



February 28, 2020

ENGROSSED HOUSE BILL No. 1006

DIGEST OF HB 1006 (Updated February 26, 2020 11:04 pm - DI 107)

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

Synopsis: Regulation of tobacco and vaping. Prohibits a person who is less than 21 years of age from buying or possessing: (1) tobacco; (2) e-liquids; or (3) electronic cigarettes. Makes conforming changes regarding enforcement provisions, sales certificates, prohibition of delivery sales, and notices posted at retail establishments and at
(Continued next page)

Effective: July 1, 2020.

**Kirchhofer, Bosma, Huston, Bacon, Brown T,
Cherry, Aylesworth, Abbott, Baird, Barrett,
Bartlett, Bauer, Campbell,
Candelaria Reardon, Clere, Cook, Deal,
Engleman, Errington, Frye R, Karickhoff,
Leonard, Manning, McNamara, Negele,
Schaibley, Shackelford, Smith V, Soliday,
Vermilion, Zent, Ziemke**
(SENATE SPONSOR — CHARBONNEAU)

January 6, 2020, read first time and referred to Committee on Public Health.
January 9, 2020, reported — Do Pass.
January 16, 2020, read second time, amended, ordered engrossed.
January 17, 2020, engrossed.
January 21, 2020, read third time, passed. Yeas 84, nays 14.

SENATE ACTION

February 5, 2020, read first time and referred to Committee on Health and Provider Services.
February 27, 2020, amended, reported favorably — Do Pass.

EH 1006—LS 6960/DI 87



Digest Continued

vending machines. Provides that a retail establishment that sells an e-liquid to a person less than 21 years of age is subject to a civil judgment for an infraction. Doubles the civil judgment for an infraction for: (1) a retail establishment that sells or distributes tobacco, an e-liquid, or an electronic cigarette to a person less than 21 years of age; and (2) certain retail establishments that allow an underage person to enter their establishment. Modifies the time frame for when retail establishments may receive enhanced penalties for repeat e-liquid and tobacco products violations. Requires a merchant who mails or ships cigarettes as part of a delivery sale to use a shipping service that requires a customer to present identification if they appear to be less than 30 years of age. 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. Makes a tobacco sales certificate (certificate) expire every three years. Provides that a certificate may only be issued to a person who has not had a certificate revoked by the commission for a business location within one year. Provides that the alcohol and tobacco commission may not reinstate a revoked certificate for at least one year after the date of the revocation. Provides that an employee or agent of a certificate holder who committed at least six tobacco sales violations in one year is prima facie evidence of a lack of due diligence in the training and supervision of the employee. 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. 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. Makes it a Class B infraction for a person to knowingly sell a tobacco product that contains vitamin E acetate. Makes technical corrections.



February 28, 2020

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.

ENGROSSED 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 7.1-1-3-25, AS AMENDED BY P.L.176-2015,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 25. (a) "Minor" ~~except as provided in subsection~~
4 ~~(b)~~; means a person less than twenty-one (21) years of age.
5 (b) "Minor", for purposes of IC 7.1-7, has the meaning set forth in
6 ~~IC 7.1-7-2-17~~.
7 SECTION 2. IC 7.1-3-18.5-2, AS AMENDED BY P.L.231-2015,
8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2020]: Sec. 2. (a) A person who desires a certificate must
10 provide the following to the commission:
11 (1) The applicant's name and mailing address and the address of
12 the premises for which the certificate is being issued.
13 (2) Except as provided in section 6(c) of this chapter, a fee of two
14 hundred dollars (\$200).
15 (3) The name under which the applicant transacts or intends to

EH 1006—LS 6960/DI 87



- 1 transact business.
- 2 (4) The address of the applicant's principal place of business or
- 3 headquarters, if any.
- 4 (5) The statement required under section 2.6 of this chapter.
- 5 (b) A separate certificate is required for each location where the
- 6 tobacco products or electronic cigarettes are sold or distributed.
- 7 (c) A certificate holder shall conspicuously display the holder's
- 8 certificate on the holder's premises where the tobacco products or
- 9 electronic cigarettes are sold or distributed.
- 10 (d) Any intentional misstatement or suppression of a material fact
- 11 in an application filed under this section constitutes grounds for denial
- 12 of the certificate.
- 13 (e) A certificate may be issued only to a person who meets the
- 14 following requirements:
- 15 (1) If the person is an individual, the person must be at least
- 16 ~~eighteen (18) years of age.~~ **twenty-one (21) years of age.**
- 17 (2) The person must be authorized to do business in Indiana.
- 18 **(3) The person has not had a certificate revoked by the**
- 19 **commission for that business location within the preceding**
- 20 **one (1) year.**
- 21 (f) The fees collected under this section shall be deposited in the
- 22 enforcement and administration fund under IC 7.1-4-10.
- 23 SECTION 3. IC 7.1-3-18.5-3, AS AMENDED BY P.L.224-2005,
- 24 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 JULY 1, 2020]: Sec. 3. (a) A certificate issued by the commission
- 26 under this chapter must contain the following information:
- 27 (1) The certificate number.
- 28 (2) The certificate holder's name.
- 29 (3) The permanent location of the business or vending machine
- 30 for which the certificate is issued.
- 31 (4) The expiration date of the certificate.
- 32 (b) A certificate is:
- 33 (1) valid for three (3) years after the date of issuance, unless the
- 34 commission suspends the certificate; and
- 35 (2) nontransferable.
- 36 SECTION 4. IC 7.1-3-18.5-5, AS AMENDED BY P.L.214-2016,
- 37 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 38 JULY 1, 2020]: Sec. 5. (a) Subject to subsection (b), the commission
- 39 may suspend the certificate of a person who fails to pay a civil penalty
- 40 imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11,
- 41 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.
- 42 (b) Before enforcing the imposition of a civil penalty or suspending



1 or revoking a certificate under this chapter, the commission shall
 2 provide written notice of the alleged violation to the certificate holder
 3 and conduct a hearing. The commission shall provide written notice of
 4 the civil penalty or suspension or revocation of a certificate to the
 5 certificate holder.

6 (c) Subject to subsection (b), the commission shall revoke the
 7 certificate of a person upon a finding by a preponderance of the
 8 evidence that the person:

9 (1) has violated IC 35-45-5-3, IC 35-45-5-3.5, IC 35-45-5-4,
 10 IC 35-46-1-11, IC 35-46-1-11.2, or IC 35-46-1-11.8;

11 (2) has committed habitual illegal sale of tobacco as established
 12 under ~~IC 35-46-1-10.2(h)~~; **IC 35-46-1-10.2(i)**; or

13 (3) has committed habitual illegal entrance by a minor as
 14 established under IC 35-46-1-11.7(f).

15 SECTION 5. IC 7.1-3-18.5-6, AS AMENDED BY P.L.214-2016,
 16 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2020]: Sec. 6. (a) If a certificate has:

18 (1) expired; or

19 (2) been suspended;

20 the commission may not reinstate or renew the certificate until all civil
 21 penalties imposed against the certificate holder for violating
 22 IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2,
 23 IC 35-46-1-11.5, IC 35-46-1-11.7, or IC 35-46-1-11.8 have been paid.

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

26 (c) If a certificate has been revoked, the commission may not
 27 reinstate or renew the certificate for at least ~~one hundred eighty (180)~~
 28 **days one (1) year** after the date of revocation. The commission may
 29 reinstate or renew the certificate only upon a reasonable showing by the
 30 applicant that the applicant shall:

31 (1) exercise due diligence in the sale of tobacco products or
 32 electronic cigarettes on the applicant's premises where the
 33 tobacco products or electronic cigarettes are sold or distributed;
 34 and

35 (2) properly supervise and train the applicant's employees or
 36 agents in the handling and sale of tobacco products or electronic
 37 cigarettes.

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

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



1 SECTION 6. IC 7.1-3-18.5-8, AS AMENDED BY P.L.214-2016,
 2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2020]: Sec. 8. The commission may mitigate civil penalties
 4 imposed against a certificate holder for violating IC 35-46-1-10,
 5 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.5,
 6 IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the provisions of this
 7 chapter if a certificate holder provides a training program for the
 8 certificate holder's employees that includes at least the following
 9 topics:

- 10 (1) Laws governing the sale of tobacco products and electronic
 11 cigarettes.
- 12 (2) Methods of recognizing and handling customers who are less
 13 than ~~eighteen (18)~~ **twenty-one (21)** years of age.
- 14 (3) Procedures for proper examination of identification cards to
 15 verify that customers are under ~~eighteen (18)~~ **twenty-one (21)**
 16 years of age.

