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47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO TOBACCO; INCREASING THE AGE FOR TOBACCO USE FROM EIGHTEEN TO TWENTY-ONE; PROHIBITING TOBACCO POSSESSION BY PERSONS UNDER TWENTY-ONE YEARS OF AGE; INCREASING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-49-2 NMSA 1978 (being Laws 1993, Chapter 244, Section 2) is amended to read:

"30-49-2. DEFINITION.--As used in the Tobacco Products

Act, "minor" means an individual who is less than [eighteen]

twenty-one years of age."

Section 2. Section 30-49-3 NMSA 1978 (being Laws 1993, Chapter 244, Section 3) is amended to read:

"30-49-3. TOBACCO--PROHIBITED SALES. --

A. [No] \underline{A} person shall <u>not</u> knowingly sell, offer to sell, barter or give [any] \underline{a} tobacco product to [any] \underline{a} minor. . 155069.1

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- B. [No] <u>A</u> minor shall <u>not possess</u>, <u>receive</u>, procure or attempt to procure [any] tobacco products for [his] <u>the</u> minor's own use or for use by [any other] another minor.
- C. [No] <u>A</u> person shall <u>not</u> sell, offer to sell or deliver a tobacco product in a form other than an original factory-sealed package."
- Section 3. Section 30-49-5 NMSA 1978 (being Laws 1993, Chapter 244, Section 5) is amended to read:
- "30-49-5. REFUSAL TO SELL TOBACCO PRODUCTS TO PERSON
 UNABLE TO PRODUCE IDENTITY CARD. -- [Any] A person selling goods
 at retail or wholesale [may refuse to] shall not sell tobacco
 products to [any] a person who reasonably appears to be less
 than thirty years of age and who is unable to produce an
 identity card as evidence that [he] the person is [eighteen]
 twenty-one years of age or over."
- Section 4. Section 30-49-9 NMSA 1978 (being Laws 1993, Chapter 244, Section 9) is amended to read:
- "30-49-9. SIGNS--POINT OF SALE.--A person, firm, corporation, partnership or other entity engaged in the sale at retail of tobacco products shall prominently display in the place where tobacco products are sold and where a tobacco product vending machine is located a printed sign or decal that reads as follows:

"A PERSON LESS THAN [18] 21 YEARS OF AGE WHO PURCHASES A TOBACCO PRODUCT IS SUBJECT TO A FINE OF UP TO \$1,000.

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A PERSON WHO SELLS A TOBACCO PRODUCT TO A PERSON LESS THAN [18] 21 YEARS OF AGE IS SUBJECT TO A FINE OF UP TO \$1,000. ". "

Section 30-49-12 NMSA 1978 (being Laws 1993, Section 5. Chapter 244, Section 12) is amended to read:

"30-49-12. PENALTY. --

 $[\frac{\text{Any}}{\text{A}}]$ A person who violates $[\frac{\text{any}}{\text{a}}]$ a provision of Subsection A of Section [3 or Sections 5, 7, 8 or 9 of the Tobacco Products Act 30-49-3 NMSA 1978 or Section 30-49-5, 30-49-7, 30-49-8 or 30-49-9 NMSA 1978 is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Each violation is a separate and distinct offense.

 $[\frac{Any}{A}]$ <u>A</u> minor who violates any provision of Subsection B of Section [3 or Section 6 of the Tobacco Products Act] 30-49-3 NMSA 1978 or Section 30-49-6 NMSA 1978 shall be punished by a fine not to exceed [one hundred dollars (\$100)] one thousand dollars (\$1,000) or forty-eight hours of community servi ce. "

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