



2020 South Dakota Legislature
House Bill 1063
ENROLLED

AN ACT

ENTITLED An Act to revise certain provisions regarding the purchase, distribution, and sale of tobacco products to persons under the age of twenty-one.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-46-2 be AMENDED:

34-46-2. Unlawful actions.

The following actions are unlawful:

- (1) To knowingly sell or distribute a tobacco product to a person under the age of twenty-one;
- (2) To purchase or attempt to purchase, to receive or attempt to receive, to possess, or to consume a tobacco product if a person is under the age of twenty-one;
- (3) To purchase a tobacco product on behalf of, or to give a tobacco product to, any person under the age of twenty-one;
- (4) To sell cigarettes other than in an unopened package originating with the manufacturer and depicting the warning labels required by federal law;
- (5) To sell tobacco products through a vending machine located in a place other than a place that is open to the public but to which persons under the age of twenty-one are denied access at all times;
- (6) To sell cigarettes or smokeless tobacco, or both, through a self-service display other than a display that is:
 - (a) A vending machine permitted under subdivision (5) of this section; or
 - (b) Located in a tobacco speciality store; or
- (7) To distribute tobacco product samples in or on a public street, sidewalk, or park that is within five hundred feet of a playground, school, or other facility when the facility is being used primarily by persons under the age of twenty-one.

Section 2. That § 34-46-2.2 be AMENDED:

34-46-2.2. Merchants--Notice requirement--Contents.

A merchant shall conspicuously post a notice, on the merchant's premises, stating that "No person under the age of 21 may be sold tobacco products."

Any owner, lessee, or person having control of any cigarette vending machine shall post, in a conspicuous place on each machine in use within the state, a warning which shall be printed in bold type letters each of which shall be at least one-half inch high and which shall be kept in easily legible form and repair stating:

"Any person under 21 years of age is forbidden by law to purchase cigarettes from this machine."

Section 3. That § 34-46-3 be AMENDED:

34-46-3. Unannounced, random inspections--Persons enlisted--Requirements.

Each county state's attorney or a local law enforcement officer designated by the state's attorney shall annually conduct unannounced, random inspections at various locations where tobacco products are sold or distributed to ensure compliance with this chapter. Persons under the age of twenty-one may be enlisted to test compliance with this chapter. Such persons may be used to test compliance with this chapter only if the testing is conducted under the supervision of the county state's attorney or a local law enforcement officer designated by the state's attorney and written parental consent has been provided. Any other use of persons under the age of twenty-one to test compliance with this chapter is unlawful and the persons responsible for such use are subject to the penalties prescribed in § 34-46-5.

Section 4. That § 34-46-5 be AMENDED:

34-46-5. Violation as misdemeanor--Complete defense.

A violation of § 34-46-2 is a Class 2 misdemeanor. A person is not liable for more than one violation of subdivision 34-46-2(4) on a single day. Reasonable reliance upon proof of age of the purchaser or the recipient of a tobacco product is a complete defense to any action brought against a person for the sale or distribution of a tobacco product to a person under the age of twenty-one.

Section 5. That § 26-10-20 be REPEALED.

26-10-20. Use or purchase of smokeless tobacco by minor prohibited--Petty offense.

Section 6. That § 26-10-24 be REPEALED.

26-10-24. Cigarette vending machine owner exempted--Warning required.

Section 7. That § 34-46-2.1 be REPEALED.

34-46-2.1. Merchant may detain minor who purchases, attempts to purchase or consumes tobacco product--Conditions.

An Act to revise certain provisions regarding the purchase, distribution, and sale of tobacco products to persons under the age of twenty-one.

I certify that the attached Act originated in the:
House as Bill No. 1063

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1063
File No. _____
Chapter No. _____

Received at this Executive Office
this ____ day of _____,
2020 at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 2020

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 2020
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State