17 SECTION 7. IC 7.1-3-18.5-9, AS AMENDED BY P.L.231-2015,
 18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2020]: Sec. 9. A certificate holder shall exercise due diligence
 20 in the supervision and training of the certificate holder's employees or
 21 agents in the handling and sale of tobacco products ~~and electronic~~
 22 ~~cigarettes~~ on the holder's retail premises. Proof that employees or
 23 agents of the certificate holder, while in the scope of their employment,
 24 committed at least six (6) violations relating to ~~IC 35-46-1-10.2(a)~~
 25 **IC 35-46-1-10.2(b)** in any ~~one hundred eighty (180) day~~ **one (1) year**
 26 period shall be prima facie evidence of a lack of due diligence by the
 27 certificate holder in the supervision and training of the certificate
 28 holder's employees or agents.

29 SECTION 8. IC 7.1-5-12-5, AS AMENDED BY P.L.231-2015,
 30 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (c) and
 32 subject to section 13 of this chapter, smoking may be allowed in the
 33 following:

- 34 (1) A horse racing facility operated under a permit under
 35 IC 4-31-5 and any other permanent structure on land owned or
 36 leased by the owner of the facility that is adjacent to the facility.
- 37 (2) A riverboat (as defined in IC 4-33-2-17) and any other
 38 permanent structure that is:
 - 39 (A) owned or leased by the owner of the riverboat; and
 - 40 (B) located on land that is adjacent to:
 - 41 (i) the dock to which the riverboat is moored; or
 - 42 (ii) the land on which the riverboat is situated in the case of



- 1 a riverboat described in IC 4-33-2-17(2).
- 2 (3) A facility that operates under a gambling game license under
- 3 IC 4-35-5 and any other permanent structure on land owned or
- 4 leased by the owner of the facility that is adjacent to the facility.
- 5 (4) A satellite facility licensed under IC 4-31-5.5.
- 6 (5) An establishment owned or leased by a business that meets the
- 7 following requirements:
- 8 (A) The business was in business and permitted smoking on
- 9 December 31, 2012.
- 10 (B) The business prohibits entry by an individual who is less
- 11 than twenty-one (21) years of age.
- 12 (C) The owner or operator of the business holds a beer, liquor,
- 13 or wine retailer's permit.
- 14 (D) The business limits smoking in the establishment to
- 15 smoking with a waterpipe or hookah device.
- 16 (E) During the preceding calendar year, at least ten percent
- 17 (10%) of the business's annual gross income was from the sale
- 18 of loose tobacco for use in a waterpipe or hookah device.
- 19 (F) The person in charge of the business posts in the
- 20 establishment conspicuous signs that display the message that
- 21 cigarette smoking is prohibited.
- 22 (6) An establishment owned or leased by a business that meets the
- 23 following requirements:
- 24 (A) The business prohibits entry by an individual who is less
- 25 than twenty-one (21) years of age.
- 26 (B) The owner or operator of the business holds a beer, liquor,
- 27 or wine retailer's permit.
- 28 (C) The business limits smoking in the establishment to cigar
- 29 smoking.
- 30 (D) During the preceding calendar year, at least ten percent
- 31 (10%) of the business's annual gross income was from the sale
- 32 of cigars and the rental of onsite humidors.
- 33 (E) The person in charge of the business posts in the
- 34 establishment conspicuous signs that display the message that
- 35 cigarette smoking is prohibited.
- 36 (7) A premises owned or leased by and regularly used for the
- 37 activities of a business that meets all of the following:
- 38 (A) The business is exempt from federal income taxation
- 39 under 26 U.S.C. 501(c).
- 40 (B) The business:
- 41 (i) meets the requirements to be considered a club under
- 42 IC 7.1-3-20-1; or



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



- 1 (10) A cigar manufacturing facility that does not offer retail sales.
 2 (11) A premises of a cigar specialty store to which all of the
 3 following apply:
 4 (A) The owner or operator of the store holds a valid tobacco
 5 sales certificate issued under IC 7.1-3-18.5.
 6 (B) The sale of tobacco products and tobacco accessories
 7 account for at least fifty percent (50%) of the store's annual
 8 gross sales.
 9 (C) The store has a separate, enclosed, designated smoking
 10 room that is adequately ventilated to prevent migration of
 11 smoke to nonsmoking areas.
 12 (D) Smoking is allowed only in the room described in clause
 13 (C).
 14 (E) Individuals who are less than ~~eighteen (18)~~ **twenty-one**
 15 **(21)** years of age are prohibited from entering into the room
 16 described in clause (C).
 17 (F) Cigarette smoking is not allowed on the premises of the
 18 store.
 19 (G) The owner or operator of the store posts a conspicuous
 20 sign on the premises of the store that displays the message that
 21 cigarette smoking is prohibited.
 22 (H) The store does not prepare any food or beverage that
 23 would require a certified food handler under IC 16-42-5.2.
 24 (12) The premises of a business that is located in the business
 25 owner's private residence (as defined in IC 3-5-2-42.5) if the only
 26 employees of the business who work in the residence are the
 27 owner and other individuals who reside in the residence.
 28 (b) The owner, operator, manager, or official in charge of an
 29 establishment or premises in which smoking is allowed under this
 30 section shall post conspicuous signs in the establishment that read
 31 "WARNING: Smoking Is Allowed In This Establishment" or other
 32 similar language.
 33 (c) This section does not allow smoking in the following enclosed
 34 areas of an establishment or premises described in subsection (a)(1)
 35 through (a)(11):
 36 (1) Any hallway, elevator, or other common area where an
 37 individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years
 38 of age is permitted.
 39 (2) Any room that is intended for use by an individual who is less
 40 than ~~eighteen (18) years of age.~~ **twenty-one (21) years of age.**
 41 (d) The owner, operator, or manager of an establishment or premises
 42 that is listed under subsection (a) and that allows smoking shall provide



1 a verified statement to the commission that states that the establishment
 2 or premises qualifies for the exemption. The commission may require
 3 the owner, operator, or manager of an establishment or premises to
 4 provide documentation or additional information concerning the
 5 exemption of the establishment or premises.

6 SECTION 9. IC 7.1-6-2-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. The division of
 8 mental health and addiction established under IC 12-21 shall
 9 coordinate the conduct of random unannounced inspections at locations
 10 where tobacco products, **e-liquids, or electronic cigarettes** are sold or
 11 distributed to ensure compliance with this article. Only the
 12 commission, an Indiana law enforcement agency, the office of the
 13 sheriff of a county, or an organized police department of a municipal
 14 corporation may conduct the random unannounced inspections. These
 15 entities may use retired or off-duty law enforcement officers to conduct
 16 inspections under this section.

17 SECTION 10. IC 7.1-6-2-4, AS AMENDED BY P.L.20-2013,
 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2020]: Sec. 4. (a) An enforcement officer vested with full
 20 police powers and duties may engage a person less than ~~eighteen (18)~~
 21 **twenty-one (21)** years of age as part of an enforcement action under
 22 this article if the initial or contemporaneous receipt or purchase of a
 23 tobacco product, **e-liquid**, or electronic cigarette by a person less than
 24 ~~eighteen (18)~~ **twenty-one (21)** years of age occurs under the direction
 25 of an enforcement officer vested with full police powers and duties and
 26 is part of the enforcement action.

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

29 (1) recruit or attempt to recruit a person less than ~~eighteen (18)~~
 30 **twenty-one (21)** years of age to participate in an enforcement
 31 action under subsection (a) at the scene of a violation of section
 32 2 of this chapter; or

33 (2) allow a person less than eighteen (18) years of age to purchase
 34 or receive a tobacco product, **e-liquid**, or electronic cigarette as
 35 part of an enforcement action under subsection (a) without the
 36 written permission of the person's parents or legal guardians.

37 SECTION 11. IC 7.1-7-2-6.3, AS ADDED BY P.L.206-2017,
 38 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2020]: Sec. 6.3. "Delivery sale" means a sale of ~~e-liquids~~ **an**
 40 **e-liquid** to a purchaser in Indiana in which the purchaser submits the
 41 order for the sale:

42 (1) by telephone;



1 (2) over the Internet; or
 2 (3) through the mail or another delivery system;
 3 and the ~~e-liquids~~ **e-liquid** is shipped through a delivery service.
 4 "Delivery sale" does not include a sale of ~~e-liquids~~ **an e-liquid** not for
 5 personal consumption to a person who is a retailer.

