

HOUSE BILL No. 1006

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3; IC 7.1-3; IC 7.1-5-12-5; IC 7.1-6; IC 7.1-7; IC 24-3-5; IC 35-31.5-2-334.5; IC 35-43-5; IC 35-46-1.

Synopsis: Regulation of tobacco products. For purposes of IC 7.1 and the provisions of IC 35 concerning sales and distribution of tobacco products to minors, defines "tobacco product" as any of the following: (1) A product containing tobacco or nicotine, including a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, or snus. (2) An electronic smoking device that may or may not contain nicotine, including an electronic cigarette, cigar, pipe, hookah, vape pen, and cartridge. (3) E-liquid that may or may not contain nicotine. (4) Any component or part of those items that may or may not contain nicotine, including filters, rolling papers, blunt or hemp wraps, and pipes. Requires a person to be at least 21 years of age to purchase tobacco products or to hold a tobacco sales certificate (certificate) to sell tobacco products. Requires a seller of tobacco products to verify the age of a purchaser who appears to be less than 30 years of age (instead of 27 years of age) by checking a government issued identification. Makes a certificate expire annually (instead of every three years). Prohibits the issuance of a certificate within three years of the revocation of a previous certificate for that location. Increases the civil penalties for a retailer that sells tobacco products to a person under 21 years of age and provides the following: (1) Requires suspension of the certificate for a retail establishment that has two or three violations within three years. (2) Requires revocation of a certificate for a retail establishment that has four violations within three years. Provides that a retailer that has four violations in three years (instead of six violations in 180 days) commits habitual sale of a tobacco product, a Class B infraction. Provides that the primary activity of a "tobacco business" is the sale of
(Continued next page)

Effective: July 1, 2020.

Kirchhofer

January 6, 2020, read first time and referred to Committee on Public Health.



Digest Continued

tobacco products. Prohibits a tobacco business from locating within 1,000 feet (instead of 200 feet) of a school after June 30, 2020, unless the tobacco business was in operation before: (1) July 1, 2020; or (2) the school located near the tobacco business. Requires a person to be 21 years of age (instead of 18 years of age) to enter certain businesses where smoking is permitted. Requires a vending machine that sells tobacco products to be located in an area where only persons who are at least 21 years of age are permitted. Provides that a person who is a nonmanagement level employee of a retailer who sells tobacco products to a person less than 21 years of age may be allowed to complete an education program for retailers instead of paying a civil penalty. Provides that a person who: (1) is not a retailer or employee; (2) is at least 21 years of age; and (3) purchases a tobacco product for a person who is less than 21 years of age; may be assessed a civil penalty of not more than fifty dollars (\$50). Repeals a statute that makes it a Class C infraction for a person under 18 years of age to purchase or possess tobacco or an electronic cigarette for personal use.



Introduced

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1006



A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 7.1-1-3-15.5, AS AMENDED BY P.L.206-2017,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2020]: Sec. 15.5. "Electronic cigarette" ~~has the meaning set~~
- 4 ~~forth in IC 35-46-1-1.5:~~ **means a device that is capable of providing**
- 5 **an inhalable dose of nicotine by delivering a vaporized solution.**
- 6 **The term includes the components and cartridges.**
- 7 SECTION 2. IC 7.1-1-3-15.6 IS ADDED TO THE INDIANA
- 8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 9 [EFFECTIVE JULY 1, 2020]: **Sec. 15.6. "Electronic smoking**
- 10 **device" has the meaning set forth in IC 7.1-6-1-1.5.**
- 11 SECTION 3. IC 7.1-1-3-15.8 IS ADDED TO THE INDIANA
- 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 13 [EFFECTIVE JULY 1, 2020]: **Sec. 15.8. "E-liquid" has the meaning**
- 14 **set forth in IC 7.1-6-1-1.6.**
- 15 SECTION 4. IC 7.1-1-3-25, AS AMENDED BY P.L.176-2015,



1 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2020]: Sec. 25. (a) "Minor" ~~except as provided in subsection~~
3 ~~(b)~~; means a person less than twenty-one (21) years of age.

4 (b) "Minor"; for purposes of IC 7.1-7, has the meaning set forth in
5 ~~IC 7.1-7-2-17~~.

6 SECTION 5. IC 7.1-1-3-47.3 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2020]: **Sec. 47.3. "Tobacco" has the meaning**
9 **set forth in IC 7.1-6-1-5.**

10 SECTION 6. IC 7.1-1-3-47.5, AS AMENDED BY P.L.60-2016,
11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2020]: Sec. 47.5. (a) "Tobacco product" ~~except as provided in~~
13 ~~subsection (b)~~; has the meaning set forth in IC 7.1-6-1-3.

14 (b) "Tobacco product"; for purposes of IC 7.1-3-18.5; means a
15 product that:

- 16 (1) contains tobacco; including e-liquid (as defined by
17 IC 7.1-7-2-10) that contains nicotine; and
18 (2) is intended for human consumption.

19 SECTION 7. IC 7.1-3-17.8-5, AS ADDED BY P.L.214-2016,
20 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2020]: Sec. 5. Except as provided in sections 2 and 3 of this
22 chapter, an entity that operates on state park property under a permit
23 issued by the commission to:

- 24 (1) the department of natural resources under this chapter; or
25 (2) the entity under this article;

26 shall operate within the park property in accordance with the provisions
27 of this title that regulate the sale and use of alcoholic beverages
28 ~~e-liquid (as defined in IC 7.1-7-2-10)~~; and tobacco products (as defined
29 in ~~IC 7.1-6-1-3~~): **IC 7.1-6-1-3**).

30 SECTION 8. IC 7.1-3-18.5-1, AS AMENDED BY P.L.32-2019,
31 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2020]: Sec. 1. (a) A person may not sell or otherwise
33 distribute in exchange for consideration a tobacco product ~~or electronic~~
34 ~~cigarette~~ at retail without a valid tobacco sales certificate issued by the
35 commission.

36 (b) A certificate may be issued only to a person who owns or
37 operates at least one (1) of the following:

- 38 (1) A premises consisting of a permanent building or structure
39 where the tobacco product ~~or electronic cigarette~~ is sold or
40 distributed.
41 (2) A premises upon which a **cigarette tobacco product** vending
42 machine is located.



1 **(c) A certificate issued under this chapter permits the sale or**
 2 **distribution of tobacco products only at the premises for which the**
 3 **certificate is issued.**

4 SECTION 9. IC 7.1-3-18.5-2, AS AMENDED BY P.L.231-2015,
 5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]: Sec. 2. (a) A person who desires a certificate must
 7 provide the following to the commission:

8 (1) The applicant's name and mailing address and the address of
 9 the premises for which the certificate is being issued.

10 (2) Except as provided in section 6(c) of this chapter, a fee of two
 11 hundred dollars (\$200).

12 (3) The name under which the applicant transacts or intends to
 13 transact business.

14 (4) The address of the applicant's principal place of business or
 15 headquarters, if any.

16 (5) The statement required under section 2.6 of this chapter.

17 (b) A separate certificate is required for each location where the
 18 tobacco products ~~or electronic cigarettes~~ are sold or distributed.

19 (c) A certificate holder shall conspicuously display the holder's
 20 certificate on the holder's premises where the tobacco products ~~or~~
 21 ~~electronic cigarettes~~ are sold or distributed.

22 (d) Any intentional misstatement or suppression of a material fact
 23 in an application filed under this section constitutes grounds for denial
 24 of the certificate.

25 (e) A certificate may be issued only to a person who meets the
 26 following requirements:

27 (1) If the person is an individual, the person must be at least
 28 ~~eighteen (18) years of age:~~ **twenty-one (21) years of age.**

29 (2) The person must be authorized to do business in Indiana.

