13 ~~(e)~~ **(g)** As used in this section, "distribute" means to give tobacco or
 14 an electronic cigarette to another person as a means of promoting,
 15 advertising, or marketing the tobacco or electronic cigarette to the
 16 general public.

17 ~~(f)~~ **(h)** Unless a person buys or receives tobacco or an electronic
 18 cigarette under the direction of a law enforcement officer as part of an
 19 enforcement action, a retail establishment that sells or distributes
 20 tobacco, **an e-liquid**, or an electronic cigarette is not liable for a
 21 violation of this section unless the person less than ~~eighteen (18)~~
 22 **twenty-one (21)** years of age who bought or received the tobacco, **an**
 23 **e-liquid**, or electronic cigarette is issued a citation or summons under
 24 section 10.5 of this chapter.

25 ~~(g)~~ **(i)** Notwithstanding IC 34-28-5-5(c), civil penalties collected
 26 under this section must be deposited in the Richard D. Doyle youth
 27 tobacco education and enforcement fund (IC 7.1-6-2-6).

28 ~~(h)~~ **(j)** A person who violates subsection ~~(a)~~ **(b)** at least six (6) times
 29 in any one hundred eighty (180) day period commits habitual illegal
 30 sale of tobacco, a Class B infraction.

31 SECTION 29. IC 35-46-1-10.5, AS AMENDED BY P.L.20-2013,
 32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2020]: Sec. 10.5. (a) A person less than ~~eighteen (18)~~
 34 **twenty-one (21)** years of age who:

- 35 (1) purchases tobacco, **an e-liquid**, or an electronic cigarette;
 36 (2) accepts tobacco, **an e-liquid**, or an electronic cigarette for
 37 personal use; or
 38 (3) possesses tobacco, **an e-liquid**, or an electronic cigarette on
 39 **his the person's** person;
 40 commits a Class C infraction.

41 (b) It is a defense under subsection (a) that the accused person acted
 42 in the ordinary course of employment in a business concerning tobacco,



1 **an e-liquid, or an electronic cigarettes: cigarette for the following**
 2 **activities:**

- 3 (1) Agriculture.
 4 (2) Processing.
 5 (3) Transporting.
 6 (4) Wholesaling, ~~or~~
 7 (5) Retailing.

8 SECTION 30. IC 35-46-1-11, AS AMENDED BY P.L.20-2013,
 9 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 11. (a) A tobacco or electronic cigarette vending
 11 machine that is located in a public place must bear the following
 12 conspicuous notices:

13 (1) A notice:

14 (A) that reads as follows, with the capitalization indicated: "If
 15 you are under ~~18~~ **21** years of age, YOU ARE FORBIDDEN by
 16 Indiana law to buy tobacco or electronic cigarettes from this
 17 machine."; or

18 (B) that:

19 (i) conveys a message substantially similar to the message
 20 described in clause (A); and

21 (ii) is formatted with words and in a form authorized under
 22 the rules adopted by the alcohol and tobacco commission.

23 (2) A notice that reads as follows, "Smoking by Pregnant Women
 24 May Result in Fetal Injury, Premature Birth, and Low Birth
 25 Weight."

26 (3) A notice printed in letters and numbers at least one-half (1/2)
 27 inch high that displays a toll free phone number for assistance to
 28 callers in quitting smoking, as determined by the state department
 29 of health.

30 (b) A person who owns or has control over a tobacco or electronic
 31 cigarette vending machine in a public place and who:

32 (1) fails to post a notice required by subsection (a) on the vending
 33 machine; or

34 (2) fails to replace a notice within one (1) month after it is
 35 removed or defaced;

36 commits a Class C infraction.

