

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 435

Short Title: Raise Minimum Age to Access Tobacco Products. (Public)

Sponsors: Representatives Murphy, Bert Jones, Lambeth, and Grange (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

March 23, 2017

1 A BILL TO BE ENTITLED
2 AN ACT GRADUALLY RAISING THE MINIMUM AGE FOR PERSONS NOT SERVING
3 ON ACTIVE DUTY IN THE UNITED STATES ARMED FORCES FROM EIGHTEEN
4 TO TWENTY-ONE FOR THE PURCHASE OR RECEIPT OF TOBACCO PRODUCTS,
5 TOBACCO-DERIVED PRODUCTS, VAPOR PRODUCTS, AND CIGARETTE
6 WRAPPING PAPERS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1.(a) G.S. 14-313 reads as rewritten:

9 "§ 14-313. Youth access to tobacco products, tobacco-derived products, vapor products,
10 and cigarette wrapping papers.

11 (a) Definitions. – The following definitions apply in this section:

12 (1) Active duty. – Full-time duty in the active military service of the United
13 States, including service by members of the reserve component (National
14 Guard and Reserve) while serving under published orders for active duty or
15 full-time training. The term does not include service by members of the
16 reserve component (National Guard and Reserve) who are performing active
17 duty or active duty for training under military calls or orders specifying
18 periods of less than 31 calendar days.

19 (1a) Armed Forces. – Includes all components of the United States Army, Navy,
20 Air Force, Marine Corps, and Coast Guard.

21 (1b) Distribute. – To sell, furnish, give, or provide tobacco products, including
22 tobacco product samples or cigarette wrapping papers, to the ultimate
23 consumer.

24 (2) Proof of age. – A drivers license or other photographic identification that
25 includes the bearer's date of birth that purports to establish that the person is
26 18 years of age or older.

27 ...

28 (b) Sale or distribution to persons under the age of 18 years. – If any person shall
29 distribute, or aid, assist, or abet any other person in distributing tobacco products or cigarette
30 wrapping papers to any person ~~under the age of 18 years, born on or after January 1, 2000,~~ or if
31 any person shall purchase tobacco products or cigarette wrapping papers on behalf of a person
32 ~~under the age of 18 years, born on or after January 1, 2000,~~ the person shall be guilty of a Class
33 2 misdemeanor; provided, however, that it shall not be unlawful to (i) distribute tobacco
34 products or cigarette wrapping papers to an employee when required in the performance of the
35 employee's ~~duties.~~ duties or (ii) sell or distribute tobacco products or cigarette wrapping papers



1 to a person born on or after January 1, 2000, who is serving on active duty in the Armed
2 Forces. Retail distributors of tobacco products shall prominently display near the point of sale a
3 sign in letters at least five-eighths of an inch high which states the following:

4 FOR THE PERIOD BEGINNING JANUARY 1, 2018,

5 AND ENDING DECEMBER 31, 2020,

6 N.C. LAW STRICTLY PROHIBITS

7 THE PURCHASE OF TOBACCO PRODUCTS, TOBACCO-DERIVED PRODUCTS,

8 VAPOR PRODUCTS, AND CIGARETTE WRAPPING PAPERS

9 BY PERSONS ~~UNDER THE AGE OF 18~~ BORN ON OR AFTER JANUARY 1, 2000.

10 PROOF OF AGE REQUIRED.

11 Failure to post the required sign shall be an infraction punishable by a fine of twenty-five
12 dollars (\$25.00) for the first offense and seventy-five dollars (\$75.00) for each succeeding
13 offense.

14 A person engaged in the sale of tobacco products or cigarette wrapping papers shall demand
15 proof of age or proof of active duty in the Armed Forces from a prospective purchaser if the
16 person has reasonable grounds to believe that the prospective purchaser ~~is under 18 years of~~
17 ~~age~~ was born on or after January 1, 2000. Failure to demand proof of age or proof of active
18 duty in the Armed Forces as required by this subsection is a Class 2 misdemeanor if in fact the
19 prospective purchaser ~~is under 18 years of age~~ was born on or after January 1, 2000, and is not
20 servng on active duty in the Armed Forces. Retail distributors of tobacco products or cigarette
21 wrapping papers shall train their sales employees in the requirements of this law. Proof of any
22 of the following shall be a defense to any action brought under this subsection:

- 23 (1) The defendant demanded, was shown, and reasonably relied upon proof of
24 age or proof of active duty in the Armed Forces in the case of a retailer, or
25 any other documentary or written evidence of age or active duty in the
26 Armed Forces in the case of a nonretailer.
- 27 (2) The defendant relied on the electronic system established and operated by
28 the Division of Motor Vehicles pursuant to G.S. 20-37.02.
- 29 (3) The defendant relied on a biometric identification system that demonstrated
30 (i) the purchaser's age to be at least the required age for the purchase and (ii)
31 the purchaser had previously registered with the seller or seller's agent a
32 drivers license, a special identification card issued under G.S. 20-37.7, a
33 military identification card, or a passport showing the purchaser's date of
34 birth and bearing a physical description of the person named on the card.