30 **(3) The person has not had a certificate revoked by the**
 31 **commission for that business location within the preceding**
 32 **three (3) years.**

33 (f) The fees collected under this section shall be deposited in the
 34 enforcement and administration fund under IC 7.1-4-10.

35 SECTION 10. IC 7.1-3-18.5-3, AS AMENDED BY P.L.224-2005,
 36 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2020]: Sec. 3. (a) A certificate issued by the commission
 38 under this chapter must contain the following information:

39 (1) The certificate number.

40 (2) The certificate holder's name.

41 (3) The permanent location of the business or vending machine
 42 for which the certificate is issued.



- 1 (4) The expiration date of the certificate.
 2 (b) A certificate is:
 3 (1) valid for ~~three (3)~~ **years one (1) year** after the date of
 4 issuance, unless the commission suspends the certificate; and
 5 (2) nontransferable.

6 SECTION 11. IC 7.1-3-18.5-5, AS AMENDED BY P.L.214-2016,
 7 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2020]: Sec. 5. (a) Subject to subsection (b), the commission
 9 may suspend the certificate of a person who fails to pay a civil penalty
 10 imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11,
 11 IC 35-46-1-11.2, IC 35-46-1-11.5, IC 35-46-1-11.7, or IC 35-46-1-11.8.

12 (b) Before enforcing the imposition of a civil penalty or suspending
 13 or revoking a certificate under this chapter, the commission shall
 14 provide written notice of the alleged violation to the certificate holder
 15 and conduct a hearing. The commission shall provide written notice of
 16 the civil penalty or suspension or revocation of a certificate to the
 17 certificate holder.

18 (c) Subject to subsection (b), the commission shall revoke the
 19 certificate of a person upon a finding by a preponderance of the
 20 evidence that the person:

- 21 (1) has violated IC 35-45-5-3, IC 35-45-5-3.5, IC 35-45-5-4,
 22 IC 35-46-1-11, IC 35-46-1-11.2, or IC 35-46-1-11.8;
 23 (2) has committed habitual illegal sale of a tobacco **product** as
 24 established under ~~IC 35-46-1-10.2(h)~~; or **IC 35-46-1-10.2(a)(4)**;
 25 **(3) has committed habitual illegal sale of e-liquid as**
 26 **established under IC 7.1-7-6-2(b)(4); or**
 27 ~~(4)~~ **(4)** has committed habitual illegal entrance by a minor as
 28 established under IC 35-46-1-11.7(f).

29 SECTION 12. IC 7.1-3-18.5-6, AS AMENDED BY P.L.214-2016,
 30 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2020]: Sec. 6. (a) If a certificate has:

- 32 (1) expired; or
 33 (2) been suspended;
 34 the commission may not reinstate or renew the certificate until all civil
 35 penalties imposed against the certificate holder for violating
 36 IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2,
 37 IC 35-46-1-11.5, IC 35-46-1-11.7, or IC 35-46-1-11.8 have been paid.

38 (b) The failure to pay a civil penalty described in subsection (a) is
 39 a Class B infraction.

40 (c) If a certificate has been revoked, the commission may not
 41 reinstate or renew the certificate for at ~~least one hundred eighty (180)~~
 42 ~~days~~ **three (3) years** after the date of revocation. The commission may



1 reinstated or renewed the certificate only upon a reasonable showing by the
2 applicant that the applicant shall:

- 3 (1) exercise due diligence in the sale of tobacco products ~~or~~
4 ~~electronic cigarettes~~ on the applicant's premises where the
5 tobacco products ~~or electronic cigarettes~~ are sold or distributed;
6 and
7 (2) properly supervise and train the applicant's employees or
8 agents in the handling and sale of tobacco products. ~~or electronic~~
9 ~~cigarettes.~~

10 If a certificate is reinstated or renewed, the applicant of the certificate
11 shall pay an application fee of one thousand dollars (\$1,000).

12 (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
13 this section must be deposited in the **Richard D. Doyle** youth tobacco
14 education and enforcement fund established under IC 7.1-6-2-6.

15 SECTION 13. IC 7.1-3-18.5-7, AS AMENDED BY P.L.231-2015,
16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2020]: Sec. 7. (a) A person who is required to have a
18 certificate under this chapter and who sells or distributes tobacco
19 products ~~or electronic cigarettes~~ without a valid certificate commits a
20 Class A infraction. Each violation of this section constitutes a separate
21 offense.

22 (b) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
23 this section must be deposited in the Richard D. Doyle youth tobacco
24 education and enforcement fund established under IC 7.1-6-2-6.

25 SECTION 14. IC 7.1-3-18.5-8, AS AMENDED BY P.L.214-2016,
26 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2020]: Sec. 8. The commission may mitigate civil penalties
28 imposed against a certificate holder for violating IC 35-46-1-10,
29 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.5,
30 IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the provisions of this
31 chapter if a certificate holder provides a training program for the
32 certificate holder's employees that includes at least the following
33 topics:

- 34 (1) Laws governing the sale of tobacco products. ~~and electronic~~
35 ~~cigarettes.~~
36 (2) Methods of recognizing and handling customers who are less
37 than ~~eighteen (18)~~ **twenty-one (21)** years of age.
38 (3) Procedures for proper examination of identification cards to
39 verify that customers are under ~~eighteen (18)~~ **twenty-one (21)**
40 years of age.

41 SECTION 15. IC 7.1-3-18.5-9, AS AMENDED BY P.L.231-2015,
42 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 9. A certificate holder shall exercise due diligence
 2 in the supervision and training of the certificate holder's employees or
 3 agents in the handling and sale of tobacco products ~~and electronic~~
 4 ~~cigarettes~~ on the holder's retail premises. Proof that employees or
 5 agents of the certificate holder, while in the scope of their employment,
 6 committed at least ~~six (6)~~ **two (2)** violations relating to
 7 IC 35-46-1-10.2(a) in any one hundred eighty (180) day period shall be
 8 prima facie evidence of a lack of due diligence by the certificate holder
 9 in the supervision and training of the certificate holder's employees or
 10 agents.

11 SECTION 16. IC 7.1-3-18.5-11, AS ADDED BY P.L.214-2016,
 12 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2020]: Sec. 11. If a certificate holder sells or distributes
 14 tobacco products ~~or electronic cigarettes~~ at a location:

- 15 (1) determined to be a public nuisance; or
- 16 (2) at which conduct or acts that are crimes or infractions under
 17 IC 35 occur;

18 the commission may impose sanctions against the certificate holder
 19 under IC 7.1-2-3-33 and section 5 of this chapter.

20 SECTION 17. IC 7.1-5-12-5, AS AMENDED BY P.L.231-2015,
 21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (c) and
 23 subject to section 13 of this chapter, smoking may be allowed in the
 24 following:

- 25 (1) A horse racing facility operated under a permit under
 26 IC 4-31-5 and any other permanent structure on land owned or
 27 leased by the owner of the facility that is adjacent to the facility.
- 28 (2) A riverboat (as defined in IC 4-33-2-17) and any other
 29 permanent structure that is:
 - 30 (A) owned or leased by the owner of the riverboat; and
 - 31 (B) located on land that is adjacent to:
 - 32 (i) the dock to which the riverboat is moored; or
 - 33 (ii) the land on which the riverboat is situated in the case of
 34 a riverboat described in IC 4-33-2-17(2).
- 35 (3) A facility that operates under a gambling game license under
 36 IC 4-35-5 and any other permanent structure on land owned or
 37 leased by the owner of the facility that is adjacent to the facility.
- 38 (4) A satellite facility licensed under IC 4-31-5.5.
- 39 (5) An establishment owned or leased by a business that meets the
 40 following requirements:
 - 41 (A) The business was in business and permitted smoking on
 42 December 31, 2012.



