LEGISLATIVE BILL 73

Introduced by Riepe, 12.
Read first time January 05, 2017
Committee: General Affairs

A BILL FOR AN ACT relating to tobacco; to amend sections 28-1418, 28-1418.01, 28-1419, 28-1421, 28-1424, 28-1425, 28-1427, and 28-1429.01, Reissue Revised Statutes of Nebraska; to prohibit the use, consumption, or obtaining of tobacco, vapor products, and alternative nicotine products by persons under twenty-one years of age; to prohibit the sale or transfer of tobacco, vapor products, and alternative nicotine products to persons under twenty-one years of age; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 28-1418, Reissue Revised Statutes of Nebraska, is amended to read:  

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

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

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

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

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

(3) Tobacco specialty store means a retail store that (a) derives at least seventy-five percent of its revenue from tobacco products, tobacco-derived products, vapor products, or alternative nicotine products and
(b) does not permit persons minors under the age of twenty-one eighteen years to enter the premises unless accompanied by a parent or legal guardian; and

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

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

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

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

28-1421 Licenses for the sale of cigars, tobacco, cigarettes, and cigarette material to persons over the age of twenty-one eighteen years shall be issued to individuals, partnerships, limited liability companies, and corporations by the clerk or finance director of any city or village and by the county clerk of any county upon application duly
made as provided in section 28-1422. The sale of cigarettes or cigarette materials that contain perfumes or drugs in any form is prohibited and is not licensed by the provisions of this section. Only cigarettes and cigarette material containing pure white paper and pure tobacco shall be licensed.

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

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

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

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

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

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

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

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

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