

HOUSE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC HEALTH; AMENDING THE TOBACCO PRODUCTS, E-CIGARETTE AND NICOTINE LIQUID CONTAINER ACT TO RAISE THE MINIMUM PURCHASE AGE TO TWENTY-ONE.

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

SECTION 1. Section 30-49-3 NMSA 1978 (being Laws 1993, Chapter 244, Section 3, as amended) is amended to read:

"30-49-3. TOBACCO PRODUCTS, E-CIGARETTES AND NICOTINE LIQUID CONTAINERS--PROHIBITED SALES.--

A. No person shall knowingly sell, offer to sell, barter or give a tobacco product, an e-cigarette or a nicotine liquid container to a ~~minor~~ person under twenty-one years of age.

B. No ~~minor~~ person under twenty-one years of age shall procure or attempt to procure any tobacco product, e-

1 cigarette or nicotine liquid container for the ~~[minor's]~~
2 person's own use or for use by another ~~[minor]~~ person under
3 twenty-one years of age.

4 C. No person shall sell, offer to sell or deliver a
5 tobacco product, an e-cigarette or a nicotine liquid container
6 in a form other than an original factory-sealed package.

7 D. No person shall sell or offer to sell any
8 nicotine liquid container at retail in this state unless such
9 container is child-resistant; except that for the purpose of
10 this subsection, "nicotine liquid container" does not include a
11 cartridge that is pre-filled and sealed by the manufacturer and
12 that is not intended to be opened by the consumer.

13 E. The online internet sale of e-cigarettes or
14 nicotine liquid containers to a ~~[minor]~~ person under twenty-one
15 years of age in New Mexico is prohibited."

16 SECTION 2. Section 30-49-5 NMSA 1978 (being Laws 1993,
17 Chapter 244, Section 5, as amended) is amended to read:

18 "30-49-5. REFUSAL TO SELL TOBACCO PRODUCTS, E-CIGARETTES
19 OR NICOTINE LIQUID CONTAINERS TO PERSON UNABLE TO PRODUCE
20 IDENTITY CARD.--A person selling goods at retail or wholesale
21 may refuse to sell tobacco products, e-cigarettes or nicotine
22 liquid containers to a person who is unable to produce an
23 identity card as evidence that the person is ~~[eighteen]~~ twenty-
24 one years of age or over."

25 SECTION 3. Section 30-49-6 NMSA 1978 (being Laws 1993,

Chapter 244, Section 6, as amended) is amended to read:

"30-49-6. PRESENTING FALSE EVIDENCE OF AGE OR IDENTITY.--

No ~~[minor]~~ person shall present any written, printed or photostatic evidence of age or identity that is false for the purpose of procuring or attempting to procure any tobacco products, e-cigarettes or nicotine liquid containers."

SECTION 4. Section 30-49-8 NMSA 1978 (being Laws 1993, Chapter 244, Section 8, as amended) is amended to read:

"30-49-8. DISTRIBUTION OF TOBACCO PRODUCTS, E-CIGARETTES OR NICOTINE LIQUID CONTAINERS AS FREE SAMPLES PROHIBITED-- EXCEPTION.--

A. A person shall not provide free samples of tobacco products, e-cigarettes or nicotine liquid containers to a ~~[minor]~~ person under twenty-one years of age.

B. The provisions of Subsection A of this section shall not apply to an individual who provides free samples of tobacco products, e-cigarettes or nicotine liquid containers in connection with the practice of cultural or ceremonial activities in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a or its successor act."

SECTION 5. Section 30-49-9 NMSA 1978 (being Laws 1993, Chapter 244, Section 9, as amended) is amended to read:

"30-49-9. SIGNS--POINT OF SALE.--A person, firm, corporation, partnership or other entity engaged in the sale at

1 retail of tobacco products, e-cigarettes or nicotine liquid
2 containers shall prominently display in the place where tobacco
3 products, e-cigarettes or nicotine liquid containers are sold
4 and where a tobacco product, e-cigarette or nicotine liquid
5 container vending machine is located a printed sign or decal
6 that reads as follows:

7 "A PERSON LESS THAN [~~18~~] 21 YEARS OF AGE WHO PURCHASES A
8 TOBACCO PRODUCT, AN E-CIGARETTE OR A NICOTINE LIQUID CONTAINER
9 IS SUBJECT TO A FINE OF UP TO \$100.

10 A PERSON WHO SELLS A TOBACCO PRODUCT, AN E-CIGARETTE OR A
11 NICOTINE LIQUID CONTAINER TO A PERSON LESS THAN [~~18~~] 21 YEARS
12 OF AGE IS SUBJECT TO A FINE OF UP TO \$1,000."."

13 **SECTION 6.** Section 30-49-12 NMSA 1978 (being Laws 1993,
14 Chapter 244, Section 12, as amended) is amended to read:

15 "30-49-12. PENALTY.--

16 A. Any person who violates any provision of
17 Subsection A, D or E of Section 30-49-3 NMSA 1978 or Section
18 30-49-7, 30-49-8 or 30-49-9 NMSA 1978 is guilty of a
19 misdemeanor and shall be sentenced pursuant to the provisions
20 of Section 31-19-1 NMSA 1978. Each violation is a separate and
21 distinct offense.

22 B. Any [~~minor~~] person under twenty-one years of age
23 who violates any provision of Subsection B of Section 30-49-3
24 NMSA 1978 or Section 30-49-6 NMSA 1978 shall be punished by a
25 fine not to exceed one hundred dollars (\$100) or forty-eight

1 hours of community service."

2 SECTION 7. Section 30-49-13 NMSA 1978 (being Laws 2015,
3 Chapter 98, Section 12) is amended to read:

4 "30-49-13. APPLICABILITY.--The provisions of the Tobacco
5 Products, E-Cigarette and Nicotine Liquid Container Act do not
6 apply to the lawful purchase or use by a ~~[minor]~~ person under
7 twenty-one years of age of a tobacco-cessation product approved
8 by the federal food and drug administration."

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