- 1 (B) The business prohibits entry by an individual who is less
 2 than twenty-one (21) years of age.
 3 (C) The owner or operator of the business holds a beer, liquor,
 4 or wine retailer's permit.
 5 (D) The business limits smoking in the establishment to
 6 smoking with a waterpipe or hookah device.
 7 (E) During the preceding calendar year, at least ten percent
 8 (10%) of the business's annual gross income was from the sale
 9 of loose tobacco for use in a waterpipe or hookah device.
 10 (F) The person in charge of the business posts in the
 11 establishment conspicuous signs that display the message that
 12 cigarette smoking is prohibited.
- 13 (6) An establishment owned or leased by a business that meets the
 14 following requirements:
- 15 (A) The business prohibits entry by an individual who is less
 16 than twenty-one (21) years of age.
 17 (B) The owner or operator of the business holds a beer, liquor,
 18 or wine retailer's permit.
 19 (C) The business limits smoking in the establishment to cigar
 20 smoking.
 21 (D) During the preceding calendar year, at least ten percent
 22 (10%) of the business's annual gross income was from the sale
 23 of cigars and the rental of onsite humidors.
 24 (E) The person in charge of the business posts in the
 25 establishment conspicuous signs that display the message that
 26 cigarette smoking is prohibited.
- 27 (7) A premises owned or leased by and regularly used for the
 28 activities of a business that meets all of the following:
- 29 (A) The business is exempt from federal income taxation
 30 under 26 U.S.C. 501(c).
 31 (B) The business:
 32 (i) meets the requirements to be considered a club under
 33 IC 7.1-3-20-1; or
 34 (ii) is a fraternal club (as defined in IC 7.1-3-20-7).
 35 (C) The business provides food or alcoholic beverages only to
 36 its bona fide members and their guests.
 37 (D) The business:
 38 (i) provides a separate, enclosed, designated smoking room
 39 or area that is adequately ventilated to prevent migration of
 40 smoke to nonsmoking areas of the premises;
 41 (ii) allows smoking only in the room or area described in
 42 item (i).



- 1 (iii) does not allow an individual who is less than ~~eighteen~~
 2 ~~(18)~~ **twenty-one (21)** years of age to enter into the room or
 3 area described in item (i); and
 4 (iv) allows a guest in the smoking room or area described in
 5 item (i) only when accompanied by a bona fide member of
 6 the business.
- 7 (8) A retail tobacco store used primarily for the sale of tobacco
 8 products ~~and tobacco accessories~~ that meets the following
 9 requirements:
- 10 (A) The owner or operator of the store holds a valid tobacco
 11 sales certificate issued under IC 7.1-3-18.5.
 12 (B) The store prohibits entry by an individual who is less than
 13 ~~eighteen (18)~~ **twenty-one (21)** years of age.
 14 (C) The sale of products other than tobacco products ~~and~~
 15 ~~tobacco accessories~~ is merely incidental.
 16 (D) The sale of tobacco products accounts for at least
 17 eighty-five percent (85%) of the store's annual gross sales.
 18 (E) Food or beverages are not sold in a manner that requires
 19 consumption on the premises, and there is not an area set aside
 20 for customers to consume food or beverages on the premises.
- 21 (9) A bar or tavern:
- 22 (A) for which a permittee holds:
- 23 (i) a beer retailer's permit under IC 7.1-3-4;
 24 (ii) a liquor retailer's permit under IC 7.1-3-9; or
 25 (iii) a wine retailer's permit under IC 7.1-3-14;
- 26 (B) that does not employ an individual who is less than
 27 eighteen (18) years of age;
- 28 (C) that does not allow an individual who:
- 29 (i) is less than twenty-one (21) years of age; and
 30 (ii) is not an employee of the bar or tavern;
 31 to enter any area of the bar or tavern; and
 32 (D) that is not located in a business that would otherwise be
 33 subject to this chapter.
- 34 (10) A cigar manufacturing facility that does not offer retail sales.
- 35 (11) A premises of a cigar specialty store to which all of the
 36 following apply:
- 37 (A) The owner or operator of the store holds a valid tobacco
 38 sales certificate issued under IC 7.1-3-18.5.
 39 (B) The sale of tobacco products ~~and tobacco accessories~~
 40 account for at least fifty percent (50%) of the store's annual
 41 gross sales.
 42 (C) The store has a separate, enclosed, designated smoking



- 1 room that is adequately ventilated to prevent migration of
 2 smoke to nonsmoking areas.
 3 (D) Smoking is allowed only in the room described in clause
 4 (C).
 5 (E) Individuals who are less than ~~eighteen (18)~~ **twenty-one**
 6 **(21)** years of age are prohibited from entering into the room
 7 described in clause (C).
 8 (F) Cigarette smoking is not allowed on the premises of the
 9 store.
 10 (G) The owner or operator of the store posts a conspicuous
 11 sign on the premises of the store that displays the message that
 12 cigarette smoking is prohibited.
 13 (H) The store does not prepare any food or beverage that
 14 would require a certified food handler under IC 16-42-5.2.
 15 (12) The premises of a business that is located in the business
 16 owner's private residence (as defined in IC 3-5-2-42.5) if the only
 17 employees of the business who work in the residence are the
 18 owner and other individuals who reside in the residence.
 19 (b) The owner, operator, manager, or official in charge of an
 20 establishment or premises in which smoking is allowed under this
 21 section shall post conspicuous signs in the establishment that read
 22 "WARNING: Smoking Is Allowed In This Establishment" or other
 23 similar language.
 24 (c) This section does not allow smoking in the following enclosed
 25 areas of an establishment or premises described in subsection (a)(1)
 26 through (a)(11):
 27 (1) Any hallway, elevator, or other common area where an
 28 individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years
 29 of age is permitted.
 30 (2) Any room that is intended for use by an individual who is less
 31 than ~~eighteen (18) years of age.~~ **twenty-one (21) years of age.**
 32 (d) The owner, operator, or manager of an establishment or premises
 33 that is listed under subsection (a) and that allows smoking shall provide
 34 a verified statement to the commission that states that the establishment
 35 or premises qualifies for the exemption. The commission may require
 36 the owner, operator, or manager of an establishment or premises to
 37 provide documentation or additional information concerning the
 38 exemption of the establishment or premises.
 39 SECTION 18. IC 7.1-6-1-1.5 IS ADDED TO THE INDIANA
 40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2020]: **Sec. 1.5. "Electronic smoking device"**
 42 **means:**



- 1 **(1) any electronic device, including an electronic cigarette,**
- 2 **electronic cigar, electronic pipe, vape pen, or electronic**
- 3 **hookah, that delivers aerosolized or vaporized e-liquid to a**
- 4 **person inhaling from the device; and**
- 5 **(2) any component or part of a device described in subdivision**
- 6 **(1) that may or may not contain nicotine.**

7 SECTION 19. IC 7.1-6-1-1.6 IS ADDED TO THE INDIANA
 8 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 9 [EFFECTIVE JULY 1, 2020]: **Sec. 1.6. "E-liquid" means any**
 10 **substance that:**

- 11 **(1) may or may not contain nicotine; and**
- 12 **(2) is intended to be aerosolized or vaporized during the use**
- 13 **of an electronic smoking device.**

14 SECTION 20. IC 7.1-6-1-3 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 3. "Tobacco product"**
 16 **means a product that contains tobacco and is intended for human**
 17 **consumption. any of the following:**

- 18 **(1) Tobacco.**
- 19 **(2) An electronic smoking device.**
- 20 **(3) An e-liquid.**
- 21 **(4) Any component or part of an item described in subdivision**
- 22 **(1), (2), or (3) that may or may not contain nicotine, including**
- 23 **filters, rolling papers, blunt or hemp wraps, and pipes.**

24 **The term does not include a drug, device, or combination product**
 25 **authorized for sale under the federal Food, Drug and Cosmetic Act**
 26 **(21 U.S.C. 301 et seq.).**

27 SECTION 21. IC 7.1-6-1-5 IS ADDED TO THE INDIANA CODE
 28 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 29 1, 2020]: **Sec. 5. "Tobacco" means any product containing, made**
 30 **of, or derived from tobacco or nicotine that is:**

- 31 **(1) intended for human consumption; and**
- 32 **(2) likely to be consumed by inhalation, absorption, or**
- 33 **ingestion.**

34 **The term includes a cigarette, a cigar, pipe tobacco, chewing**
 35 **tobacco, snuff, or snus.**

36 SECTION 22. IC 7.1-6-2-4, AS AMENDED BY P.L.20-2013,
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2020]: **Sec. 4. (a) An enforcement officer vested with full**
 39 **police powers and duties may engage a person less than ~~eighteen (18)~~**
 40 **twenty-one (21) years of age as part of an enforcement action under**
 41 **this article if the initial or contemporaneous receipt or purchase of a**
 42 **tobacco product or ~~electronic cigarette~~ by a person less than ~~eighteen~~**



1 (~~18~~) **twenty-one (21)** years of age occurs under the direction of an
2 enforcement officer vested with full police powers and duties and is
3 part of the enforcement action.

