

SENATE BILL No. 375

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3-47.5; IC 7.1-3; IC 7.1-7; IC 24-3-7; IC 35-31.5-2-107.5; IC 35-46-1.

Synopsis: Prohibition on e-liquids and electronic cigarettes. Provides that it is a Class C misdemeanor if a person knowingly or intentionally possesses an e-liquid or an electronic cigarette. Provides that it is a Class B misdemeanor if a person knowingly or intentionally sells, gives, or distributes an e-liquid or an electronic cigarette to another person. Makes corresponding changes.

Effective: July 1, 2020.

Mrvan

January 13, 2020, read first time and referred to Committee on Corrections and Criminal Law.



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. 375

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 7.1-1-3-47.5, AS AMENDED BY P.L.60-2016,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 47.5. (a) "Tobacco product", except as provided
4 in subsection (b), has the meaning set forth in IC 7.1-6-1-3.

5 (b) "Tobacco product", for purposes of IC 7.1-3-18.5, means a
6 product that:

- 7 (1) contains tobacco; ~~including e-liquid (as defined by~~
8 ~~IC 7.1-7-2-10) that contains nicotine;~~ and
- 9 (2) is intended for human consumption.

10 SECTION 2. IC 7.1-3-17.8-5, AS ADDED BY P.L.214-2016,
11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2020]: Sec. 5. Except as provided in sections 2 and 3 of this
13 chapter, an entity that operates on state park property under a permit
14 issued by the commission to:

- 15 (1) the department of natural resources under this chapter; or
 - 16 (2) the entity under this article;
- 17 shall operate within the park property in accordance with the provisions



1 of this title that regulate the sale and use of alcoholic beverages
 2 ~~e-liquid (as defined in IC 7.1-7-2-10)~~; and tobacco products (as defined
 3 in IC 7.1-6-1-3).

4 SECTION 3. IC 7.1-3-18.5-1, AS AMENDED BY P.L.32-2019,
 5 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]: Sec. 1. (a) A person may not sell or otherwise
 7 distribute in exchange for consideration a tobacco product ~~or electronic~~
 8 ~~cigarette~~ at retail without a valid tobacco sales certificate issued by the
 9 commission.

10 (b) A certificate may be issued only to a person who owns or
 11 operates at least one (1) of the following:

12 (1) A premises consisting of a permanent building or structure
 13 where the tobacco product ~~or electronic cigarette~~ is sold or
 14 distributed.

15 (2) A premises upon which a cigarette vending machine is
 16 located.

17 SECTION 4. IC 7.1-3-18.5-2, AS AMENDED BY P.L.231-2015,
 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2020]: Sec. 2. (a) A person who desires a certificate must
 20 provide the following to the commission:

21 (1) The applicant's name and mailing address and the address of
 22 the premises for which the certificate is being issued.

23 (2) Except as provided in section 6(c) of this chapter, a fee of two
 24 hundred dollars (\$200).

25 (3) The name under which the applicant transacts or intends to
 26 transact business.

27 (4) The address of the applicant's principal place of business or
 28 headquarters, if any.

29 (5) The statement required under section 2.6 of this chapter.

30 (b) A separate certificate is required for each location where the
 31 tobacco products ~~or electronic cigarettes~~ are sold or distributed.

32 (c) A certificate holder shall conspicuously display the holder's
 33 certificate on the holder's premises where the tobacco products ~~or~~
 34 ~~electronic cigarettes~~ are sold or distributed.

35 (d) Any intentional misstatement or suppression of a material fact
 36 in an application filed under this section constitutes grounds for denial
 37 of the certificate.

38 (e) A certificate may be issued only to a person who meets the
 39 following requirements:

40 (1) If the person is an individual, the person must be at least
 41 eighteen (18) years of age.

42 (2) The person must be authorized to do business in Indiana.



1 (f) The fees collected under this section shall be deposited in the
2 enforcement and administration fund under IC 7.1-4-10.

3 SECTION 5. IC 7.1-3-18.5-6, AS AMENDED BY P.L.214-2016,
4 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2020]: Sec. 6. (a) If a certificate has:

- 6 (1) expired; or
7 (2) been suspended;

8 the commission may not reinstate or renew the certificate until all civil
9 penalties imposed against the certificate holder for violating
10 IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2,
11 IC 35-46-1-11.5, IC 35-46-1-11.7, or IC 35-46-1-11.8 have been paid.