35 (b1) Distribution of tobacco products. – Tobacco products shall not be distributed in
36 vending machines; provided, however, vending machines distributing tobacco products are
37 permitted (i) in any establishment which is open only to persons 18 years of age and older; (ii)
38 in any establishment which is open only to persons serving on active duty in the Armed Forces;
39 ~~or (ii)(iii)~~ in any establishment if the vending machine is under the continuous control of the
40 owner or licensee of the premises or an employee thereof and can be operated only upon
41 activation by the owner, licensee, or employee prior to each purchase and the vending machine
42 is not accessible to the public when the establishment is closed. The owner, licensee, or
43 employee shall demand proof of age or proof of active duty in the Armed Forces from a
44 prospective purchaser if the person has reasonable grounds to believe that the prospective
45 purchaser ~~is under 18 years of age~~ was born on or after January 1, 2000. Failure to demand
46 proof of age or proof of active duty in the Armed Forces as required by this subsection is a
47 Class 2 misdemeanor if in fact the prospective purchaser ~~is under 18 years of age~~ was born on
48 or after January 1, 2000, and is not serving on active duty in the Armed Forces. Proof that the
49 defendant demanded, was shown, and reasonably relied upon proof of age or proof of active
50 duty in the Armed Forces shall be a defense to any action brought under this subsection.
51 Vending machines distributing tobacco products in establishments not meeting the above

1 conditions shall be removed prior to December 1, 1997. Vending machines distributing
2 tobacco-derived products, vapor products, or components of vapor products in establishments
3 not meeting the above conditions shall be removed prior to August 1, 2013. Any person
4 distributing tobacco products through vending machines in violation of this subsection shall be
5 guilty of a Class 2 misdemeanor.

6 (b2) Internet distribution of tobacco products. – A person engaged in the distribution of
7 tobacco products through the Internet or other remote sales methods shall perform an age or
8 active duty verification through an independent, third-party ~~age~~-verification service that
9 compares information available from public records to the personal information entered by the
10 individual during the ordering process to establish that the individual ordering the tobacco
11 products is 18 years of age or ~~older~~-older, or is serving on active duty in the Armed Forces.

12 (c) Purchase by persons ~~under the age of 18 years~~-born on or after January 1, 2000. – If
13 any person ~~under the age of 18 years~~-born on or after January 1, 2000, purchases or accepts
14 receipt, or attempts to purchase or accept receipt, of tobacco products or cigarette wrapping
15 papers, or presents or offers to any person any purported proof of age which is false, fraudulent,
16 or not actually his or her own, for the purpose of purchasing or receiving any tobacco product
17 or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided,
18 however, that it shall not be unlawful for (i) an employee to purchase or accept receipt of
19 tobacco products or cigarette wrapping papers when required in the performance of the
20 employee's ~~duties~~-duties or (ii) a person serving on active duty in the Armed Forces to purchase
21 or accept receipt of tobacco products or cigarette wrapping papers.

22 (d) Sending or assisting a person ~~[less than] 18 years~~-born on or after January 1, 2000, to
23 purchase or receive tobacco products or cigarette wrapping papers. – If any person shall send a
24 person ~~less than 18 years of age~~-born on or after January 1, 2000, to purchase, acquire, receive,
25 or attempt to purchase, acquire, or receive tobacco products or cigarette wrapping papers, or if
26 any person shall aid or abet a person who is ~~less than 18 years of age~~-was born on or after
27 January 1, 2000, in purchasing, acquiring, or receiving or attempting to purchase, acquire, or
28 receive tobacco products or cigarette wrapping papers, the person shall be guilty of a Class 2
29 misdemeanor; provided, however, persons ~~under the age of 18~~-born on or after January 1, 2000,
30 may be enlisted by police or local sheriffs' departments to test compliance if the testing is under
31 the direct supervision of that law enforcement department and written parental consent is
32 provided; provided further, that the Department of Health and Human Services shall have the
33 authority, pursuant to a written plan prepared by the Secretary of Health and Human Services,
34 to use persons ~~under 18 years of age~~-born on or after January 1, 2000, in annual, random,
35 unannounced inspections, provided that prior written parental consent is given for the
36 involvement of these persons and that the inspections are conducted for the sole purpose of
37 preparing a scientifically and methodologically valid statistical study of the extent of success
38 the State has achieved in reducing the availability of tobacco products to persons ~~under the age~~
39 ~~of 18~~-born on or after January 1, 2000, and preparing any report to the extent required by
40 section 1926 of the federal Public Health Service Act (42 USC § 300x-26).