4 (b) An enforcement officer vested with full police powers and duties
5 shall not:

6 (1) recruit or attempt to recruit a person less than ~~eighteen (18)~~
7 **twenty-one (21)** years of age to participate in an enforcement
8 action under subsection (a) at the scene of a violation of section
9 2 of this chapter; or

10 (2) allow a person less than eighteen (18) years of age to purchase
11 or receive a tobacco product or ~~electronic cigarette~~ as part of an
12 enforcement action under subsection (a) without the written
13 permission of the person's parents or legal guardians.

14 SECTION 23. IC 7.1-7-2-17, AS ADDED BY P.L.176-2015,
15 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2020]: Sec. 17. "Minor" means an individual who is less than
17 ~~eighteen (18)~~ **twenty-one (21)** years of age.

18 SECTION 24. IC 7.1-7-5.5-5, AS ADDED BY P.L.206-2017,
19 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2020]: Sec. 5. A retailer who ships e-liquids from a delivery
21 sale order shall include as part of the shipping documents a document
22 with the following statement: "E-LIQUIDS: Indiana law prohibits the
23 sale of this product to a person who is less than ~~18~~ **21** years of age."

24 SECTION 25. IC 7.1-7-6-2, AS AMENDED BY P.L.206-2017,
25 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2020]: Sec. 2. (a) This subsection does not apply to a delivery
27 sale as defined in IC 7.1-7-2-6.3. ~~If~~ A retailer **that:**

28 (1) ~~knowingly and intentionally~~ sells or distributes e-liquid to a
29 minor; or

30 (2) ~~knowingly, intentionally, or negligently~~ fails to verify the age
31 of a person who appears to be less than ~~twenty-seven (27)~~ **thirty**
32 **(30)** years of age by checking a government issued identification
33 and sells the person e-liquid;

34 ~~the retailer commits a Class C infraction an infraction as set forth in~~
35 **this section.** For a sale to take place under this section, the buyer must
36 pay the retail establishment for the e-liquid.

37 (b) Notwithstanding IC 34-28-5-4(c), a civil judgment for an
38 infraction committed under this section must be imposed as follows:

39 (1) If the retail establishment at that specific business location has
40 not been issued a citation or summons for a violation of this
41 section in the previous ~~one hundred eighty (180) days,~~ **three (3)**
42 **years, the retail establishment:**



- 1 **(A) commits a Class C infraction; and**
 2 **(B) is liable for a civil penalty of ~~up to two~~ at least five**
 3 **hundred dollars (~~\$200~~); (**\$500**).**
 4 (2) If the retail establishment at that specific business location has
 5 had one (1) citation or summons issued for a violation of this
 6 section in the previous ~~one hundred eighty (180) days~~; **three (3)**
 7 **years, the retail establishment:**
 8 **(A) commits a Class C infraction;**
 9 **(B) is liable for a civil penalty of ~~up to four~~ at least seven**
 10 **hundred ~~fifty~~ dollars (~~\$400~~); (**\$750**); and**
 11 **(C) the tobacco sales certificate for that specific business**
 12 **location shall be suspended for at least seven (7) days.**
 13 (3) If the retail establishment at that specific business location has
 14 had two (2) citations or summonses issued for a violation of this
 15 section in the previous ~~one hundred eighty (180) days~~; **three (3)**
 16 **years, the retail establishment:**
 17 **(A) commits a Class C infraction;**
 18 **(B) is liable for a civil penalty of ~~up to seven hundred~~ at least**
 19 **one thousand dollars (~~\$700~~); (**\$1,000**); and**
 20 **(C) the tobacco sales certificate for that specific business**
 21 **location shall be suspended for at least thirty (30) days.**
 22 (4) If the retail establishment at that specific business location has
 23 had three (3) ~~or more~~ citations or summonses issued for a
 24 violation of this section in the previous ~~one hundred eighty (180)~~
 25 ~~days~~; **three (3) years, the retail establishment:**
 26 **(A) commits habitual illegal sale of e-liquid, a Class B**
 27 **infraction;**
 28 **(B) is liable for a civil penalty of ~~up to~~ at least one thousand**
 29 **dollars (~~\$1,000~~); and**
 30 **(C) the tobacco sales certificate for that specific business**
 31 **location shall be revoked as set forth in IC 7.1-3-18.5-5 and**
 32 **a tobacco sales certificate may not be issued for that**
 33 **location for at least three (3) years from the date of**
 34 **revocation.**
 35 A retail establishment may not be issued a citation or summons for a
 36 violation of this section more than once every twenty-four (24) hours
 37 for each specific business location.
 38 (c) It is not a defense that the person to whom e-liquid was sold or
 39 distributed did not inhale or otherwise consume e-liquid.
 40 (d) The following defenses are available to a retail establishment
 41 accused of selling or distributing e-liquid to a person who is less than
 42 ~~eighteen (18)~~ **twenty-one (21)** years of age:



1 (1) The buyer or recipient produced a driver's license bearing the
 2 purchaser's or recipient's photograph showing that the purchaser
 3 or recipient was of legal age to make the purchase.

4 (2) The buyer or recipient produced a photographic identification
 5 card issued under IC 9-24-16-1 or a similar card issued under the
 6 laws of another state or the federal government showing that the
 7 purchaser or recipient was of legal age to make the purchase.

8 (3) The appearance of the purchaser or recipient was such that an
 9 ordinary prudent person would believe that the purchaser or
 10 recipient was not less than the age that complies with regulations
 11 promulgated by the federal Food and Drug Administration.

12 (e) It is a defense that the accused retail establishment sold or
 13 delivered e-liquid to a person who acted in the ordinary course of
 14 employment or a business concerning e-liquid:

- 15 (1) agriculture;
- 16 (2) processing;
- 17 (3) transporting;
- 18 (4) wholesaling; or
- 19 (5) retailing.

20 (f) As used in this section, "distribute" means to give, **furnish, sell,**
 21 **or attempt to sell** e-liquid to another person as a means of promoting,
 22 advertising, or marketing e-liquid to the general public.

23 (g) ~~Unless a person buys or receives e-liquid under the direction of~~
 24 ~~a law enforcement officer as part of an enforcement action; a retail~~
 25 ~~establishment that sells or distributes e-liquid is not liable for a~~
 26 ~~violation of this section unless the person less than eighteen (18) years~~
 27 ~~of age who bought or received the e-liquid is issued a citation or~~
 28 ~~summons in violation of this article:~~

29 (h) (g) Notwithstanding IC 34-28-5-5(c), civil penalties collected
 30 under this section must be deposited in the Richard D. Doyle youth
 31 tobacco education and enforcement fund (IC 7.1-6-2-6).