12 (b) The failure to pay a civil penalty described in subsection (a) is
13 a Class B infraction.

14 (c) If a certificate has been revoked, the commission may not
15 reinstate or renew the certificate for at least one hundred eighty (180)
16 days after the date of revocation. The commission may reinstate or
17 renew the certificate only upon a reasonable showing by the applicant
18 that the applicant shall:

- 19 (1) exercise due diligence in the sale of tobacco products ~~or~~
20 ~~electronic cigarettes~~ on the applicant's premises where the
21 tobacco products ~~or electronic cigarettes~~ are sold or distributed;
22 and
23 (2) properly supervise and train the applicant's employees or
24 agents in the handling and sale of tobacco products. ~~or electronic~~
25 ~~cigarettes.~~

26 If a certificate is reinstated or renewed, the applicant of the certificate
27 shall pay an application fee of one thousand dollars (\$1,000).

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

31 SECTION 6. IC 7.1-3-18.5-7, AS AMENDED BY P.L.231-2015,
32 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2020]: Sec. 7. (a) A person who is required to have a
34 certificate under this chapter and who sells or distributes tobacco
35 products ~~or electronic cigarettes~~ without a valid certificate commits a
36 Class A infraction. Each violation of this section constitutes a separate
37 offense.

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

41 SECTION 7. IC 7.1-3-18.5-8, AS AMENDED BY P.L.214-2016,
42 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 8. The commission may mitigate civil penalties
 2 imposed against a certificate holder for violating IC 35-46-1-10,
 3 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.5,
 4 IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the provisions of this
 5 chapter if a certificate holder provides a training program for the
 6 certificate holder's employees that includes at least the following
 7 topics:

8 (1) Laws governing the sale of tobacco products. ~~and electronic~~
 9 ~~cigarettes.~~

10 (2) Methods of recognizing and handling customers who are less
 11 than eighteen (18) years of age.

12 (3) Procedures for proper examination of identification cards to
 13 verify that customers are under eighteen (18) years of age.

14 SECTION 8. IC 7.1-3-18.5-9, AS AMENDED BY P.L.231-2015,
 15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2020]: Sec. 9. A certificate holder shall exercise due diligence
 17 in the supervision and training of the certificate holder's employees or
 18 agents in the handling and sale of tobacco products ~~and electronic~~
 19 ~~cigarettes~~ on the holder's retail premises. Proof that employees or
 20 agents of the certificate holder, while in the scope of their employment,
 21 committed at least six (6) violations relating to IC 35-46-1-10.2(a) in
 22 any one hundred eighty (180) day period shall be prima facie evidence
 23 of a lack of due diligence by the certificate holder in the supervision
 24 and training of the certificate holder's employees or agents.

25 SECTION 9. IC 7.1-3-18.5-11, AS ADDED BY P.L.214-2016,
 26 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2020]: Sec. 11. If a certificate holder sells or distributes
 28 tobacco products ~~or electronic cigarettes~~ at a location:

29 (1) determined to be a public nuisance; or

30 (2) at which conduct or acts that are crimes or infractions under
 31 IC 35 occur;

32 the commission may impose sanctions against the certificate holder
 33 under IC 7.1-2-3-33 and section 5 of this chapter.

34 SECTION 10. IC 7.1-7 IS REPEALED [EFFECTIVE JULY 1,
 35 2020]. (Vapor Pens and E-liquid).

36 SECTION 11. IC 24-3-7 IS REPEALED [EFFECTIVE JULY 1,
 37 2020]. (Nicotine Liquid Container Packaging).

38 SECTION 12. IC 35-31.5-2-107.5 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2020]: **Sec. 107.5. "E-liquid," for purposes**
 41 **of IC 35-46-1, has the meaning set forth in IC 35-46-1-1.4.**

42 SECTION 13. IC 35-46-1-1.4 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2020]: **Sec. 1.4. As used in this chapter,**
 3 **"e-liquid" means a substance that:**

- 4 (1) **may or may not contain nicotine; and**
 5 (2) **is intended to be aerosolized or vaporized in an open**
 6 **system vapor product or a closed system vapor product.**

7 SECTION 14. IC 35-46-1-10, AS AMENDED BY P.L.20-2013,
 8 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2020]: Sec. 10. (a) A person who knowingly:

