AN ACT

ENTITLED, An Act to prohibit a minor from purchasing, possessing, receiving, or consuming tobacco products or from attempting to purchase or receive tobacco products.

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

Section 1. That § 34-46-2 be amended to read as follows:

34-46-2. The following actions are unlawful:

(1) To knowingly sell or distribute a tobacco product to a person under the age of eighteen;

(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 eighteen;

(3) To sell cigarettes other than in an unopened package originating with the manufacturer and depicting the warning labels required by federal law;

(4) To sell tobacco products through a vending machine located in a place other than the following:

(a) A factory, business, office, or other place not open to the general public;

(b) A place that is open to the public but to which persons under the age of eighteen are denied access; or

(c) An establishment licensed under chapter 35-4 to sell alcoholic beverages for consumption on the premises where sold;

(5) 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 eighteen.

Section 2. That § 26-10-23 be repealed.

Section 3. That § 26-8B-2 be amended to read as follows:

26-8B-2. In this chapter and chapter 26-7A, the term, child in need of supervision, means:

(1) Any child of compulsory school age who is habitually absent from school without legal

excuse;

(2) Any child who has run away from home or is otherwise beyond the control of the child's parent, guardian, or custodian;

(3) Any child whose behavior or condition endangers the child's own welfare or the welfare of others; or

(4) Any child who has violated any federal, state, or local law or regulation for which there is not a penalty of a criminal nature for an adult, except violations of § 34-46-2(2), or petty offenses.

Section 4. That § 26-11-1 be amended to read as follows:

26-11-1. If any child under the age of eighteen years is arrested, with or without a warrant, for violation of any law or municipal ordinance for which the child is not subject to proceedings as a delinquent child as defined in § 26-8C-2 or for violation of § 34-46-2(2), the child shall be brought before the judge of a court having jurisdiction over the offense and proceedings shall be conducted as though the child were eighteen years of age or older.

A child under the age of eighteen years, subject to proceedings pursuant to this section and accused of a Class 2 misdemeanor, may be held in or sentenced to an adult lockup or jail or a detention or temporary care facility for up to seven days if physically separated from adult prisoners.

A child under the age of eighteen years, subject to proceedings pursuant to this section and accused of a Class 1 misdemeanor, may be held in or sentenced to an adult lockup or jail or a detention or temporary care facility for up to thirty days if physically separated from adult prisoners.

An Act to prohibit a minor from purchasing, possessing, receiving, or consuming tobacco products or from attempting to purchase or receive tobacco products.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1099

_____
Chief Clerk

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_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1099
File No. ____
Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

19___ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 19___

_____
Governor

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

Filed _____ , 19___ at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State