32 (i) ~~A person who violates subsection (a) at least six (6) times in any~~
 33 ~~one hundred eighty (180) day period commits habitual illegal sale of~~
 34 ~~e-liquid; a Class B infraction:~~

35 SECTION 26. IC 7.1-7-6-7 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 37 1, 2020]: **Sec. 7. (a) This section applies to a person who:**

- 38 **(1) is employed by a retailer in a position other than a**
- 39 **management level position; and**
- 40 **(2) violates section 2, 5, or 6 of this chapter.**

41 **(b) The person may be allowed to complete a training or**
 42 **education program for retailers who sell tobacco products instead**



1 **of paying a monetary civil penalty.**

2 SECTION 27. IC 24-3-5-3, AS AMENDED BY P.L.160-2005,
3 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2020]: Sec. 3. As used in this chapter, "tobacco product" ~~has~~
5 ~~the meaning set forth in IC 7-1-6-1-3.~~ **means a product that contains**
6 **tobacco and is intended for human consumption.** However, the term
7 does not include a cigar or pipe tobacco.

8 SECTION 28. IC 24-3-5-4, AS AMENDED BY P.L.160-2005,
9 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2020]: Sec. 4. Subject to section 4.5 of this chapter, a
11 merchant may not mail or ship cigarettes as part of a delivery sale
12 unless, before mailing or shipping the cigarettes, the merchant:

13 (1) obtains from the prospective customer a written statement
14 signed by the prospective customer under penalty of perjury:

15 (A) providing the prospective customer's address and date of
16 birth;

17 (B) advising the prospective customer that

18 (i) signing another person's name to the statement required
19 under this subdivision may subject the person to a civil
20 monetary penalty of not more than one thousand dollars
21 (\$1,000); ~~and~~

22 (ii) ~~purchasing cigarettes by a person less than eighteen (18)~~
23 ~~years of age is a Class C infraction under IC 35-46-1-10.5;~~

24 (C) confirming that the cigarette order was placed by the
25 prospective customer;

26 (D) providing a warning under 15 U.S.C. 1333(a)(1); and

27 (E) stating the sale of cigarettes by delivery sale is a taxable
28 event for purposes of IC 6-7-1;

29 (2) makes a good faith effort to verify the information in the
30 written statement obtained under subdivision (1) by using a
31 federal or commercially available data base; and

32 (3) receives payment for the delivery sale by a credit or debit card
33 issued in the name of the prospective purchaser.

34 SECTION 29. IC 24-3-5-5, AS AMENDED BY P.L.160-2005,
35 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2020]: Sec. 5. (a) A merchant who mails or ships cigarettes as
37 part of a delivery sale shall:

38 (1) use a mailing or shipping service that requires the customer or
39 a person at least ~~eighteen (18)~~ **twenty-one (21)** years of age who
40 is designated by the customer to:

41 (A) sign to accept delivery of the cigarettes; and

42 (B) present a valid operator's license issued under IC 9-24-3 or



- 1 an identification card issued under IC 9-24-16 if the customer
 2 or the customer's designee, in the opinion of the delivery agent
 3 or employee of the mailing or shipping service, appears to be
 4 less than ~~twenty-seven (27)~~ **thirty (30)** years of age;
- 5 (2) provide to the mailing or shipping service used under
 6 subdivision (1) proof of compliance with section 6(a) of this
 7 chapter; and
- 8 (3) include the following statement in bold type or capital letters
 9 on an invoice or shipping document:
- 10 INDIANA LAW PROHIBITS THE MAILING OR SHIPPING
 11 OF CIGARETTES TO A PERSON LESS THAN ~~EIGHTEEN~~
 12 ~~(18)~~ **TWENTY-ONE (21)** YEARS OF AGE AND
 13 REQUIRES PAYMENT OF ALL APPLICABLE TAXES.
- 14 (b) The commission may impose a civil penalty of not more than
 15 one thousand dollars (\$1,000) if a mailing or shipping service:
- 16 (1) delivers cigarettes as part of a delivery sale without first
 17 receiving proof from the merchant of compliance with section
 18 6(a) of this chapter; or
- 19 (2) fails to obtain a signature and proof of identification of the
 20 customer or the customer's designee under subsection (a)(1).
- 21 The commission shall deposit amounts collected under this subsection
 22 into the **Richard D. Doyle** youth tobacco education and enforcement
 23 fund established by IC 7.1-6-2-6.
- 24 (c) The following apply to a merchant that mails or ships cigarettes
 25 as part of a delivery sale without using a third party service as required
 26 by subsection (a)(1):
- 27 (1) The merchant shall require the customer or a person at least
 28 ~~eighteen (18)~~ **twenty-one (21)** years of age who is designated by
 29 the customer to:
- 30 (A) sign to accept delivery of the cigarettes; and
- 31 (B) present a valid operator's license issued under IC 9-24-3 or
 32 identification card issued under IC 9-24-16 if the customer or
 33 the customer's designee, in the opinion of the merchant or the
 34 merchant's employee making the delivery, appears to be less
 35 than ~~twenty-seven (27)~~ **thirty (30)** years of age.
- 36 (2) The commission may impose a civil penalty of not more than
 37 one thousand dollars (\$1,000) if the merchant:
- 38 (A) delivers the cigarettes without first complying with section
 39 6(a) of this chapter; or
- 40 (B) fails to obtain a signature and proof of identification of the
 41 customer or the customer's designee under subdivision (1).
- 42 The commission shall deposit amounts collected under this



1 subdivision into the **Richard D. Doyle** youth tobacco education
2 and enforcement fund established by IC 7.1-6-2-6.

3 SECTION 30. IC 24-3-5-8, AS AMENDED BY P.L.160-2005,
4 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2020]: Sec. 8. The commission may impose a civil penalty of
6 not more one thousand dollars (\$1,000) on a:

7 (1) customer who signs another person's name to a statement
8 required under section 4(1) of this chapter; or

9 (2) merchant who sells cigarettes by delivery sale to a person less
10 than ~~eighteen (18)~~ **twenty-one (21)** years of age.

11 The commission shall deposit amounts collected under this section into
12 the **Richard D. Doyle** youth tobacco education and enforcement fund
13 established by IC 7.1-6-2-6.

14 SECTION 31. IC 35-31.5-2-334.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2020]: **Sec. 334.5. "Tobacco product" has the**
17 **meaning set forth in IC 7.1-6-1-3.**

18 SECTION 32. IC 35-43-5-3.5, AS AMENDED BY P.L.158-2013,
19 SECTION 471, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2020]: Sec. 3.5. (a) Except as provided in
21 subsection (c), a person who knowingly or intentionally obtains,
22 possesses, transfers, or uses the identifying information of another
23 person, including the identifying information of a person who is
24 deceased:

25 (1) without the other person's consent; and

26 (2) with intent to:

27 (A) harm or defraud another person;

28 (B) assume another person's identity; or

29 (C) profess to be another person;

30 commits identity deception, a Level 6 felony.