6 SECTION 12. IC 7.1-7-2-17 IS REPEALED [EFFECTIVE JULY
 7 1, 2020]. ~~Sec. 17. "Minor" means an individual who is less than~~
 8 ~~eighteen (18) years of age.~~

9 SECTION 13. IC 7.1-7-4-1, AS AMENDED BY P.L.206-2017,
 10 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2020]: Sec. 1. (a) A manufacturer of e-liquid may not mix,
 12 bottle, package, or sell e-liquid to retailers, consumers, or distributors
 13 in Indiana without a permit issued by the commission under this article.

14 (b) ~~All e-liquids~~ **An e-liquid** manufactured by an e-liquids
 15 manufacturer approved by the commission under this article before
 16 July 1, 2017, may be distributed and sold for retail until the expiration
 17 date of the ~~e-liquids~~ **e-liquid**.

18 (c) A manufacturing permit issued by the commission is valid for
 19 five (5) years. A manufacturing permit issued by the commission under
 20 this article before July 1, 2017, does not expire before July 1, 2020.

21 (d) An initial application for a manufacturing permit must include
 22 the following:

- 23 (1) The name, telephone number, and address of the applicant.
- 24 (2) The name, telephone number, and address of the
 25 manufacturing facility.
- 26 (3) The name, telephone number, title, and address of the person
 27 responsible for the manufacturing facility.
- 28 (4) Verification that the facility will comply with applicable
 29 tobacco products good manufacturing practices promulgated
 30 under 21 U.S.C. 387f(e) of the federal Food, Drug, and Cosmetic
 31 Act.
- 32 (5) Verification that the manufacturer will comply with the
 33 applicable ingredient listing required by 21 U.S.C. 387d(a)(1) of
 34 the federal Food, Drug, and Cosmetic Act.
- 35 (6) Written consent allowing the state police department to
 36 conduct a state or national criminal history background check on
 37 any person listed on the application.
- 38 (7) A nonrefundable initial application fee of one thousand dollars
 39 (\$1,000).

40 (e) The fees collected under subsection (d)(7) shall be deposited in
 41 the enforcement and administration fund established under IC 7.1-4-10.

42 SECTION 14. IC 7.1-7-5.5-1, AS ADDED BY P.L.206-2017,



1 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2020]: Sec. 1. A retailer may not make a delivery sale of
3 e-liquid to a ~~minor~~ **an individual who does not meet the minimum**
4 **age requirement** as set forth in IC 7.1-7-6-5.

5 SECTION 15. IC 7.1-7-5.5-2, AS ADDED BY P.L.206-2017,
6 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2020]: Sec. 2. A retailer may not ship ~~e-liquids~~ **an e-liquid**
8 without first making a good faith effort to verify the age of the
9 purchaser of the ~~e-liquids~~ **e-liquid** as set forth in IC 7.1-7-6-6.

10 SECTION 16. IC 7.1-7-5.5-3, AS ADDED BY P.L.206-2017,
11 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2020]: Sec. 3. (a) Before ~~e-liquids~~ **are an e-liquid** is shipped
13 in a delivery sale, a retailer must be fully paid for the purchase and
14 shall accept payment from the purchaser:

- 15 (1) by a check drawn on an account in the purchaser's name;
- 16 (2) by a credit card issued in the purchaser's name; or
- 17 (3) by a debit card issued in the purchaser's name.

18 (b) A retailer may ship ~~e-liquids~~ **an e-liquid** only to a purchaser.

19 SECTION 17. IC 7.1-7-5.5-5, AS ADDED BY P.L.206-2017,
20 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2020]: Sec. 5. A retailer who ships ~~e-liquids~~ **an e-liquid** from
22 a delivery sale order shall include as part of the shipping documents a
23 document with the following statement: "E-LIQUIDS: Indiana law
24 prohibits the sale of this product to a person who is less than ~~18~~ **21**
25 years of age."

26 SECTION 18. IC 7.1-7-6-2 IS REPEALED [EFFECTIVE JULY 1,
27 2020]. Sec. 2: (a) ~~This subsection does not apply to a delivery sale as~~
28 ~~defined in IC 7.1-7-2-6.3. If a retailer:~~

- 29 (1) ~~knowingly and intentionally sells e-liquid to a 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) years~~
32 ~~of age by checking a government issued identification and sells~~
33 ~~the person e-liquid;~~

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

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

- 38 (1) ~~If the retail establishment at that specific business location has~~
39 ~~not been issued a citation or summons for a violation of this~~
40 ~~section in the previous one hundred eighty (180) days, a civil~~
41 ~~penalty of up to two hundred dollars (\$200).~~
- 42 (2) ~~If the retail establishment at that specific business location has~~



1 had one (1) citation or summons issued for a violation of this
 2 section in the previous one hundred eighty (180) days; a civil
 3 penalty of up to four hundred dollars (\$400).

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; a civil
 7 penalty of up to seven hundred dollars (\$700).

8 (4) If the retail establishment at that specific business location has
 9 had three (3) or more citations or summonses issued for a
 10 violation of this section in the previous one hundred eighty (180)
 11 days; a civil penalty of up to one thousand dollars (\$1,000).

12 A retail establishment may not be issued a citation or summons for a
 13 violation of this section more than once every twenty-four (24) hours
 14 for each specific business location.

15 (c) It is not a defense that the person to whom e-liquid was sold or
 16 distributed did not inhale or otherwise consume e-liquid.

17 (d) The following defenses are available to a retail establishment
 18 accused of selling or distributing e-liquid to a person who is less than
 19 eighteen (18) years of age:

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

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

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

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

34 (1) agriculture;

35 (2) processing;

36 (3) transporting;

37 (4) wholesaling; or

38 (5) retailing.

39 (f) As used in this section, "distribute" means to give e-liquid to
 40 another person as a means of promoting, advertising, or marketing
 41 e-liquid to the general public.

42 (g) Unless a person buys or receives e-liquid under the direction of



1 a law enforcement officer as part of an enforcement action; a retail
 2 establishment that sells or distributes e-liquid is not liable for a
 3 violation of this section unless the person less than eighteen (18) years
 4 of age who bought or received the e-liquid is issued a citation or
 5 summons in violation of this article:

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

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

12 SECTION 19. IC 7.1-7-6-2.1 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2020]: **Sec. 2.1. A person who sells or**
 15 **distributes an e-liquid to a person under twenty-one (21) years of**
 16 **age may be in violation of IC 35-46-1.**

17 SECTION 20. IC 7.1-7-6-5, AS ADDED BY P.L.206-2017,
 18 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2020]: **Sec. 5. A person who knowingly or intentionally makes**
 20 **a delivery sale of e-liquids an e-liquid to a minor an individual who**
 21 **is less than twenty-one (21) years of age** commits a Class C
 22 infraction.

23 SECTION 21. IC 7.1-7-6-6, AS ADDED BY P.L.206-2017,
 24 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2020]: **Sec. 6. (a) As used in this section, "good faith effort to**
 26 **verify the age of a the purchaser of e-liquids" e-liquid" means:**

27 (1) verifying the age of the purchaser in a commercially available
 28 database; or

29 (2) obtaining a photocopy of a government issued identification;
 30 that indicates the birth date or age of the purchaser.

31 (b) A person who knowingly or intentionally ships e-liquids **an**
 32 **e-liquid** without first making a good faith effort to verify the age of the
 33 purchaser of the e-liquids **e-liquid** commits a Class C infraction.

34 SECTION 22. IC 7.1-7-6-7 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 36 1, 2020]: **Sec. 7. (a) This section applies to a person who:**

37 (1) is employed by a retailer in a position other than a
 38 management level position; and

39 (2) violates section 2, 5, or 6 of this chapter.

40 (b) The person may be allowed to complete a training or
 41 education program for retailers who sell tobacco products instead
 42 of paying a monetary civil penalty.