37 (c) An establishment selling tobacco or electronic cigarettes at retail
 38 shall post and maintain in a conspicuous place, at the point of sale, the
 39 following:

40 (1) Signs printed in letters at least one-half (1/2) inch high,
 41 reading as follows:

42 (A) "The sale of tobacco or electronic cigarettes to persons



- 1 under ~~18~~ **21** years of age is forbidden by Indiana law."
- 2 (B) "Smoking by Pregnant Women May Result in Fetal Injury,
3 Premature Birth, and Low Birth Weight."
- 4 (2) A sign printed in letters and numbers at least one-half (1/2)
5 inch high that displays a toll free phone number for assistance to
6 callers in quitting smoking, as determined by the state department
7 of health.
- 8 (d) A person who:
9 (1) owns or has control over an establishment selling tobacco or
10 electronic cigarettes at retail; and
11 (2) fails to post and maintain the sign required by subsection (c);
12 commits a Class C infraction.
- 13 SECTION 31. IC 35-46-1-11.5, AS AMENDED BY P.L.20-2013,
14 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2020]: Sec. 11.5. (a) Except for a coin machine that is placed
16 in or directly adjacent to an entranceway or an exit, or placed in a
17 hallway, a restroom, or another common area that is accessible to
18 persons who are less than ~~eighteen (18)~~ **twenty-one (21)** years of age,
19 this section does not apply to a coin machine that is located in the
20 following:
- 21 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)
22 where entry is limited to persons who are at least ~~eighteen (18)~~
23 **twenty-one (21)** years of age.
24 (2) Private industrial or office locations that are customarily
25 accessible only to persons who are at least ~~eighteen (18)~~
26 **twenty-one (21)** years of age.
27 (3) Private clubs if the membership is limited to persons who are
28 at least ~~eighteen (18)~~ **twenty-one (21)** years of age.
29 (4) Riverboats where entry is limited to persons who are at least
30 twenty-one (21) years of age and on which lawful gambling is
31 authorized.
- 32 (b) As used in this section, "coin machine" has the meaning set forth
33 in IC 35-43-5-1.
- 34 (c) Except as provided in subsection (a), an owner of a retail
35 establishment may not:
36 (1) distribute or sell tobacco or electronic cigarettes by use of a
37 coin machine; or
38 (2) install or maintain a coin machine that is intended to be used
39 for the sale or distribution of tobacco or electronic cigarettes.
- 40 (d) An owner of a retail establishment who violates this section
41 commits a Class C infraction. A citation or summons issued under this
42 section must provide notice that the coin machine must be moved



1 within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil
 2 judgment for an infraction committed under this section must be
 3 imposed as follows:

4 (1) If the owner of the retail establishment has not been issued a
 5 citation or summons for a violation of this section in the previous
 6 ninety (90) days, a civil penalty of fifty dollars (\$50).

7 (2) If the owner of the retail establishment has had one (1) citation
 8 or summons issued for a violation of this section in the previous
 9 ninety (90) days, a civil penalty of two hundred fifty dollars
 10 (\$250).

11 (3) If the owner of the retail establishment has had two (2)
 12 citations or summonses issued for a violation of this section in the
 13 previous ninety (90) days for the same machine, the coin machine
 14 shall be removed or impounded by a law enforcement officer
 15 having jurisdiction where the violation occurs.

16 An owner of a retail establishment may not be issued a citation or
 17 summons for a violation of this section more than once every two (2)
 18 business days for each business location.

19 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 20 this section must be deposited in the Richard D. Doyle youth tobacco
 21 education and enforcement fund established under IC 7.1-6-2-6.

22 SECTION 32. IC 35-46-1-11.7, AS AMENDED BY P.L.94-2008,
 23 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2020]: Sec. 11.7. (a) A retail establishment that has as its
 25 primary purpose the sale of tobacco products, **e-liquids, or electronic**
 26 **cigarettes** may not allow an individual who is less than ~~eighteen (18)~~
 27 **twenty-one (21)** years of age to enter the retail establishment.

28 (b) An individual who is less than ~~eighteen (18)~~ **twenty-one (21)**
 29 years of age may not enter a retail establishment described in
 30 subsection (a).

31 (c) A retail establishment described in subsection (a) must
 32 conspicuously post on all entrances to the retail establishment the
 33 following:

34 (1) A sign in boldface type that states "NOTICE: It is unlawful for
 35 a person less than ~~18~~ **21** years ~~old~~ **of age** to enter this store."