31 (b) However, the offense defined in subsection (a) is a Level 5
32 felony if:

33 (1) a person obtains, possesses, transfers, or uses the identifying
34 information of more than one hundred (100) persons;

35 (2) the fair market value of the fraud or harm caused by the
36 offense is at least fifty thousand dollars (\$50,000); or

37 (3) a person obtains, possesses, transfers, or uses the identifying
38 information of a person who is less than eighteen (18) years of
39 age and is:

40 (A) the person's son or daughter;

41 (B) a dependent of the person;

42 (C) a ward of the person; or



- 1 (D) an individual for whom the person is a guardian.
 2 (c) The conduct prohibited in subsections (a) and (b) does not apply
 3 to:
 4 (1) a person less than twenty-one (21) years of age who uses the
 5 identifying information of another person to acquire an alcoholic
 6 beverage (as defined in IC 7.1-1-3-5) **or a tobacco product (as**
 7 **defined in IC 7.1-6-1-3);**
 8 (2) a minor (as defined in IC 35-49-1-4) who uses the identifying
 9 information of another person to acquire:
 10 (A) a cigarette, an electronic cigarette (as defined in
 11 IC 35-46-1-1.5); or a tobacco product (as defined in
 12 IC 6-7-2-5);
 13 (B) (A) a periodical, a videotape, or other communication
 14 medium that contains or depicts nudity (as defined in
 15 IC 35-49-1-5);
 16 (C) (B) admittance to a performance (live or film) that
 17 prohibits the attendance of the minor based on age; or
 18 (D) (C) an item that is prohibited by law for use or
 19 consumption by a minor; or
 20 (3) any person who uses the identifying information for a lawful
 21 purpose.
 22 (d) It is not a defense in a prosecution under subsection (a) or (b)
 23 that no person was harmed or defrauded.
 24 SECTION 33. IC 35-43-5-3.8, AS AMENDED BY P.L.158-2013,
 25 SECTION 473, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2020]: Sec. 3.8. (a) A person who knowingly or
 27 intentionally obtains, possesses, transfers, or uses the synthetic
 28 identifying information:
 29 (1) with intent to harm or defraud another person;
 30 (2) with intent to assume another person's identity; or
 31 (3) with intent to profess to be another person;
 32 commits synthetic identity deception, a Level 6 felony.
 33 (b) The offense under subsection (a) is a Level 5 felony if:
 34 (1) a person obtains, possesses, transfers, or uses the synthetic
 35 identifying information of more than one hundred (100) persons;
 36 or
 37 (2) the fair market value of the fraud or harm caused by the
 38 offense is at least fifty thousand dollars (\$50,000).
 39 (c) The conduct prohibited in subsections (a) and (b) does not apply
 40 to:
 41 (1) a person less than twenty-one (21) years of age who uses the
 42 synthetic identifying information of another person to acquire:



- 1 (A) an alcoholic beverage (as defined in IC 7.1-1-3-5); or
 2 **(B) a tobacco product (as defined in IC 7.1-6-1-3); or**
 3 (2) a minor (as defined in IC 35-49-1-4) who uses the synthetic
 4 identifying information of another person to acquire:
 5 ~~(A) a cigarette or tobacco product (as defined in IC 6-7-2-5);~~
 6 ~~(B) (A) a periodical, a videotape, or other communication~~
 7 ~~medium that contains or depicts nudity (as defined in~~
 8 ~~IC 35-49-1-5);~~
 9 ~~(C) (B) admittance to a performance (live or on film) that~~
 10 ~~prohibits the attendance of the minor based on age; or~~
 11 ~~(D) (C) an item that is prohibited by law for use or~~
 12 ~~consumption by a minor.~~

13 (d) It is not a defense in a prosecution under subsection (a) or (b)
 14 that no person was harmed or defrauded.

15 SECTION 34. IC 35-46-1-1, AS AMENDED BY P.L.99-2007,
 16 SECTION 210, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2020]: Sec. 1. As used in this chapter:

18 "Dependent" means:

- 19 (1) an unemancipated person who is under eighteen (18) years of
 20 age; or
 21 (2) a person of any age who has a mental or physical disability.

22 "Endangered adult" has the meaning set forth in IC 12-10-3-2.

23 "Support" means food, clothing, shelter, or medical care.

24 "Tobacco business" means a sole proprietorship, corporation,
 25 partnership, or other enterprise in which:

- 26 (1) the primary activity is the sale of ~~tobacco~~; tobacco products;
 27 and ~~tobacco accessories~~; and
 28 (2) the sale of other products is incidental.

29 SECTION 35. IC 35-46-1-1.5 IS REPEALED [EFFECTIVE JULY
 30 1, 2020]. Sec. 1.5: As used in this chapter, "electronic cigarette" means
 31 a device that is capable of providing an inhalable dose of nicotine by
 32 delivering a vaporized solution. The term includes the components and
 33 cartridges.

34 SECTION 36. IC 35-46-1-1.8 IS ADDED TO THE INDIANA
 35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2020]: **Sec. 1.8. "Tobacco product" has the**
 37 **meaning set forth in IC 7.1-6-1-3. However, for purposes of**
 38 **IC 35-46-1-10.2, the term does not include an e-liquid to which**
 39 **IC 7.1-7-6-2 applies.**

40 SECTION 37. IC 35-46-1-10, AS AMENDED BY P.L.20-2013,
 41 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2020]: Sec. 10. (a) A person **commits a Class C infraction**



- 1 who knowingly if:
- 2 (1) **the person knowingly** sells or distributes a tobacco **product**
- 3 **or an electronic cigarette** to a person less than ~~eighteen (18)~~
- 4 **twenty-one (21)** years of age; or
- 5 (2) **the person is at least twenty-one (21) years of age and**
- 6 **knowingly** purchases a tobacco **product or an electronic cigarette**
- 7 for delivery to another person who is less than ~~eighteen (18)~~
- 8 **twenty-one (21)** years of age.
- 9 ~~commits a Class C infraction.~~ For a sale to take place under this
- 10 section, the buyer must pay the seller for the tobacco product. ~~or the~~
- 11 ~~electronic cigarette.~~
- 12 (b) It is not a defense that the person to whom the tobacco **product**
- 13 **or electronic cigarette** was sold or distributed did not smoke, chew,
- 14 inhale, or otherwise consume the tobacco **product. or the electronic**
- 15 **cigarette.**
- 16 (c) The following defenses are available to a person accused of
- 17 selling or distributing a tobacco **product or an electronic cigarette** to
- 18 a person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age:
- 19 (1) The buyer or recipient produced a driver's license bearing the
- 20 purchaser's or recipient's photograph, showing that the purchaser
- 21 or recipient was of legal age to make the purchase.
- 22 (2) The buyer or recipient produced a photographic identification
- 23 card issued under IC 9-24-16-1, or a similar card issued under the
- 24 laws of another state or the federal government, showing that the
- 25 purchaser or recipient was of legal age to make the purchase.
- 26 (3) The appearance of the purchaser or recipient was such that an
- 27 ordinary prudent person would believe that the purchaser or
- 28 recipient was not less than the age that complies with regulations
- 29 promulgated by the federal Food and Drug Administration.
- 30 (d) It is a defense that the accused person sold or delivered the
- 31 tobacco **product or electronic cigarette** to a person who acted in the
- 32 ordinary course of employment or a business concerning tobacco
- 33 **products: or electronic cigarettes:**
- 34 (1) agriculture;
- 35 (2) processing;
- 36 (3) transporting;
- 37 (4) wholesaling; or
- 38 (5) retailing.
- 39 (e) As used in this section, "distribute" means to give, **furnish, sell,**
- 40 **or attempt to sell a** tobacco **product or an electronic cigarette** to
- 41 another person as a means of promoting, advertising, or marketing the
- 42 tobacco **product or electronic cigarette** to the general public.



1 (f) Unless the person buys or receives tobacco or an electronic
 2 cigarette under the direction of a law enforcement officer as part of an
 3 enforcement action, a person who sells or distributes tobacco or an
 4 electronic cigarette is not liable for a violation of this section unless the
 5 person less than eighteen (18) years of age who bought or received the
 6 tobacco or electronic cigarette is issued a citation or summons under
 7 section 10.5 of this chapter.

8 (f) **This subsection applies to a person employed by a retailer in**
 9 **a position other than a management level position. A person who**
 10 **violates subsection (a)(1) may be allowed to complete a training or**
 11 **education program for retailers who sell tobacco products instead**
 12 **of being assessed a monetary civil penalty.**

13 (g) **This subsection applies to a person who is not a retailer or**
 14 **employee of a retailer. A person who violates subsection (a)(2) shall**
 15 **be assessed a civil penalty of not more than fifty dollars (\$50).**

16 (g) (h) Notwithstanding IC 34-28-5-5(c), civil penalties collected
 17 under this section must be deposited in the Richard D. Doyle youth
 18 tobacco education and enforcement fund (IC 7.1-6-2-6).