1 SECTION 23. IC 24-3-5-4, AS AMENDED BY P.L.160-2005,
 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2020]: Sec. 4. Subject to section 4.5 of this chapter, a
 4 merchant may not mail or ship cigarettes as part of a delivery sale
 5 unless, before mailing or shipping the cigarettes, the merchant:

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

8 (A) providing the prospective customer's address and date of
 9 birth;

10 (B) advising the prospective customer that:

11 (i) signing another person's name to the statement required
 12 under this subdivision may subject the person to a civil
 13 monetary penalty of not more than one thousand dollars
 14 (\$1,000); and

15 (ii) purchasing cigarettes by a person less than ~~eighteen (18)~~
 16 **twenty-one (21)** years of age is a Class C infraction under
 17 IC 35-46-1-10.5;

18 (C) confirming that the cigarette order was placed by the
 19 prospective customer;

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

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

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

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

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

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

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

36 (B) present a valid operator's license issued under IC 9-24-3 or
 37 an identification card issued under IC 9-24-16 if the customer
 38 or the customer's designee, in the opinion of the delivery agent
 39 or employee of the mailing or shipping service, appears to be
 40 less than ~~twenty-seven (27)~~ **thirty (30)** years of age;

41 (2) provide to the mailing or shipping service used under
 42 subdivision (1) proof of compliance with section 6(a) of this



1 chapter; and
 2 (3) include the following statement in bold type or capital letters
 3 on an invoice or shipping document:
 4 INDIANA LAW PROHIBITS THE MAILING OR SHIPPING
 5 OF CIGARETTES TO A PERSON LESS THAN ~~EIGHTEEN~~
 6 ~~(18)~~ **TWENTY-ONE (21)** YEARS OF AGE AND
 7 REQUIRES PAYMENT OF ALL APPLICABLE TAXES.
 8 (b) The commission may impose a civil penalty of not more than
 9 one thousand dollars (\$1,000) if a mailing or shipping service:
 10 (1) delivers cigarettes as part of a delivery sale without first
 11 receiving proof from the merchant of compliance with section
 12 6(a) of this chapter; or
 13 (2) fails to obtain a signature and proof of identification of the
 14 customer or the customer's designee under subsection (a)(1).
 15 The commission shall deposit amounts collected under this subsection
 16 into the **Richard D. Doyle** youth tobacco education and enforcement
 17 fund established by IC 7.1-6-2-6.
 18 (c) The following apply to a merchant that mails or ships cigarettes
 19 as part of a delivery sale without using a third party service as required
 20 by subsection (a)(1):
 21 (1) The merchant shall require the customer or a person at least
 22 ~~eighteen (18)~~ **twenty-one (21)** years of age who is designated by
 23 the customer to:
 24 (A) sign to accept delivery of the cigarettes; and
 25 (B) present a valid operator's license issued under IC 9-24-3 or
 26 identification card issued under IC 9-24-16 if the customer or
 27 the customer's designee, in the opinion of the merchant or the
 28 merchant's employee making the delivery, appears to be less
 29 than ~~twenty-seven (27)~~ **thirty (30)** years of age.
 30 (2) The commission may impose a civil penalty of not more than
 31 one thousand dollars (\$1,000) if the merchant:
 32 (A) delivers the cigarettes without first complying with section
 33 6(a) of this chapter; or
 34 (B) fails to obtain a signature and proof of identification of the
 35 customer or the customer's designee under subdivision (1).
 36 The commission shall deposit amounts collected under this
 37 subdivision into the **Richard D. Doyle** youth tobacco education
 38 and enforcement fund established by IC 7.1-6-2-6.
 39 SECTION 25. IC 24-3-5-8, AS AMENDED BY P.L.160-2005,
 40 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2020]: Sec. 8. The commission may impose a civil penalty of
 42 not more one thousand dollars (\$1,000) on a:



- 1 (1) customer who signs another person's name to a statement
 2 required under section 4(1) of this chapter; or
 3 (2) merchant who sells cigarettes by delivery sale to a person less
 4 than ~~eighteen (18)~~ **twenty-one (21)** years of age.

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

8 SECTION 26. IC 35-31.5-2-100, AS AMENDED BY P.L.185-2019,
 9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 100. (a) "Distribute", for purposes of
 11 IC 35-45-4-8, has the meaning set forth in IC 35-45-4-8.

12 (b) "Distribute", for purposes of IC 35-46-1-10, has the meaning set
 13 forth in ~~IC 35-46-1-10(e)~~. **IC 35-46-1-10(f)**.

14 (c) "Distribute", for purposes of IC 35-46-1-10.2, has the meaning
 15 set forth in ~~IC 35-46-1-10.2(e)~~. **IC 35-46-1-10.2(f)**.

16 (d) "Distribute", for purposes of IC 35-47.5, has the meaning set
 17 forth in IC 35-47.5-2-6.

18 (e) "Distribute", for purposes of IC 35-48, has the meaning set forth
 19 in IC 35-48-1-14.

20 (f) "Distribute", for purposes of IC 35-49, has the meaning set forth
 21 in IC 35-49-1-2.

22 SECTION 27. IC 35-31.5-2-107.5 IS ADDED TO THE INDIANA
 23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2020]: **Sec. 107.5. "E-liquid," for purposes**
 25 **of IC 35-46-1, has the meaning set forth in IC 35-46-1-1.4.**

26 SECTION 28. IC 35-43-5-3.8, AS AMENDED BY P.L.158-2013,
 27 SECTION 473, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2020]: Sec. 3.8. (a) A person who knowingly or
 29 intentionally obtains, possesses, transfers, or uses the synthetic
 30 identifying information:

- 31 (1) with intent to harm or defraud another person;
 32 (2) with intent to assume another person's identity; or
 33 (3) with intent to profess to be another person;

34 commits synthetic identity deception, a Level 6 felony.

35 (b) The offense under subsection (a) is a Level 5 felony if:

- 36 (1) a person obtains, possesses, transfers, or uses the synthetic
 37 identifying information of more than one hundred (100) persons;
 38 or

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

41 (c) The conduct prohibited in subsections (a) and (b) does not apply
 42 to:



1 (1) a person less than twenty-one (21) years of age who uses the
2 synthetic identifying information of another person to acquire:

3 (A) an alcoholic beverage (as defined in IC 7.1-1-3-5); or

4 (B) **a cigarette, e-liquid, or tobacco product (as defined in**
5 **IC 6-7-2-5); or**

6 (2) a minor (as defined in IC 35-49-1-4) who uses the synthetic
7 identifying information of another person to acquire:

8 ~~(A) a cigarette or tobacco product (as defined in IC 6-7-2-5);~~

9 ~~(B) (A) a periodical, a videotape, or other communication~~
10 ~~medium that contains or depicts nudity (as defined in~~
11 ~~IC 35-49-1-5);~~

12 ~~(C) (B) admittance to a performance (live or on film) that~~
13 ~~prohibits the attendance of the minor based on age; or~~

14 ~~(D) (C) an item that is prohibited by law for use or~~
15 ~~consumption by a minor.~~

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

18 SECTION 29. IC 35-46-1-1.4 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2020]: **Sec. 1.4. As used in this chapter,**
21 **"e-liquid" has the meaning set forth in IC 7.1-7-2-10.**

22 SECTION 30. IC 35-46-1-10, AS AMENDED BY P.L.20-2013,
23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2020]: Sec. 10. (a) **A person may not be charged with a**
25 **violation under this section and a violation under IC 7.1-7-6-5.**

26 (b) A person who knowingly:

27 (1) sells or distributes tobacco, **an e-liquid**, or an electronic
28 cigarette to a person less than ~~eighteen (18)~~ **twenty-one (21)**
29 years of age; or

30 (2) purchases tobacco, **an e-liquid**, or an electronic cigarette for
31 delivery to another person who is less than ~~eighteen (18)~~
32 **twenty-one (21)** years of age;

33 commits a Class C infraction. For a sale to take place under this
34 section, the buyer must pay the seller for the tobacco product, **the**
35 **e-liquid**, or the electronic cigarette.

36 ~~(b) (c)~~ (c) It is not a defense that the person to whom the tobacco, **the**
37 **e-liquid**, or electronic cigarette was sold or distributed did not smoke,
38 chew, inhale, or otherwise consume the tobacco, **e-liquid**, or the
39 electronic cigarette.