36 (2) A sign printed in letters and numbers at least one-half (1/2)
 37 inch high that displays a toll free phone number for assistance to
 38 callers in quitting smoking, as determined by the state department
 39 of health.

40 (d) A person who violates this section commits a Class C infraction.
 41 Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction
 42 committed under this section must be imposed as follows:



1 (1) If the person has not been cited for a violation of this section
 2 in the previous one hundred eighty (180) days, a civil penalty of
 3 up to ~~two six~~ **six** hundred dollars (~~\$200~~). **(\$600)**.

4 (2) If the person has had one (1) violation in the previous one
 5 hundred eighty (180) days, a civil penalty of up to ~~four one~~
 6 **thousand two** hundred dollars (~~\$400~~). **(\$1,200)**.

7 (3) If the person has had two (2) violations in the previous one
 8 hundred eighty (180) days, a civil penalty of up to ~~seven two~~
 9 **thousand one** hundred dollars (~~\$700~~). **(\$2,100)**.

10 (4) If the person has had three (3) or more violations in the
 11 previous one hundred eighty (180) days, a civil penalty of up to
 12 ~~one three~~ **thousand three** hundred dollars (~~\$1,000~~). **(\$3,000)**.

13 A person may not be cited more than once every twenty-four (24)
 14 hours.

15 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 16 this section must be deposited in the Richard D. Doyle youth tobacco
 17 education and enforcement fund established under IC 7.1-6-2-6.

18 (f) A person who violates subsection (a) at least six (6) times in any
 19 one hundred eighty (180) day period commits habitual illegal entrance
 20 by a minor, a Class B infraction.

21 SECTION 33. IC 35-46-1-11.8, AS AMENDED BY P.L.20-2013,
 22 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2020]: Sec. 11.8. (a) As used in this section, "self-service
 24 display" means a display that contains tobacco or electronic cigarettes
 25 in an area where a customer:

26 (1) is permitted; and

27 (2) has access to the tobacco or electronic cigarettes without
 28 assistance from a sales person.

29 (b) This section does not apply to a self-service display located in
 30 a retail establishment that:

31 (1) has a primary purpose to sell tobacco or electronic cigarettes;
 32 and

33 (2) prohibits entry by persons who are less than ~~eighteen (18)~~
 34 **twenty-one (21)** years of age.

35 (c) The owner of a retail establishment that sells or distributes
 36 tobacco or electronic cigarettes through a self-service display, other
 37 than a coin operated machine operated under IC 35-46-1-11 or
 38 IC 35-46-1-11.5, commits a Class C infraction.

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



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 1, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 9, delete lines 25 through 42, begin a new paragraph and insert:

"SECTION 16. IC 7.1-7-6-2 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 2: (a) This subsection does not apply to a delivery sale as defined in IC 7.1-7-2-6.3. If a retailer:

- (1) knowingly and intentionally sells e-liquid to a minor; or
- (2) knowingly, intentionally, or negligently fails to verify the age of a person who appears to be less than twenty-seven (27) years of age by checking a government issued identification and sells the person e-liquid;

the retailer commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the e-liquid.

(b) Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to two hundred dollars (\$200):
- (2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to four hundred dollars (\$400):
- (3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to seven hundred dollars (\$700):
- (4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to one thousand dollars (\$1,000):

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location:

(c) It is not a defense that the person to whom e-liquid was sold or distributed did not inhale or otherwise consume e-liquid.

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(d) The following defenses are available to a retail establishment accused of selling or distributing e-liquid to a person who is less than eighteen (18) years of age:

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

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

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

(e) It is a defense that the accused retail establishment sold or delivered e-liquid to a person who acted in the ordinary course of employment or a business concerning e-liquid:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(f) As used in this section, "distribute" means to give e-liquid to another person as a means of promoting, advertising, or marketing e-liquid to the general public.