- 10 (1) sells or distributes tobacco ~~or an electronic cigarette~~ to a
 11 person less than eighteen (18) years of age; or
 12 (2) purchases tobacco ~~or an electronic cigarette~~ for delivery to
 13 another person who is less than eighteen (18) years of age;
 14 commits a Class C infraction. For a sale to take place under this
 15 section, the buyer must pay the seller for the tobacco product. ~~or the~~
 16 ~~electronic cigarette.~~

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

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

- 23 (1) The buyer or recipient produced a driver's license bearing the
 24 purchaser's or recipient's photograph, showing that the purchaser
 25 or recipient was of legal age to make the purchase.
 26 (2) The buyer or recipient produced a photographic identification
 27 card issued under IC 9-24-16-1, or a similar card issued under the
 28 laws of another state or the federal government, showing that the
 29 purchaser or recipient was of legal age to make the purchase.
 30 (3) The appearance of the purchaser or recipient was such that an
 31 ordinary prudent person would believe that the purchaser or
 32 recipient was not less than the age that complies with regulations
 33 promulgated by the federal Food and Drug Administration.

34 (d) It is a defense that the accused person sold or delivered the
 35 tobacco ~~or electronic cigarette~~ to a person who acted in the ordinary
 36 course of employment or a business concerning tobacco, ~~or electronic~~
 37 ~~cigarettes: including the following activities:~~

- 38 (1) Agriculture.
 39 (2) Processing.
 40 (3) Transporting.
 41 (4) Wholesaling, ~~or~~
 42 (5) Retailing.



1 (e) As used in this section, "distribute" means to give tobacco ~~or an~~
 2 ~~electronic cigarette~~ to another person as a means of promoting,
 3 advertising, or marketing the tobacco ~~or electronic cigarette~~ to the
 4 general public.

5 (f) Unless the person buys or receives tobacco ~~or an electronic~~
 6 ~~cigarette~~ under the direction of a law enforcement officer as part of an
 7 enforcement action, a person who sells or distributes tobacco ~~or an~~
 8 ~~electronic cigarette~~ is not liable for a violation of this section unless the
 9 person less than eighteen (18) years of age who bought or received the
 10 tobacco ~~or electronic cigarette~~ is issued a citation or summons under
 11 section 10.5 of this chapter.

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

15 SECTION 15. IC 35-46-1-10.2, AS AMENDED BY P.L.20-2013,
 16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2020]: Sec. 10.2. (a) A retail establishment that sells or
 18 distributes tobacco ~~or an electronic cigarette~~ to a person less than
 19 eighteen (18) years of age commits a Class C infraction. For a sale to
 20 take place under this section, the buyer must pay the retail
 21 establishment for the tobacco product. ~~or electronic cigarette.~~
 22 Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction
 23 committed under this section must be imposed as follows:

24 (1) If the retail establishment at that specific business location has
 25 not been issued a citation or summons for a violation of this
 26 section in the previous one hundred eighty (180) days, a civil
 27 penalty of up to two hundred dollars (\$200).

28 (2) If the retail establishment at that specific business location has
 29 had one (1) citation or summons issued for a violation of this
 30 section in the previous one hundred eighty (180) days, a civil
 31 penalty of up to four hundred dollars (\$400).

32 (3) If the retail establishment at that specific business location has
 33 had two (2) citations or summonses issued for a violation of this
 34 section in the previous one hundred eighty (180) days, a civil
 35 penalty of up to seven hundred dollars (\$700).

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

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



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

4 (c) The following defenses are available to a retail establishment
 5 accused of selling or distributing tobacco ~~or an electronic cigarette~~ to
 6 a person who is less than eighteen (18) years of age:

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

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

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

18 (d) It is a defense that the accused retail establishment sold or
 19 delivered the tobacco ~~or electronic cigarette~~ to a person who acted in
 20 the ordinary course of employment or a business concerning tobacco,
 21 ~~or electronic cigarettes: including the following activities:~~

22 (1) Agriculture.

23 (2) Processing.

24 (3) Transporting.

25 (4) Wholesaling. ~~or~~

26 (5) Retailing.

27 (e) As used in this section, "distribute" means to give tobacco ~~or an~~
 28 ~~electronic cigarette~~ to another person as a means of promoting,
 29 advertising, or marketing the tobacco ~~or electronic cigarette~~ to the
 30 general public.