40 ~~(c) (d)~~ (d) The following defenses are available to a person accused of
41 selling or distributing tobacco, **an e-liquid**, or an electronic cigarette
42 to a person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of



- 1 age:
- 2 (1) The buyer or recipient produced a driver's license bearing the
- 3 purchaser's or recipient's photograph, showing that the purchaser
- 4 or recipient was of legal age to make the purchase.
- 5 (2) The buyer or recipient produced a photographic identification
- 6 card issued under IC 9-24-16-1, or a similar card issued under the
- 7 laws of another state or the federal government, showing that the
- 8 purchaser or recipient was of legal age to make the purchase.
- 9 (3) The appearance of the purchaser or recipient was such that an
- 10 ordinary prudent person would believe that the purchaser or
- 11 recipient was not less than ~~the age that complies with regulations~~
- 12 **thirty (30) years of age. promulgated by the federal Food and**
- 13 **Drug Administration.**
- 14 ~~(d)~~ **(e)** It is a defense that the accused person sold or delivered the
- 15 tobacco, **e-liquid**, or electronic cigarette to a person who acted in the
- 16 ordinary course of employment or a business concerning tobacco, **an**
- 17 **e-liquid**, or electronic cigarettes **including the following activities:**
- 18 (1) agriculture;
- 19 (2) processing;
- 20 (3) transporting;
- 21 (4) wholesaling; or
- 22 (5) retailing.
- 23 ~~(e)~~ **(f)** As used in this section, "distribute" means to give tobacco, **an**
- 24 **e-liquid**, or an electronic cigarette to another person as a means of
- 25 promoting, advertising, or marketing the tobacco, **e-liquid**, or
- 26 electronic cigarette to the general public.
- 27 ~~(f)~~ **(g)** Unless the person buys or receives tobacco, **an e-liquid**, or
- 28 an electronic cigarette under the direction of a law enforcement officer
- 29 as part of an enforcement action, a person who sells or distributes
- 30 tobacco, **an e-liquid**, or an electronic cigarette is not liable for a
- 31 violation of this section unless the person less than ~~eighteen (18)~~
- 32 **twenty-one (21)** years of age who bought or received the tobacco,
- 33 **e-liquid**, or electronic cigarette is issued a citation or summons under
- 34 section 10.5 of this chapter.
- 35 ~~(g)~~ **(h)** Notwithstanding IC 34-28-5-5(c), civil penalties collected
- 36 under this section must be deposited in the Richard D. Doyle youth
- 37 tobacco education and enforcement fund (IC 7.1-6-2-6).
- 38 SECTION 31. IC 35-46-1-10.2, AS AMENDED BY P.L.20-2013,
- 39 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 40 JULY 1, 2020]: Sec. 10.2. (a) **A person may not be charged with a**
- 41 **violation under this section and a violation under IC 7.1-7-6-5.**
- 42 (b) A retail establishment that:



1 (1) sells or distributes tobacco, **an e-liquid**, or an electronic
 2 cigarette to a person less than ~~eighteen (18)~~ **twenty-one (21)**
 3 years of age; **or**

4 (2) **fails to verify the age of a person who appears to be less**
 5 **than thirty (30) years of age by checking a government issued**
 6 **identification and sells the person tobacco, an e-liquid, or an**
 7 **electronic cigarette;**

8 commits a Class C infraction. For a sale to take place under this
 9 section, the buyer must pay the retail establishment for the tobacco
 10 product, **an e-liquid**, or electronic cigarette.

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

13 (1) If the retail establishment at that specific business location has
 14 not been issued a citation or summons for a violation of this
 15 section in the previous one ~~hundred eighty (180) days;~~ **(1) year,**
 16 a civil penalty of up to ~~two four~~ **four** hundred dollars ~~(\$200);~~ **(\$400).**

17 (2) If the retail establishment at that specific business location has
 18 had one (1) citation or summons issued for a violation of this
 19 section in the previous one ~~hundred eighty (180) days;~~ **(1) year,**
 20 a civil penalty of up to ~~four eight~~ **eight** hundred dollars ~~(\$400);~~ **(\$800).**

21 (3) If the retail establishment at that specific business location has
 22 had two (2) citations or summonses issued for a violation of this
 23 section in the previous one ~~hundred eighty (180) days;~~ **(1) year,**
 24 a civil penalty of up to ~~seven one thousand four~~ **one thousand four** hundred dollars
 25 ~~(\$700);~~ **(\$1,400).**

26 (4) If the retail establishment at that specific business location has
 27 had three (3) or more citations or summonses issued for a
 28 violation of this section in the previous one ~~hundred eighty (180)~~
 29 ~~days;~~ **(1) year,** a civil penalty of up to ~~one two~~ **two** thousand dollars
 30 ~~(\$1,000);~~ **(\$2,000).**

31 A retail establishment may not be issued a citation or summons for a
 32 violation of this section more than once every twenty-four (24) hours
 33 for each specific business location.

34 (b) ~~(d)~~ **(d)** It is not a defense that the person to whom the tobacco, **an**
 35 **e-liquid**, or electronic cigarette was sold or distributed did not smoke,
 36 chew, inhale, or otherwise consume the tobacco, **e-liquid**, or electronic
 37 cigarette.

38 (e) ~~(e)~~ **(e)** The following defenses are available to a retail establishment
 39 accused of selling or distributing tobacco, **an e-liquid**, or an electronic
 40 cigarette to a person who is less than ~~eighteen (18)~~ **twenty-one (21)**
 41 years of age:

42 (1) The buyer or recipient produced a driver's license bearing the



1 purchaser's or recipient's photograph showing that the purchaser
2 or recipient was of legal age to make the purchase.

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

7 (3) The appearance of the purchaser or recipient was such that an
8 ordinary prudent person would believe that the purchaser or
9 recipient was not less than ~~the age that complies with regulations~~
10 **thirty (30) years of age, promulgated by the federal Food and**
11 **Drug Administration.**

12 ~~(d)~~ **(f)** It is a defense that the accused retail establishment sold or
13 delivered the tobacco, **e-liquid**, or electronic cigarette to a person who
14 acted in the ordinary course of employment or a business concerning
15 tobacco, **an e-liquid**, or electronic cigarettes **for the following**
16 **activities:**

- 17 (1) Agriculture.
- 18 (2) Processing.
- 19 (3) Transporting.
- 20 (4) Wholesaling. ~~or~~
- 21 (5) Retailing.

22 ~~(e)~~ **(g)** As used in this section, "distribute" means to give tobacco,
23 **an e-liquid**, or an electronic cigarette to another person as a means of
24 promoting, advertising, or marketing the tobacco, **e-liquid**, or
25 electronic cigarette to the general public.

26 ~~(f)~~ **(h)** Unless a person buys or receives tobacco or an electronic
27 cigarette under the direction of a law enforcement officer as part of an
28 enforcement action, a retail establishment that sells or distributes
29 tobacco, **an e-liquid**, or an electronic cigarette is not liable for a
30 violation of this section unless the person less than ~~eighteen (18)~~
31 **twenty-one (21)** years of age who bought or received the tobacco, **an**
32 **e-liquid**, or electronic cigarette is issued a citation or summons under
33 section 10.5 of this chapter.

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

37 ~~(h)~~ **(j)** A person who violates subsection ~~(a)~~ **(b)** at least six (6) times
38 in any ~~one hundred eighty (180) day~~ **one (1) year** period commits
39 habitual illegal sale of tobacco, a Class B infraction.

40 SECTION 32. IC 35-46-1-10.5, AS AMENDED BY P.L.20-2013,
41 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2020]: Sec. 10.5. (a) A person less than ~~eighteen (18)~~



- 1 **twenty-one (21)** years of age who:
- 2 (1) purchases tobacco, **an e-liquid**, or an electronic cigarette;
- 3 (2) accepts tobacco, **an e-liquid**, or an electronic cigarette for
- 4 personal use; or
- 5 (3) possesses tobacco, **an e-liquid**, or an electronic cigarette on
- 6 **his the person's** person;
- 7 commits a Class C infraction.
- 8 (b) It is a defense under subsection (a) that the accused person acted
- 9 in the ordinary course of employment in a business concerning tobacco,
- 10 **an e-liquid, or an electronic cigarette: cigarette for the following**
- 11 **activities:**
- 12 (1) Agriculture.
- 13 (2) Processing.
- 14 (3) Transporting.
- 15 (4) Wholesaling. ~~or~~
- 16 (5) Retailing.
- 17 SECTION 33. IC 35-46-1-11, AS AMENDED BY P.L.20-2013,
- 18 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 2020]: Sec. 11. (a) A tobacco or electronic cigarette vending
- 20 machine that is located in a public place must bear the following
- 21 conspicuous notices:
- 22 (1) A notice:
- 23 (A) that reads as follows, with the capitalization indicated: "If
- 24 you are under ~~18~~ **21** years of age, **YOU ARE FORBIDDEN** by
- 25 Indiana law to buy tobacco or electronic cigarettes from this
- 26 machine."; or
- 27 (B) that:
- 28 (i) conveys a message substantially similar to the message
- 29 described in clause (A); and
- 30 (ii) is formatted with words and in a form authorized under
- 31 the rules adopted by the alcohol and tobacco commission.
- 32 (2) A notice that reads as follows, "Smoking by Pregnant Women
- 33 May Result in Fetal Injury, Premature Birth, and Low Birth
- 34 Weight.".
- 35 (3) A notice printed in letters and numbers at least one-half (1/2)
- 36 inch high that displays a toll free phone number for assistance to
- 37 callers in quitting smoking, as determined by the state department
- 38 of health.
- 39 (b) A person who owns or has control over a tobacco or electronic
- 40 cigarette vending machine in a public place and who:
- 41 (1) fails to post a notice required by subsection (a) on the vending
- 42 machine; or



1 (2) fails to replace a notice within one (1) month after it is
 2 removed or defaced;
 3 commits a Class C infraction.