(g) Unless a person buys or receives e-liquid under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes e-liquid is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the e-liquid is issued a citation or summons in violation of this article.

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

(i) A person who violates subsection (a) at least six (6) times in any one hundred eighty (180) day period commits habitual illegal sale of e-liquid; a Class B infraction.

SECTION 17. IC 7.1-7-6-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 2.1. A person who sells or distributes an e-liquid to a person under twenty-one (21) years of age may be in violation of IC 35-46-1."**



- Delete page 10.
- Page 11, delete lines 1 through 13.
- Page 11, line 16, delete "This section does not apply to tobacco,".
- Page 11, delete line 17.
- Page 12, line 29, strike "twenty-seven (27)" and insert "**thirty (30)**".
- Page 15, line 13, delete "This section does not apply to the" and insert "**A person may not be charged with a violation under this section and a violation under IC 7.1-7-6-5.**".
- Page 15, delete line 14.
- Page 15, line 16, after "tobacco" insert ", **an e-liquid,**".
- Page 15, line 18, after "tobacco" insert ", **an e-liquid,**".
- Page 15, line 22, after "product" insert ", **the e-liquid,**".
- Page 15, line 24, after "tobacco" insert ", **the e-liquid,**".
- Page 15, line 26, after "tobacco" insert ", **e-liquid,**".
- Page 15, line 28, after "tobacco" insert ", **an e-liquid,**".
- Page 15, line 39, strike "the age that complies with regulations" and insert "**thirty (30) years of age.**".
- Page 15, strike line 40.
- Page 15, line 42, after "tobacco" insert ", **e-liquid,**".
- Page 16, line 1, after "tobacco" insert ", **an e-liquid,**".
- Page 16, line 2, delete ":" and insert "**including the following activities:**".
- Page 16, line 8, after "tobacco" insert ", **an e-liquid,**".
- Page 16, line 10, after "tobacco" insert ", **e-liquid,**".
- Page 16, line 12, after "tobacco" insert ", **an e-liquid,**".
- Page 16, line 14, after "tobacco" insert ", **an e-liquid,**".
- Page 16, line 17, after "tobacco" insert ", **e-liquid,**".
- Page 16, line 24, delete "This section does not apply to the" and insert "**A person may not be charged with a violation under this section and a violation under IC 7.1-7-6-5.**".
- Page 16, delete line 25.
- Page 16, line 26, after "that" insert "**(1)**".
- Page 16, line 28, after "age" insert "; **or**
(2) fails to verify the age of a person who appears to be less than thirty (30) years of age by checking a government issued identification and sells the person tobacco, an e-liquid, or an electronic cigarette;".
- Page 16, line 28, beginning with "commits" begin a new line blocked left.
- Page 16, line 31, after "cigarette." begin a new paragraph and insert "**(c)**".



Page 17, line 13, delete "(c)" and insert "(d)".

Page 17, line 17, delete "(d)" and insert "(e)".

Page 17, line 30, strike "the age that complies with regulations" and insert "**thirty (30) years of age.**".

Page 17, strike line 31.

Page 17, line 32, delete "(e)" and insert "(f)".

Page 17, line 42, delete "(f)" and insert "(g)".

Page 18, line 4, delete "(g)" and insert "(h)".

Page 18, line 12, delete "(h)" and insert "(i)".

Page 18, line 15, delete "(i)" and insert "(j)".

Page 21, line 12, after "products" insert ", **e-liquids, or electronic cigarettes**".

Page 21, line 32, strike "two" and insert "**six**".

Page 21, line 32, strike "\$200." and insert "**\$600.**".

Page 21, line 34, strike "four" and insert "**one thousand two**".

Page 21, line 35, strike "\$400." and insert "**\$1,200.**".

Page 21, line 37, strike "seven" and insert "**two thousand one**".

Page 21, line 38, strike "\$700." and insert "**\$2,100.**".

Page 21, line 41, strike "one" and insert "**three**".

Page 21, line 41, strike "\$1,000" and insert "**\$3,000.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 1 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 11, Nays 0.