31 (f) Unless a person buys or receives tobacco ~~or an electronic~~
 32 ~~cigarette~~ under the direction of a law enforcement officer as part of an
 33 enforcement action, a retail establishment that sells or distributes
 34 tobacco ~~or an electronic cigarette~~ is not liable for a violation of this
 35 section unless the person less than eighteen (18) years of age who
 36 bought or received the tobacco ~~or electronic cigarette~~ is issued a
 37 citation or summons under section 10.5 of this chapter.

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

41 (h) A person who violates subsection (a) at least six (6) times in any
 42 one hundred eighty (180) day period commits habitual illegal sale of



1 tobacco, a Class B infraction.

2 SECTION 16. IC 35-46-1-10.5, AS AMENDED BY P.L.20-2013,
3 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2020]: Sec. 10.5. (a) A person less than eighteen (18) years of
5 age who:

- 6 (1) purchases tobacco; ~~or an electronic cigarette;~~
7 (2) accepts tobacco ~~or an electronic cigarette~~ for personal use; or
8 (3) possesses tobacco ~~or an electronic cigarette~~ on his ~~or her~~
9 person;

10 commits a Class C infraction.

11 (b) It is a defense under subsection (a) that the accused person acted
12 in the ordinary course of employment in a business concerning tobacco,
13 ~~or electronic cigarettes: including the following activities:~~

- 14 (1) Agriculture.
15 (2) Processing.
16 (3) Transporting.
17 (4) Wholesaling. ~~or~~
18 (5) Retailing.

19 SECTION 17. IC 35-46-1-10.6 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2020]: **Sec. 10.6. (a) A person who knowingly**
22 **or intentionally sells, gives, or distributes an electronic cigarette or**
23 **an e-liquid to another person commits a Class B misdemeanor.**

24 **(b) A person who knowingly or intentionally possesses an**
25 **e-liquid or an electronic cigarette commits a Class C misdemeanor.**

26 SECTION 18. IC 35-46-1-11, AS AMENDED BY P.L.20-2013,
27 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2020]: Sec. 11. (a) A tobacco ~~or electronic cigarette~~ vending
29 machine that is located in a public place must bear the following
30 conspicuous notices:

- 31 (1) A notice:
32 (A) that reads as follows, with the capitalization indicated: "If
33 you are under 18 years of age, YOU ARE FORBIDDEN by
34 Indiana law to buy tobacco ~~or electronic cigarettes~~ from this
35 machine."; or
36 (B) that:
37 (i) conveys a message substantially similar to the message
38 described in clause (A); and
39 (ii) is formatted with words and in a form authorized under
40 the rules adopted by the alcohol and tobacco commission.
41 (2) A notice that reads as follows, "Smoking by Pregnant Women
42 May Result in Fetal Injury, Premature Birth, and Low Birth



- 1 Weight."
- 2 (3) A notice printed in letters and numbers at least one-half (1/2)
- 3 inch high that displays a toll free phone number for assistance to
- 4 callers in quitting smoking, as determined by the state department
- 5 of health.
- 6 (b) A person who owns or has control over a tobacco ~~or electronic~~
- 7 ~~cigarette~~ vending machine in a public place and who:
- 8 (1) fails to post a notice required by subsection (a) on the vending
- 9 machine; or
- 10 (2) fails to replace a notice within one (1) month after it is
- 11 removed or defaced;
- 12 commits a Class C infraction.
- 13 (c) An establishment selling tobacco ~~or electronic cigarettes~~ at retail
- 14 shall post and maintain in a conspicuous place, at the point of sale, the
- 15 following:
- 16 (1) Signs printed in letters at least one-half (1/2) inch high,
- 17 reading as follows:
- 18 (A) "The sale of tobacco ~~or electronic cigarettes~~ to persons
- 19 under 18 years of age is forbidden by Indiana law."
- 20 (B) "Smoking by Pregnant Women May Result in Fetal Injury,
- 21 Premature Birth, and Low Birth Weight."
- 22 (2) A sign printed in letters and numbers at least one-half (1/2)
- 23 inch high that displays a toll free phone number for assistance to
- 24 callers in quitting smoking, as determined by the state department
- 25 of health.
- 26 (d) A person who:
- 27 (1) owns or has control over an establishment selling tobacco ~~or~~
- 28 ~~electronic cigarettes~~ at retail; and
- 29 (2) fails to post and maintain the sign required by subsection (c);
- 30 commits a Class C infraction.
- 31 SECTION 19. IC 35-46-1-11.5, AS AMENDED BY P.L.20-2013,
- 32 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2020]: Sec. 11.5. (a) Except for a coin machine that is placed
- 34 in or directly adjacent to an entranceway or an exit, or placed in a
- 35 hallway, a restroom, or another common area that is accessible to
- 36 persons who are less than eighteen (18) years of age, this section does
- 37 not apply to a coin machine that is located in the following:
- 38 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)
- 39 where entry is limited to persons who are at least eighteen (18)
- 40 years of age.
- 41 (2) Private industrial or office locations that are customarily
- 42 accessible only to persons who are at least eighteen (18) years of