4 (c) An establishment selling tobacco or electronic cigarettes at retail
 5 shall post and maintain in a conspicuous place, at the point of sale, the
 6 following:

7 (1) Signs printed in letters at least one-half (1/2) inch high,
 8 reading as follows:

9 (A) "The sale of tobacco or electronic cigarettes to persons
 10 under ~~18~~ **21** years of age is forbidden by Indiana law."

11 (B) "Smoking by Pregnant Women May Result in Fetal Injury,
 12 Premature Birth, and Low Birth Weight."

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

17 (d) A person who:

18 (1) owns or has control over an establishment selling tobacco or
 19 electronic cigarettes at retail; and

20 (2) fails to post and maintain the sign required by subsection (c);
 21 commits a Class C infraction.

22 SECTION 34. IC 35-46-1-11.2 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11.2. (a) This section
 24 does not apply to a tobacco business:

25 (1) operating as a tobacco business before ~~April 1, 1996~~; **July 1,**
 26 **2020**; or

27 (2) that begins operating as a tobacco business after ~~April 1, 1996~~,
 28 **June 30, 2020**, if at the time the ~~tobacco~~ business begins
 29 operation the tobacco business is not located in an area prohibited
 30 under this section.

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

36 (c) A person who violates this section commits a Class C
 37 misdemeanor.

38 SECTION 35. IC 35-46-1-11.5, AS AMENDED BY P.L.20-2013,
 39 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2020]: Sec. 11.5. (a) Except for a coin machine that is placed
 41 in or directly adjacent to an entranceway or an exit, or placed in a
 42 hallway, a restroom, or another common area that is accessible to



1 persons who are less than ~~eighteen (18)~~ **twenty-one (21)** years of age,
 2 this section does not apply to a coin machine that is located in the
 3 following:

4 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)
 5 where entry is limited to persons who are at least ~~eighteen (18)~~
 6 **twenty-one (21)** years of age.

7 (2) Private industrial or office locations that are customarily
 8 accessible only to persons who are at least ~~eighteen (18)~~
 9 **twenty-one (21)** years of age.

10 (3) Private clubs if the membership is limited to persons who are
 11 at least ~~eighteen (18)~~ **twenty-one (21)** years of age.

12 (4) Riverboats where entry is limited to persons who are at least
 13 twenty-one (21) years of age and on which lawful gambling is
 14 authorized.

15 (b) As used in this section, "coin machine" has the meaning set forth
 16 in IC 35-43-5-1.

17 (c) Except as provided in subsection (a), an owner of a retail
 18 establishment may not:

19 (1) distribute or sell tobacco or electronic cigarettes by use of a
 20 coin machine; or

21 (2) install or maintain a coin machine that is intended to be used
 22 for the sale or distribution of tobacco or electronic cigarettes.

23 (d) An owner of a retail establishment who violates this section
 24 commits a Class C infraction. A citation or summons issued under this
 25 section must provide notice that the coin machine must be moved
 26 within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil
 27 judgment for an infraction committed under this section must be
 28 imposed as follows:

29 (1) If the owner of the retail establishment has not been issued a
 30 citation or summons for a violation of this section in the previous
 31 ninety (90) days, a civil penalty of fifty dollars (\$50).

32 (2) If the owner of the retail establishment has had one (1) citation
 33 or summons issued for a violation of this section in the previous
 34 ninety (90) days, a civil penalty of two hundred fifty dollars
 35 (\$250).

36 (3) If the owner of the retail establishment has had two (2)
 37 citations or summonses issued for a violation of this section in the
 38 previous ninety (90) days for the same machine, the coin machine
 39 shall be removed or impounded by a law enforcement officer
 40 having jurisdiction where the violation occurs.

41 An owner of a retail establishment may not be issued a citation or
 42 summons for a violation of this section more than once every two (2)



1 business days for each business location.

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

5 SECTION 36. IC 35-46-1-11.7, AS AMENDED BY P.L.94-2008,
6 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2020]: Sec. 11.7. (a) A retail establishment that has as its
8 primary purpose the sale of tobacco products, **e-liquids, or electronic**
9 **cigarettes**, may not allow an individual who is less than ~~eighteen (18)~~
10 **twenty-one (21)** years of age to enter the retail establishment.

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

14 (c) A retail establishment described in subsection (a) must
15 conspicuously post on all entrances to the retail establishment the
16 following:

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

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

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

26 (1) If the person has not been cited for a violation of this section
27 in the previous ~~one hundred eighty (180) days~~, **one (1) year**, a
28 civil penalty of up to ~~two four hundred dollars (\$200)~~: **(\$400)**.

29 (2) If the person has had one (1) violation in the previous ~~one~~
30 ~~hundred eighty (180) days~~, **one (1) year**, a civil penalty of up to
31 ~~four eight hundred dollars (\$400)~~: **(\$800)**.

32 (3) If the person has had two (2) violations in the previous ~~one~~
33 ~~hundred eighty (180) days~~, **one (1) year**, a civil penalty of up to
34 ~~seven hundred one thousand four hundred dollars (\$700)~~:
35 **(\$1,400)**.

36 (4) If the person has had three (3) or more violations in the
37 previous ~~one hundred eighty (180) days~~, **one (1) year**, a civil
38 penalty of up to ~~one two thousand dollars (\$1,000)~~: **(\$2,000)**.

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

41 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
42 this section must be deposited in the Richard D. Doyle youth tobacco



1 education and enforcement fund established under IC 7.1-6-2-6.

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

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

10 (1) is permitted; and

11 (2) has access to the tobacco or electronic cigarettes without
12 assistance from a sales person.

13 (b) This section does not apply to a self-service display located in
14 a retail establishment that:

15 (1) has a primary purpose to sell tobacco or electronic cigarettes;
16 and

17 (2) prohibits entry by persons who are less than ~~eighteen (18)~~
18 **twenty-one (21)** years of age.

19 (c) The owner of a retail establishment that sells or distributes
20 tobacco or electronic cigarettes through a self-service display, other
21 than a coin operated machine operated under IC 35-46-1-11 or
22 IC 35-46-1-11.5, commits a Class C infraction.

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

26 SECTION 38. IC 35-46-1-11.9 IS ADDED TO THE INDIANA
27 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
28 [EFFECTIVE JULY 1, 2020]: **Sec. 11.9. A person who knowingly**
29 **sells a tobacco product that contains vitamin E acetate commits a**
30 **Class B infraction.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1006, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1006 as introduced.)

KIRCHHOFFER

Committee Vote: Yeas 12, Nays 1

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1006 be amended to read as follows:

Page 4, line 41, reset in roman "least".

Page 10, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 21. IC 7.1-6-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2020]: **Sec. 2.5. "Tobacco" means any product containing, made of, or derived from tobacco or nicotine that is:**

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

The term includes a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus."

Page 10, line 25, after "Drug" insert ",".

Page 10, delete lines 27 through 35.

Page 12, line 11, after "(C)" insert "**shall have**".

Page 12, line 12, delete "shall be".

Page 12, line 20, after "(C)" insert "**shall have**".

Page 12, line 21, delete "shall be".

Page 12, line 30, after "(C)" insert "**shall have**".

Page 12, line 31, delete "shall be".

Page 13, reset in roman lines 23 through 28.

Page 13, line 29, reset in roman "(h)".

Page 13, line 29, delete "(g)".

Page 14, line 17, delete "that" and insert "that:".

Page 14, line 18, reset in roman "(i)".

Page 14, reset in roman lines 22 through 23.

EH 1006—LS 6960/DI 87



Page 14, line 21, reset in roman "and".