19 SECTION 38. IC 35-46-1-10.2, AS AMENDED BY P.L.20-2013,
 20 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2020]: Sec. 10.2. (a) A retail establishment that sells or
 22 distributes a tobacco **product or an electronic cigarette** to a person less
 23 than ~~eighteen (18)~~ **twenty-one (21)** years of age commits a ~~Class C~~ **an**
 24 **infraction as set forth in this section.** For a sale to take place under
 25 this section, the buyer must pay the retail establishment for the tobacco
 26 product. ~~or electronic cigarette.~~ Notwithstanding IC 34-28-5-4(c), a
 27 civil judgment for an infraction committed under this section must be
 28 imposed as follows:

29 (1) If the retail establishment at that specific business location has
 30 not been issued a citation or summons for a violation of this
 31 section in the previous ~~one hundred eighty (180) days,~~ **three (3)**
 32 **years, the retail establishment:**

33 **(A) commits a Class C infraction; and**

34 **(B) is liable for a civil penalty of up to two at least five**
 35 **hundred dollars (\$200); (\$500).**

36 (2) If the retail establishment at that specific business location has
 37 had one (1) citation or summons issued for a violation of this
 38 section in the previous ~~one hundred eighty (180) days,~~ **three (3)**
 39 **years, the retail establishment:**

40 **(A) commits a Class C infraction;**

41 **(B) is liable for a civil penalty of up to four hundred dollars**
 42 **(\$400); at least seven hundred fifty dollars (\$750); and**



- 1 **(C) the tobacco sales certificate issued under IC 7.1-3-18.5**
 2 **for that specific business location shall be suspended for at**
 3 **least seven (7) days.**
- 4 (3) If the retail establishment at that specific business location has
 5 had two (2) citations or summonses issued for a violation of this
 6 section in the previous ~~one hundred eighty (180) days~~, **three (3)**
 7 **years, the retail establishment:**
- 8 **(A) commits a Class C infraction;**
 9 **(B) is liable for a civil penalty of up to seven hundred at least**
 10 **one thousand dollars (\$700): (\$1,000); and**
 11 **(C) the tobacco sales certificate issued under IC 7.1-3-18.5**
 12 **for that specific business location shall be suspended for at**
 13 **least thirty (30) days.**
- 14 (4) If the retail establishment at that specific business location has
 15 had three (3) ~~or more~~ citations or summonses issued for a
 16 violation of this section in the previous ~~one hundred eighty (180)~~
 17 ~~days~~, **three (3) years, the retail establishment:**
- 18 **(A) commits habitual illegal sale of a tobacco product, a**
 19 **Class B infraction;**
 20 **(B) is liable for a civil penalty of up to at least one thousand**
 21 **dollars (\$1,000); and**
 22 **(C) the tobacco sales certificate for that specific business**
 23 **location shall be revoked, as set forth in IC 7.1-3-18.5-5,**
 24 **and a tobacco sales certificate may not be issued for that**
 25 **specific business location for at least three (3) years after**
 26 **the date of revocation.**
- 27 A retail establishment may not be issued a citation or summons for a
 28 violation of this section more than once every twenty-four (24) hours
 29 for each specific business location.
- 30 (b) It is not a defense that the person to whom the tobacco **product**
 31 **or electronic cigarette** was sold or distributed did not smoke, chew,
 32 inhale, or otherwise consume the tobacco **product. or electronic**
 33 **cigarette.**
- 34 (c) The following defenses are available to a retail establishment
 35 accused of selling or distributing tobacco **products or an electronic**
 36 **cigarette** to a person who is less than ~~eighteen (18)~~ **twenty-one (21)**
 37 years of age:
- 38 (1) The buyer or recipient produced a driver's license bearing the
 39 purchaser's or recipient's photograph showing that the purchaser
 40 or recipient was of legal age to make the purchase.
- 41 (2) The buyer or recipient produced a photographic identification
 42 card issued under IC 9-24-16-1 or a similar card issued under the



1 laws of another state or the federal government showing that the
2 purchaser or recipient was of legal age to make the purchase.

3 (3) The appearance of the purchaser or recipient was such that an
4 ordinary prudent person would believe that the purchaser or
5 recipient was not less than the age that complies with regulations
6 promulgated by the federal Food and Drug Administration.

7 (d) It is a defense that the accused retail establishment sold or
8 delivered the tobacco **product or electronic cigarette** to a person who
9 acted in the ordinary course of employment or a business concerning
10 tobacco **products: or electronic cigarettes:**

- 11 (1) agriculture;
12 (2) processing;
13 (3) transporting;
14 (4) wholesaling; or
15 (5) retailing.

16 (e) As used in this section, "distribute" means to give, **furnish, sell,**
17 **or attempt to sell a** tobacco **product or an electronic cigarette** to
18 another person as a means of promoting, advertising, or marketing the
19 tobacco **product or electronic cigarette** to the general public.

20 (f) Unless a person buys or receives tobacco or an electronic
21 cigarette under the direction of a law enforcement officer as part of an
22 enforcement action, a retail establishment that sells or distributes
23 tobacco or an electronic cigarette is not liable for a violation of this
24 section unless the person less than eighteen (18) years of age who
25 bought or received the tobacco or electronic cigarette is issued a
26 citation or summons under section 10.5 of this chapter.

27 (g) (f) Notwithstanding IC 34-28-5-5(c), civil penalties collected
28 under this section must be deposited in the Richard D. Doyle youth
29 tobacco education and enforcement fund (IC 7.1-6-2-6).

30 (h) A person who violates subsection (a) at least six (6) times in any
31 one hundred eighty (180) day period commits habitual illegal sale of
32 tobacco; a Class B infraction:

33 SECTION 39. IC 35-46-1-10.5 IS REPEALED [EFFECTIVE JULY
34 1, 2020]. Sec. 10.5: (a) A person less than eighteen (18) years of age
35 who:

- 36 (1) purchases tobacco or an electronic cigarette;
37 (2) accepts tobacco or an electronic cigarette for personal use; or
38 (3) possesses tobacco or an electronic cigarette on his person;

39 commits a Class C infraction:

40 (b) It is a defense under subsection (a) that the accused person acted
41 in the ordinary course of employment in a business concerning tobacco
42 or electronic cigarettes:



- 1 (1) agriculture;
 2 (2) processing;
 3 (3) transporting;
 4 (4) wholesaling; or
 5 (5) retailing.
- 6 SECTION 40. IC 35-46-1-11, AS AMENDED BY P.L.20-2013,
 7 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2020]: Sec. 11. (a) A tobacco **product or electronic cigarette**
 9 vending machine that is located in a public place must bear the
 10 following conspicuous notices:
- 11 (1) A notice:
 12 (A) that reads as follows, with the capitalization indicated: "If
 13 you are under ~~18~~ **21** years of age, YOU ARE FORBIDDEN by
 14 Indiana law to buy tobacco **products or electronic cigarettes**
 15 from this machine."; or
 16 (B) that:
 17 (i) conveys a message substantially similar to the message
 18 described in clause (A); and
 19 (ii) is formatted with words and in a form authorized under
 20 the rules adopted by the alcohol and tobacco commission.
- 21 (2) A notice that reads as follows, "Smoking by Pregnant Women
 22 May Result in Fetal Injury, Premature Birth, and Low Birth
 23 Weight."
 24 (3) A notice printed in letters and numbers at least one-half (1/2)
 25 inch high that displays a toll free phone number for assistance to
 26 callers in quitting smoking, as determined by the state department
 27 of health.
- 28 (b) A person who owns or has control over a tobacco **product or**
 29 **electronic cigarette** vending machine in a public place and who:
 30 (1) fails to post a notice required by subsection (a) on the vending
 31 machine; or
 32 (2) fails to replace a notice within one (1) month after it is
 33 removed or defaced;
 34 commits a Class C infraction.
- 35 (c) An establishment selling tobacco **products or electronic**
 36 **cigarettes** at retail shall post and maintain in a conspicuous place, at the
 37 point of sale, the following:
 38 (1) Signs printed in letters at least one-half (1/2) inch high,
 39 reading as follows:
 40 (A) "The sale of tobacco **products or electronic cigarettes** to
 41 persons under ~~18~~ **21** years of age is forbidden by Indiana law."
 42 (B) "Smoking by Pregnant Women May Result in Fetal Injury,



1 Premature Birth, and Low Birth Weight."
 2 (2) A sign printed in letters and numbers at least one-half (1/2)
 3 inch high that displays a toll free phone number for assistance to
 4 callers in quitting smoking, as determined by the state department
 5 of health.