- 1 age.
- 2 (3) Private clubs if the membership is limited to persons who are
- 3 at least eighteen (18) years of age.
- 4 (4) Riverboats where entry is limited to persons who are at least
- 5 twenty-one (21) years of age and on which lawful gambling is
- 6 authorized.
- 7 (b) As used in this section, "coin machine" has the meaning set forth
- 8 in IC 35-43-5-1.
- 9 (c) Except as provided in subsection (a), an owner of a retail
- 10 establishment may not:
- 11 (1) distribute or sell tobacco ~~or electronic cigarettes~~ by use of a
- 12 coin machine; or
- 13 (2) install or maintain a coin machine that is intended to be used
- 14 for the sale or distribution of tobacco. ~~or electronic cigarettes.~~
- 15 (d) An owner of a retail establishment who violates this section
- 16 commits a Class C infraction. A citation or summons issued under this
- 17 section must provide notice that the coin machine must be moved
- 18 within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil
- 19 judgment for an infraction committed under this section must be
- 20 imposed as follows:
- 21 (1) If the owner of the retail establishment has not been issued a
- 22 citation or summons for a violation of this section in the previous
- 23 ninety (90) days, a civil penalty of fifty dollars (\$50).
- 24 (2) If the owner of the retail establishment has had one (1) citation
- 25 or summons issued for a violation of this section in the previous
- 26 ninety (90) days, a civil penalty of two hundred fifty dollars
- 27 (\$250).
- 28 (3) If the owner of the retail establishment has had two (2)
- 29 citations or summonses issued for a violation of this section in the
- 30 previous ninety (90) days for the same machine, the coin machine
- 31 shall be removed or impounded by a law enforcement officer
- 32 having jurisdiction where the violation occurs.
- 33 An owner of a retail establishment may not be issued a citation or
- 34 summons for a violation of this section more than once every two (2)
- 35 business days for each business location.
- 36 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
- 37 this section must be deposited in the Richard D. Doyle youth tobacco
- 38 education and enforcement fund established under IC 7.1-6-2-6.
- 39 SECTION 20. IC 35-46-1-11.8, AS AMENDED BY P.L.20-2013,
- 40 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 41 JULY 1, 2020]: Sec. 11.8. (a) As used in this section, "self-service
- 42 display" means a display that contains tobacco ~~or electronic cigarettes~~



- 1 in an area where a customer:
 2 (1) is permitted; and
 3 (2) has access to the tobacco ~~or electronic cigarettes~~ without
 4 assistance from a sales person.
 5 (b) This section does not apply to a self-service display located in
 6 a retail establishment that:
 7 (1) has a primary purpose to sell tobacco; ~~or electronic cigarettes;~~
 8 and
 9 (2) prohibits entry by persons who are less than eighteen (18)
 10 years of age.
 11 (c) The owner of a retail establishment that sells or distributes
 12 tobacco ~~or electronic cigarettes~~ through a self-service display, other
 13 than a coin operated machine operated under IC 35-46-1-11 or
 14 IC 35-46-1-11.5, commits a Class C infraction.
 15 (d) 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 (IC 7.1-6-2-6).
 18 **SECTION 21. [EFFECTIVE JULY 1, 2020] (a) The legislative**
 19 **services agency shall prepare legislation for introduction during**
 20 **the 2021 regular session of the general assembly to make**
 21 **conforming amendments that are required by this act.**
 22 **(b) This SECTION expires July 1, 2021.**