Page 20, delete lines 1 through 7, begin a new paragraph and insert:

"(f) Unless the person buys or receives tobacco ~~or an electronic cigarette products~~ under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco ~~or an electronic cigarette products~~ is not liable for a violation of this section unless the person less than ~~eighteen (18)~~ **twenty-one (21)** years of age who bought or received the tobacco ~~or electronic cigarette products~~ is issued a citation or summons under section 10.5 of this chapter."

Page 20, line 8, delete "(f)" and insert "(g)".

Page 20, line 13, delete "(g)" and insert "(h)".

Page 20, line 16, delete "(h)" and insert "(i)".

Page 21, line 1, after "(C)" insert "**shall have**".

PAGE 21, line 2, delete "shall be".

Page 21, line 11, after "(C)" insert "**shall have**".

Page 21, line 12, delete "shall be".

Page 22, delete lines 20 through 26, begin a new paragraph and insert:

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

Page 22, line 27, reset in roman "(g)".

Page 22, line 27, delete "(f)".

Page 22, delete lines 33 through 42, begin a new paragraph and insert:

"SECTION 39. IC 35-46-1-10.5, AS AMENDED BY P.L.20-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10.5. (a) A person less than ~~eighteen (18)~~ **twenty-one (21)** years of age who:

- (1) purchases a tobacco ~~or an electronic cigarette; product;~~
- (2) accepts a tobacco ~~or an electronic cigarette product~~ for personal use; or
- (3) possesses a tobacco ~~or an electronic cigarette product~~ on his **or her** person;

commits a Class C infraction.

(b) It is a defense under subsection (a) that the accused person acted



in the ordinary course of employment in a business concerning tobacco
~~or electronic cigarettes~~ **products including the following activities:**

- (1) Agriculture.
- (2) Processing.
- (3) Transporting.
- (4) Wholesaling, ~~or~~
- (5) Retailing."

Page 23, delete lines 1 through 5.

Re-number all SECTIONS consecutively.

(Reference is to HB 1006 as printed January 10, 2020.)

KIRCHHOFER

HOUSE MOTION

Mr. Speaker: I move that House Bill 1006 be amended to read as follows:

Page 27, after line 14, begin a new paragraph and insert:

"SECTION 45. IC 35-46-1-11.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 11.9. A person who knowingly sells a tobacco product that contains vitamin E acetate commits a Class B infraction.**"

Re-number all SECTIONS consecutively.

(Reference is to HB 1006 as printed January 10, 2020.)

PRESCOTT

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1006, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be **AMENDED** as follows:

Page 1, delete lines 1 through 14.

Page 2, delete lines 6 through 42.

Page 3, delete lines 1 through 3.

Page 3, line 18, reset in roman "or electronic cigarettes".

EH 1006—LS 6960/DI 87



Page 3, line 20, reset in roman "or".

Page 3, line 21, reset in roman "electronic cigarettes".

Page 3, line 31, after "preceding" insert "**one (1) year.**".

Page 3, delete line 32.

Page 4, line 3, reset in roman "three (3) years".

Page 4, line 3, delete "one (1) year".

Page 4, delete lines 23 through 28, begin a new line block indented and insert:

"(2) has committed habitual illegal sale of tobacco as established under ~~IC 35-46-1-10.2(h)~~; **IC 35-46-1-10.2(i)**; or

(3) has committed habitual illegal entrance by a minor as established under IC 35-46-1-11.7(f)."

Page 4, line 42, delete "three (3) years" and insert "**one (1) year**".

Page 5, line 3, reset in roman "or".

Page 5, line 4, reset in roman "electronic cigarettes".

Page 5, line 5, reset in roman "or electronic cigarettes".

Page 5, line 8, after "products" delete ".".

Page 5, line 8, reset in roman "or electronic".

Page 5, line 9, reset in roman "cigarettes."

Page 5, delete lines 15 through 24.

Page 5, line 34, after "products" delete ".".

Page 5, line 34, reset in roman "and electronic".

Page 5, reset in roman line 35.

Page 6, line 6, reset in roman "six (6)".

Page 6, line 6, delete "two (2)".

Page 6, line 7, strike "IC 35-46-1-10.2(a)" and insert "**IC 35-46-1-10.2(b)**".

Page 6, line 7, strike "one hundred eighty (180) day" and insert "**one (1) year**".

Page 6, delete lines 11 through 19.

Page 8, line 8, reset in roman "and tobacco accessories".

Page 8, line 14, reset in roman "and".

Page 8, line 15, reset in roman "tobacco accessories".

Page 8, line 39, reset in roman "and tobacco accessories".

Page 9, delete lines 39 through 42.

Page 10, delete lines 1 through 36, begin a new paragraph and insert:

"SECTION 11. IC 7.1-6-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. The division of mental health and addiction established under IC 12-21 shall coordinate the conduct of random unannounced inspections at locations where tobacco products, **e-liquids, or electronic cigarettes** are sold or



distributed to ensure compliance with this article. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off-duty law enforcement officers to conduct inspections under this section."

Page 11, line 1, after "product" insert ", **e-liquid**,".

Page 11, line 1, reset in roman "or electronic cigarette".

Page 11, line 12, after "product" insert ", **e-liquid**,".

Page 11, line 12, reset in roman "or electronic cigarette".

Page 11, delete lines 15 through 18, begin a new paragraph and insert:

"SECTION 14. IC 7.1-7-2-6.3, AS ADDED BY P.L.206-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6.3. "Delivery sale" means a sale of ~~e-liquids~~ **an e-liquid** to a purchaser in Indiana in which the purchaser submits the order for the sale:

- (1) by telephone;
- (2) over the Internet; or
- (3) through the mail or another delivery system;

and the ~~e-liquids~~ **e-liquid** is shipped through a delivery service. "Delivery sale" does not include a sale of ~~e-liquids~~ **an e-liquid** not for personal consumption to a person who is a retailer.

SECTION 15. IC 7.1-7-2-17 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 17. "~~Minor~~" means an individual who is less than ~~eighteen~~ **(18)** years of age.

SECTION 16. IC 7.1-7-4-1, AS AMENDED BY P.L.206-2017, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) A manufacturer of e-liquid may not mix, bottle, package, or sell e-liquid to retailers, consumers, or distributors in Indiana without a permit issued by the commission under this article.

(b) ~~All e-liquids~~ **An e-liquid** manufactured by an e-liquids manufacturer approved by the commission under this article before July 1, 2017, may be distributed and sold for retail until the expiration date of the ~~e-liquids~~ **e-liquid**.

(c) A manufacturing permit issued by the commission is valid for five (5) years. A manufacturing permit issued by the commission under this article before July 1, 2017, does not expire before July 1, 2020.

(d) An initial application for a manufacturing permit must include the following:

- (1) The name, telephone number, and address of the applicant.
- (2) The name, telephone number, and address of the



manufacturing facility.

(3) The name, telephone number, title, and address of the person responsible for the manufacturing facility.

(4) Verification that the facility will comply with applicable tobacco products good manufacturing practices promulgated under 21 U.S.C. 387f(e) of the federal Food, Drug, and Cosmetic Act.

(5) Verification that the manufacturer will comply with the applicable ingredient listing required by 21 U.S.C. 387d(a)(1) of the federal Food, Drug, and Cosmetic Act.

(6) Written consent allowing the state police department to conduct a state or national criminal history background check on any person listed on the application.

(7) A nonrefundable initial application fee of one thousand dollars (\$1,000).

(e) The fees collected under subsection (d)(7) shall be deposited in the enforcement and administration fund established under IC 7.1-4-10.

SECTION 17. IC 7.1-7-5.5-1, AS ADDED BY P.L.206-2017, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. A retailer may not make a delivery sale of e-liquid to a **minor an individual who does not meet the minimum age requirement** as set forth in IC 7.1-7-6-5.

SECTION 18. IC 7.1-7-5.5-2, AS ADDED BY P.L.206-2017, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. A retailer may not ship ~~e-liquids~~ **an e-liquid** without first making a good faith effort to verify the age of the purchaser of the ~~e-liquids~~ **e-liquid** as set forth in IC 7.1-7-6-6.

SECTION 19. IC 7.1-7-5.5-3, AS ADDED BY P.L.206-2017, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) Before ~~e-liquids~~ **are an e-liquid is** shipped in a delivery sale, a retailer must be fully paid for the purchase and shall accept payment from the purchaser:

(1) by a check drawn on an account in the purchaser's name;

(2) by a credit card issued in the purchaser's name; or

(3) by a debit card issued in the purchaser's name.