41"

42 **SECTION 1.(b)** Subsection (a) of this section becomes effective January 1, 2018,
43 and expires on December 31, 2020.

44 **SECTION 2.(a)** G.S. 14-313, as amended by subsection (a) of Section 1 of this act,
45 reads as rewritten:

46 "**§ 14-313. Youth access to tobacco products, tobacco-derived products, vapor products,**
47 **and cigarette wrapping papers.**

48 (a) Definitions. – The following definitions apply in this section:

- 49 (1) Active duty. – Full-time duty in the active military service of the United
50 States, including service by members of the reserve component (National
51 Guard and Reserve) while serving under published orders for active duty or

1 full-time training. The term does not include service by members of the
 2 reserve component (National Guard and Reserve) who are performing active
 3 duty or active duty for training under military calls or orders specifying
 4 periods of less than 31 calendar days.

5 (1a) Armed Forces. – Includes all components of the United States Army, Navy,
 6 Air Force, Marine Corps, and Coast Guard.

7 (1b) Distribute. – To sell, furnish, give, or provide tobacco products, including
 8 tobacco product samples or cigarette wrapping papers, to the ultimate
 9 consumer.

10 (2) Proof of age. – A drivers license or other photographic identification that
 11 includes the bearer's date of birth that purports to establish that the person is
 12 18 years of age or older.

13 ...

14 (b) Sale or distribution to persons under the age of ~~18-21~~ years. – If any person shall
 15 distribute, or aid, assist, or abet any other person in distributing tobacco products or cigarette
 16 wrapping papers to any person ~~born on or after January 1, 2000,~~ under the age of 21, or if any
 17 person shall purchase tobacco products or cigarette wrapping papers on behalf of a person ~~born~~
 18 ~~on or after January 1, 2000,~~ under the age of 21, the person shall be guilty of a Class 2
 19 misdemeanor; provided, however, that it shall not be unlawful to (i) distribute tobacco products
 20 or cigarette wrapping papers to an employee when required in the performance of the
 21 employee's duties or (ii) sell or distribute tobacco products or cigarette wrapping papers to a
 22 person ~~born on or after January 1, 2000,~~ under the age of 21 who is serving on active duty in the
 23 Armed Forces. Retail distributors of tobacco products shall prominently display near the point
 24 of sale a sign in letters at least five-eighths of an inch high which states the following:

25 ~~FOR THE PERIOD BEGINNING JANUARY 1, 2018,~~
 26 ~~AND ENDING DECEMBER 31, 2020,~~
 27 EFFECTIVE JANUARY 1, 2021,

28 N.C. LAW STRICTLY PROHIBITS

29 THE PURCHASE OF TOBACCO PRODUCTS, TOBACCO-DERIVED PRODUCTS,
 30 VAPOR PRODUCTS, AND CIGARETTE WRAPPING PAPERS

31 BY PERSONS ~~BORN ON OR AFTER JANUARY 1, 2000.~~ UNDER 21 YEARS OF
 32 AGE.

33 PROOF OF AGE REQUIRED.

34 Failure to post the required sign shall be an infraction punishable by a fine of twenty-five
 35 dollars (\$25.00) for the first offense and seventy-five dollars (\$75.00) for each succeeding
 36 offense.

37 A person engaged in the sale of tobacco products or cigarette wrapping papers shall demand
 38 proof of age or proof of active duty in the Armed Forces from a prospective purchaser if the
 39 person has reasonable grounds to believe that the prospective purchaser ~~was born on or after~~
 40 ~~January 1, 2000,~~ is under 21 years of age. Failure to demand proof of age or proof of active duty
 41 in the Armed Forces as required by this subsection is a Class 2 misdemeanor if in fact the
 42 prospective purchaser ~~was born on or after January 1, 2000,~~ is under 21 years of age and is not
 43 serving on active duty in the Armed Forces. Retail distributors of tobacco products or cigarette
 44 wrapping papers shall train their sales employees in the requirements of this law. Proof of any
 45 of the following shall be a defense to any action brought under this subsection:

46 (1) The defendant demanded, was shown, and reasonably relied upon proof of
 47 age or proof of active duty in the Armed Forces in the case of a retailer, or
 48 any other documentary or written evidence of age or active duty in the
 49 Armed Forces in the case of a nonretailer.

50 (2) The defendant relied on the electronic system established and operated by
 51 the Division of Motor Vehicles pursuant to G.S. 20-37.02.

