

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 73

Introduced by Riepe, 12.

Read first time January 05, 2017

Committee: General Affairs

1 A BILL FOR AN ACT relating to tobacco; to amend sections 28-1418,
2 28-1418.01, 28-1419, 28-1421, 28-1424, 28-1425, 28-1427, and
3 28-1429.01, Reissue Revised Statutes of Nebraska; to prohibit the
4 use, consumption, or obtaining of tobacco, vapor products, and
5 alternative nicotine products by persons under twenty-one years of
6 age; to prohibit the sale or transfer of tobacco, vapor products,
7 and alternative nicotine products to persons under twenty-one years
8 of age; to harmonize provisions; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1418, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-1418 Any person ~~whoever, being a minor~~ under the age of twenty-
4 one ~~eighteen~~ years who smokes ~~, shall smoke~~ cigarettes or cigars, uses
5 ~~use~~ vapor products or alternative nicotine products, or uses ~~use~~ tobacco
6 in any form whatever, in this state, shall be guilty of a Class V
7 misdemeanor. Any person ~~minor~~ charged with a violation of this section
8 may be free from prosecution if he or she furnishes evidence for the
9 conviction of the person or persons selling or giving him or her the
10 cigarettes, cigars, vapor products, alternative nicotine products, or
11 tobacco.

12 Sec. 2. Section 28-1418.01, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 28-1418.01 For purposes of sections 28-1418 to 28-1429.03:

15 (1) Alternative nicotine product means any noncombustible product
16 containing nicotine that is intended for human consumption, whether
17 chewed, absorbed, dissolved, or ingested by any other means. Alternative
18 nicotine product does not include any vapor product, cigarette, cigar, or
19 other tobacco product, or any product regulated as a drug or device by
20 the United States Food and Drug Administration under Chapter V of the
21 federal Food, Drug, and Cosmetic Act;

22 (2) Self-service display means a retail display that contains a
23 tobacco product, a tobacco-derived product, a vapor product, or an
24 alternative nicotine product and is located in an area openly accessible
25 to a retailer's customers and from which such customers can readily
26 access the product without the assistance of a salesperson. Self-service
27 display does not include a display case that holds tobacco products,
28 vapor products, or alternative nicotine products behind locked doors;

29 (3) Tobacco specialty store means a retail store that (a) derives at
30 least seventy-five percent of its revenue from tobacco products, tobacco-
31 derived products, vapor products, or alternative nicotine products and

1 (b) does not permit persons ~~minors~~ under the age of twenty-one ~~eighteen~~
2 years to enter the premises unless accompanied by a parent or legal
3 guardian; and

4 (4) Vapor product means any noncombustible product containing
5 nicotine that employs a heating element, power source, electronic
6 circuit, or other electronic, chemical, or mechanical means, regardless
7 of shape or size, that can be used to produce vapor from nicotine in a
8 solution or other form. Vapor product includes any electronic cigarette,
9 electronic cigar, electronic cigarillo, electronic pipe, or similar
10 product or device and any vapor cartridge or other container of nicotine
11 in a solution or other form that is intended to be used with or in an
12 electronic cigarette, electronic cigar, electronic cigarillo, electronic
13 pipe, or similar product or device. Vapor product does not include an
14 alternative nicotine product, cigarette, cigar, or other tobacco product,
15 or any product regulated as a drug or device by the United States Food
16 and Drug Administration under Chapter V of the federal Food, Drug, and
17 Cosmetic Act.

18 Sec. 3. Section 28-1419, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 28-1419 Any person who sells ~~Whoever shall sell~~, gives ~~give~~, or
21 furnishes ~~furnish~~, in any way, any tobacco in any form whatever, or any
22 cigarettes, cigarette paper, vapor products, or alternative nicotine
23 products, to any person ~~minor~~ under twenty-one ~~eighteen~~ years of age, is
24 guilty of a Class III misdemeanor for each offense.

25 Sec. 4. Section 28-1421, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 28-1421 Licenses for the sale of cigars, tobacco, cigarettes, and
28 cigarette material to persons over the age of twenty-one ~~eighteen~~ years
29 shall be issued to individuals, partnerships, limited liability
30 companies, and corporations by the clerk or finance director of any city
31 or village and by the county clerk of any county upon application duly

1 made as provided in section 28-1422. The sale of cigarettes or cigarette
2 materials that contain perfumes or drugs in any form is prohibited and is
3 not licensed by the provisions of this section. Only cigarettes and
4 cigarette material containing pure white paper and pure tobacco shall be
5 licensed.

6 Sec. 5. Section 28-1424, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 28-1424 The license~~r~~, provided for in sections 28-1421 and 28-1422
9 shall, when issued, shall authorize the sale of cigars, tobacco,
10 cigarettes, and cigarette material by the licensee and employees, to
11 persons over the age of twenty-one ~~eighteen~~ years, at the place of
12 business described in such license for the term therein authorized,
13 unless such license is ~~the same~~ be forfeited as provided in section
14 28-1425.

15 Sec. 6. Section 28-1425, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 28-1425 Any licensee who sells shall sell, gives give, or furnishes
18 ~~furnish~~ in any way to any person under the age of twenty-one ~~eighteen~~
19 years, or who ~~shall~~ willingly allows allow to be taken from his or her
20 place of business by any person under the age of twenty-one ~~eighteen~~
21 years, any cigars, tobacco, cigarettes, cigarette material, vapor
22 products, or alternative nicotine products is guilty of a Class III
23 misdemeanor. Any officer, director, or manager having charge or control,
24 either separately or jointly with others, of the business of any
25 corporation which violates any provision of sections 28-1418.01, 28-1420
26 to 28-1429, and 28-1429.03, if he or she has knowledge of such violation,
27 shall be subject to the penalties provided in this section. In addition
28 to the penalties provided in this section, such licensee shall be subject
29 to the additional penalty of a revocation and forfeiture of his, her,
30 their, or its license, at the discretion of the court before whom the
31 complaint for violation of any provision of such sections may be heard.

1 If such license is revoked and forfeited, all rights under such license
2 shall at once cease and terminate.

3 Sec. 7. Section 28-1427, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 28-1427 Any person under the age of twenty-one ~~eighteen~~ years who
6 shall obtain cigars, tobacco, cigarettes, cigarette material, vapor
7 products, or alternative nicotine products from a licensee by
8 representing that he or she is twenty-one ~~of the age of eighteen years of~~
9 age or older ~~over~~ is guilty of a Class V misdemeanor.

10 Sec. 8. Section 28-1429.01, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 28-1429.01 The Legislature finds that the incumbent health risks
13 associated with smoking tobacco products have been scientifically proven.
14 The Legislature further finds that the growing number of minors who start
15 smoking is staggering and even more abhorrent are the ages at which such
16 children begin this deadly habit. The Legislature has established an age
17 restriction on the use of tobacco products by persons under twenty-one
18 years of age ~~minors~~. To ensure that the use of tobacco products among
19 minors is discouraged to the maximum extent possible, it is the intent of
20 the Legislature to ban the use of vending machines and similar devices to
21 dispense tobacco products in facilities, buildings, or areas which are
22 open to the general public within Nebraska.

23 Sec. 9. Original sections 28-1418, 28-1418.01, 28-1419, 28-1421,
24 28-1424, 28-1425, 28-1427, and 28-1429.01, Reissue Revised Statutes of
25 Nebraska, are repealed.