6 (d) A person who:
 7 (1) owns or has control over an establishment selling tobacco
 8 **products or electronic cigarettes** at retail; and
 9 (2) fails to post and maintain the sign required by subsection (c);
 10 commits a Class C infraction.

11 SECTION 41. IC 35-46-1-11.2 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11.2. (a) This section
 13 does not apply to a tobacco business:

14 (1) operating as a tobacco business before ~~April 1, 1996~~, **July 1,**
 15 **2020**; or
 16 (2) that begins operating as a tobacco business after ~~April 1, 1996~~,
 17 **June 30, 2020**, if at the time the ~~tobacco~~ business begins
 18 operation the tobacco business is not located in an area prohibited
 19 under this section.

20 (b) A person may not operate a tobacco business within ~~two hundred~~
 21 ~~(200)~~ **one thousand (1,000)** feet of a public or private elementary or
 22 secondary school, as measured between the nearest point of the
 23 premises occupied by the tobacco business and the nearest point of a
 24 building used by the school for instructional purposes.

25 (c) A person who violates this section commits a Class C
 26 misdemeanor.

27 SECTION 42. IC 35-46-1-11.5, AS AMENDED BY P.L.20-2013,
 28 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2020]: Sec. 11.5. (a) Except for a coin machine that is placed
 30 in or directly adjacent to an entranceway or an exit, or placed in a
 31 hallway, a restroom, or another common area that is accessible to
 32 persons who are less than ~~eighteen (18)~~ **twenty-one (21)** years of age,
 33 this section does not apply to a coin machine that is located in the
 34 following:

35 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)
 36 where entry is limited to persons who are at least ~~eighteen (18)~~
 37 **twenty-one (21)** years of age.
 38 (2) Private industrial or office locations that are customarily
 39 accessible only to persons who are at least ~~eighteen (18)~~
 40 **twenty-one (21)** years of age.
 41 (3) Private clubs if the membership is limited to persons who are
 42 at least ~~eighteen (18)~~ **twenty-one (21)** years of age.



- 1 (4) Riverboats where entry is limited to persons who are at least
 2 twenty-one (21) years of age and on which lawful gambling is
 3 authorized.
- 4 (b) As used in this section, "coin machine" has the meaning set forth
 5 in IC 35-43-5-1.
- 6 (c) Except as provided in subsection (a), an owner of a retail
 7 establishment may not:
- 8 (1) distribute or sell tobacco **products or electronic cigarettes** by
 9 use of a coin machine; or
- 10 (2) install or maintain a coin machine that is intended to be used
 11 for the sale or distribution of tobacco **products. or electronic**
 12 **cigarettes.**
- 13 (d) An owner of a retail establishment who violates this section
 14 commits a Class C infraction. A citation or summons issued under this
 15 section must provide notice that the coin machine must be moved
 16 within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil
 17 judgment for an infraction committed under this section must be
 18 imposed as follows:
- 19 (1) If the owner of the retail establishment has not been issued a
 20 citation or summons for a violation of this section in the previous
 21 ninety (90) days, a civil penalty of fifty dollars (\$50).
- 22 (2) If the owner of the retail establishment has had one (1) citation
 23 or summons issued for a violation of this section in the previous
 24 ninety (90) days, a civil penalty of two hundred fifty dollars
 25 (\$250).
- 26 (3) If the owner of the retail establishment has had two (2)
 27 citations or summonses issued for a violation of this section in the
 28 previous ninety (90) days for the same machine, the coin machine
 29 shall be removed or impounded by a law enforcement officer
 30 having jurisdiction where the violation occurs.
- 31 An owner of a retail establishment may not be issued a citation or
 32 summons for a violation of this section more than once every two (2)
 33 business days for each business location.
- 34 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 35 this section must be deposited in the Richard D. Doyle youth tobacco
 36 education and enforcement fund established under IC 7.1-6-2-6.
- 37 SECTION 43. IC 35-46-1-11.7, AS AMENDED BY P.L.94-2008,
 38 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2020]: Sec. 11.7. (a) A retail establishment that has as its
 40 primary purpose the sale of tobacco products may not allow an
 41 individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age
 42 to enter the retail establishment.



1 (b) An individual who is less than ~~eighteen (18)~~ **twenty-one (21)**
 2 years of age may not enter a retail establishment described in
 3 subsection (a).

4 (c) A retail establishment described in subsection (a) must
 5 conspicuously post on all entrances to the retail establishment the
 6 following:

7 (1) A sign in boldface type that states "NOTICE: It is unlawful for
 8 a person less than ~~18~~ **21** years old to enter this store."

9 (2) A sign printed in letters and numbers at least one-half (1/2)
 10 inch high that displays a toll free phone number for assistance to
 11 callers in quitting smoking, as determined by the state department
 12 of health.

13 (d) A person who violates this section commits a Class C infraction.
 14 Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction
 15 committed under this section must be imposed as follows:

16 (1) If the person has not been cited for a violation of this section
 17 in the previous one hundred eighty (180) days, a civil penalty of
 18 up to two hundred dollars (\$200).

19 (2) If the person has had one (1) violation in the previous one
 20 hundred eighty (180) days, a civil penalty of up to four hundred
 21 dollars (\$400).

22 (3) If the person has had two (2) violations in the previous one
 23 hundred eighty (180) days, a civil penalty of up to seven hundred
 24 dollars (\$700).

25 (4) If the person has had three (3) or more violations in the
 26 previous one hundred eighty (180) days, a civil penalty of up to
 27 one thousand dollars (\$1,000).

28 A person may not be cited more than once every twenty-four (24)
 29 hours.

30 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 31 this section must be deposited in the Richard D. Doyle youth tobacco
 32 education and enforcement fund established under IC 7.1-6-2-6.

33 (f) A person who violates subsection (a) at least six (6) times in any
 34 one hundred eighty (180) day period commits habitual illegal entrance
 35 by a minor, a Class B infraction.

36 SECTION 44. IC 35-46-1-11.8, AS AMENDED BY P.L.20-2013,
 37 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2020]: Sec. 11.8. (a) As used in this section, "self-service
 39 display" means a display that contains tobacco **products or electronic**
 40 **cigarettes** in an area where a customer:

41 (1) is permitted; and

42 (2) has access to the tobacco **products or electronic cigarettes**



- 1 without assistance from a sales person.
- 2 (b) This section does not apply to a self-service display located in
3 a retail establishment that:
- 4 (1) has a primary purpose to sell tobacco **products; or electronic**
5 **cigarettes**; and
- 6 (2) prohibits entry by persons who are less than ~~eighteen (18)~~
7 **twenty-one (21)** years of age.
- 8 (c) The owner of a retail establishment that sells or distributes
9 tobacco **products or electronic cigarettes** through a self-service
10 display, other than a coin operated machine operated under
11 IC 35-46-1-11 or IC 35-46-1-11.5, commits a Class C infraction.
- 12 (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
13 this section must be deposited in the Richard D. Doyle youth tobacco
14 education and enforcement fund (IC 7.1-6-2-6).