1 (3) The defendant relied on a biometric identification system that demonstrated
2 (i) the purchaser's age to be at least the required age for the purchase and (ii)
3 the purchaser had previously registered with the seller or seller's agent a
4 drivers license, a special identification card issued under G.S. 20-37.7, a
5 military identification card, or a passport showing the purchaser's date of
6 birth and bearing a physical description of the person named on the card.

7 (b1) Distribution of tobacco products. – Tobacco products shall not be distributed in
8 vending machines; provided, however, vending machines distributing tobacco products are
9 permitted (i) in any establishment which is open only to persons ~~18-21~~ years of age and older;
10 (ii) in any establishment which is open only to persons serving on active duty in the Armed
11 Forces; or (iii) in any establishment if the vending machine is under the continuous control of
12 the owner or licensee of the premises or an employee thereof and can be operated only upon
13 activation by the owner, licensee, or employee prior to each purchase and the vending machine
14 is not accessible to the public when the establishment is closed. The owner, licensee, or
15 employee shall demand proof of age or proof of active duty in the Armed Forces from a
16 prospective purchaser if the person has reasonable grounds to believe that the prospective
17 purchaser ~~was born on or after January 1, 2000~~ is under 21 years of age. Failure to demand
18 proof of age or proof of active duty in the Armed Forces as required by this subsection is a
19 Class 2 misdemeanor if in fact the prospective purchaser ~~was born on or after January 1,~~
20 ~~2000~~ is under 21 years of age, and is not serving on active duty in the Armed Forces. Proof that
21 the defendant demanded, was shown, and reasonably relied upon proof of age or proof of active
22 duty in the Armed Forces shall be a defense to any action brought under this subsection.
23 Vending machines distributing tobacco products in establishments not meeting the above
24 conditions shall be removed prior to December 1, 1997. Vending machines distributing
25 tobacco-derived products, vapor products, or components of vapor products in establishments
26 not meeting the above conditions shall be removed prior to August 1, 2013. Any person
27 distributing tobacco products through vending machines in violation of this subsection shall be
28 guilty of a Class 2 misdemeanor.

29 (b2) Internet distribution of tobacco products. – A person engaged in the distribution of
30 tobacco products through the Internet or other remote sales methods shall perform an age or
31 active duty verification through an independent, third-party verification service that compares
32 information available from public records to the personal information entered by the individual
33 during the ordering process to establish that the individual ordering the tobacco products is ~~18~~
34 21 years of age or older, or is serving on active duty in the Armed Forces.

35 (c) Purchase by persons ~~born on or after January 1, 2000~~ under 21 years of age. – If any
36 person ~~born on or after January 1, 2000~~ under 21 years of age purchases or accepts receipt, or
37 attempts to purchase or accept receipt, of tobacco products or cigarette wrapping papers, or
38 presents or offers to any person any purported proof of age which is false, fraudulent, or not
39 actually his or her own, for the purpose of purchasing or receiving any tobacco product or
40 cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided,
41 however, that it shall not be unlawful for (i) an employee to purchase or accept receipt of
42 tobacco products or cigarette wrapping papers when required in the performance of the
43 employee's duties or (ii) a person serving on active duty in the Armed Forces to purchase or
44 accept receipt of tobacco products or cigarette wrapping papers.

45 (d) Sending or assisting a person ~~born on or after January 1, 2000~~ under 21 years of age
46 to purchase or receive tobacco products or cigarette wrapping papers. – If any person shall send
47 a person ~~born on or after January 1, 2000~~ under 21 years of age to purchase, acquire, receive, or
48 attempt to purchase, acquire, or receive tobacco products or cigarette wrapping papers, or if any
49 person shall aid or abet a person ~~who was born on or after January 1, 2000~~ under 21 years of
50 age in purchasing, acquiring, or receiving or attempting to purchase, acquire, or receive tobacco
51 products or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor;

1 provided, however, persons ~~born on or after January 1, 2000,~~under 21 years of age may be
2 enlisted by police or local sheriffs' departments to test compliance if the testing is under the
3 direct supervision of that law enforcement department and written parental consent is provided;
4 provided further, that the Department of Health and Human Services shall have the authority,
5 pursuant to a written plan prepared by the Secretary of Health and Human Services, to use
6 persons ~~born on or after January 1, 2000,~~under 21 years of age in annual, random, unannounced
7 inspections, provided that prior written parental consent is given for the involvement of these
8 persons and that the inspections are conducted for the sole purpose of preparing a scientifically
9 and methodologically valid statistical study of the extent of success the State has achieved in
10 reducing the availability of tobacco products to persons ~~born on or after January 1, 2000,~~under
11 21 years of age and preparing any report to the extent required by section 1926 of the federal
12 Public Health Service Act (42 USC § 300x-26).

13"

14 **SECTION 2.(b)** Subsection (a) of this section becomes effective January 1, 2021.

15 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
16 law.