(b) A retailer may ship ~~e-liquids~~ **an e-liquid** only to a purchaser."

Page 11, line 21, strike "e-liquids" and insert "**an e-liquid**".

Page 11, deletes line 25 through 42, begin a new paragraph and insert:

"SECTION 22. IC 7.1-7-6-2 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 2: (a) ~~This subsection does not apply to a delivery sale as defined in IC 7.1-7-2-6.3. If a retailer:~~



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

the retailer commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the e-liquid.

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

- (1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to two hundred dollars (\$200).
- (2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to four hundred dollars (\$400).
- (3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to seven hundred dollars (\$700).
- (4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to one thousand dollars (\$1,000).

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location:

(c) It is not a defense that the person to whom e-liquid was sold or distributed did not inhale or otherwise consume e-liquid.

(d) The following defenses are available to a retail establishment accused of selling or distributing e-liquid to a person who is less than eighteen (18) years of age:

- (1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.
- (2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.
- (3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or



recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

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

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

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

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

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

(i) A person who violates subsection (a) at least six (6) times in any one hundred eighty (180) day period commits habitual illegal sale of e-liquid, a Class B infraction."

Delete page 12.

Page 13, delete lines 1 through 35, begin a new paragraph and insert:

"SECTION 24. IC 7.1-7-6-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 2.1. A person who sells or distributes an e-liquid to a person under twenty-one (21) years of age may be in violation of IC 35-46-1.**

SECTION 25. IC 7.1-7-6-5, AS ADDED BY P.L.206-2017, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 5. A person who knowingly or intentionally makes a delivery sale of e-liquids **an e-liquid to a minor an individual who is less than twenty-one (21) years of age** commits a Class C infraction.

SECTION 26. IC 7.1-7-6-6, AS ADDED BY P.L.206-2017, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) As used in this section, "good faith effort to



verify the age of a **the purchaser of e-liquids** "e-liquid" means:

- (1) verifying the age of the purchaser in a commercially available database; or
- (2) obtaining a photocopy of a government issued identification; that indicates the birth date or age of the purchaser.

(b) A person who knowingly or intentionally ships ~~e-liquids~~ **an e-liquid** without first making a good faith effort to verify the age of the purchaser of the ~~e-liquids~~ **e-liquid** commits a Class C infraction."

Page 14, delete lines 3 through 8.

Page 14, line 23, strike "eighteen (18)" and insert "**twenty-one (21)**".

Page 16, delete lines 15 through 42, begin a new paragraph and insert:

"SECTION 30. IC 35-31.5-2-100, AS AMENDED BY P.L.185-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 100. (a) "Distribute", for purposes of IC 35-45-4-8, has the meaning set forth in IC 35-45-4-8.

(b) "Distribute", for purposes of IC 35-46-1-10, has the meaning set forth in ~~IC 35-46-1-10(e)~~: **IC 35-46-1-10(f)**.

(c) "Distribute", for purposes of IC 35-46-1-10.2, has the meaning set forth in ~~IC 35-46-1-10.2(e)~~: **IC 35-46-1-10.2(f)**.

(d) "Distribute", for purposes of IC 35-47.5, has the meaning set forth in IC 35-47.5-2-6.

(e) "Distribute", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-14.

(f) "Distribute", for purposes of IC 35-49, has the meaning set forth in IC 35-49-1-2.

SECTION 31. IC 35-31.5-2-107.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 107.5. "E-liquid," for purposes of IC 35-46-1, has the meaning set forth in IC 35-46-1-1.4.**"

Page 17, delete lines 1 through 24.

Page 18, line 3, delete "a tobacco product (as defined in IC 7.1-6-1-3);" and insert "**a cigarette, e-liquid, or tobacco product (as defined in IC 6-7-2-5);**".

Page 18, delete lines 16 through 42, begin a new paragraph and insert:

"SECTION 33. IC 35-46-1-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 1.4. As used in this chapter, "e-liquid" has the meaning set forth in IC 7.1-7-2-10.**

SECTION 34. IC 35-46-1-10, AS AMENDED BY P.L.20-2013,



SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. (a) **A person may not be charged with a violation under this section and a violation under IC 7.1-7-6-5.**

(b) A person who knowingly:

(1) sells or distributes tobacco, **an e-liquid**, or an electronic cigarette to a person less than ~~eighteen (18)~~ **twenty-one (21)** years of age; or

(2) purchases tobacco, **an e-liquid**, or an electronic cigarette for delivery to another person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age;

commits a Class C infraction. For a sale to take place under this section, the buyer must pay the seller for the tobacco product, **the e-liquid**, or the electronic cigarette.

~~(b)~~ (c) It is not a defense that the person to whom the tobacco, **the e-liquid**, or electronic cigarette was sold or distributed did not smoke, chew, inhale, or otherwise consume the tobacco, **e-liquid**, or the electronic cigarette.

~~(c)~~ (d) The following defenses are available to a person accused of selling or distributing tobacco, **an e-liquid**, or an electronic cigarette to a person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age:

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

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

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than ~~the age that complies with regulations promulgated by the federal Food and Drug Administration:~~ **thirty (30) years of age.**

~~(d)~~ (e) It is a defense that the accused person sold or delivered the tobacco, **e-liquid**, or electronic cigarette to a person who acted in the ordinary course of employment or a business concerning tobacco, **an e-liquid**, or electronic cigarettes **including the following activities:**

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.



(~~e~~) (f) As used in this section, "distribute" means to give tobacco, **an e-liquid**, or an electronic cigarette to another person as a means of promoting, advertising, or marketing the tobacco, **e-liquid**, or electronic cigarette to the general public.

(~~f~~) (g) Unless the person buys or receives tobacco, **an e-liquid**, or an electronic cigarette under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco, **an e-liquid**, or an electronic cigarette is not liable for a violation of this section unless the person less than ~~eighteen (18)~~ **twenty-one (21)** years of age who bought or received the tobacco, **e-liquid**, or electronic cigarette is issued a citation or summons under section 10.5 of this chapter.

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

SECTION 35. IC 35-46-1-10.2, AS AMENDED BY P.L.20-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10.2. (a) **A person may not be charged with a violation under this section and a violation under IC 7.1-7-6-5.**

(b) A retail establishment that:

(1) sells or distributes tobacco, **an e-liquid**, or an electronic cigarette to a person less than ~~eighteen (18)~~ **twenty-one (21)** years of age; or

(2) **fails to verify the age of a person who appears to be less than thirty (30) years of age by checking a government issued identification and sells the person tobacco, an e-liquid, or an electronic cigarette;**

commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product, **an e-liquid**, or electronic cigarette.

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

(1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous one ~~hundred eighty (180) days~~, **(1) year**, a civil penalty of up to ~~two four~~ **four** hundred dollars (~~\$200~~): **(\$400)**.

(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous one ~~hundred eighty (180) days~~, **(1) year**, a civil penalty of up to ~~four eight~~ **eight** hundred dollars (~~\$400~~): **(\$800)**.

(3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this



section in the previous one ~~hundred eighty (180) days~~; **(1) year**, a civil penalty of up to ~~seven one thousand four hundred dollars (\$700)~~; **(\$1,400)**.

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous one ~~hundred eighty (180) days~~; **(1) year**, a civil penalty of up to ~~one two thousand dollars (\$1,000)~~; **(\$2,000)**.

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

~~(b)~~ **(d)** It is not a defense that the person to whom the tobacco, **an e-liquid**, or electronic cigarette was sold or distributed did not smoke, chew, inhale, or otherwise consume the tobacco, **e-liquid**, or electronic cigarette.

~~(c)~~ **(e)** The following defenses are available to a retail establishment accused of selling or distributing tobacco, **an e-liquid**, or an electronic cigarette to a person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age:

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

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

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than ~~the age that complies with regulations promulgated by the federal Food and Drug Administration~~; **thirty (30) years of age**.

~~(d)~~ **(f)** It is a defense that the accused retail establishment sold or delivered the tobacco, **e-liquid**, or electronic cigarette to a person who acted in the ordinary course of employment or a business concerning tobacco, **an e-liquid**, or electronic cigarettes **for the following activities**:

- (1) Agriculture.
- (2) Processing.
- (3) Transporting.
- (4) Wholesaling. ~~or~~
- (5) Retailing.

~~(e)~~ **(g)** As used in this section, "distribute" means to give tobacco,



an e-liquid, or an electronic cigarette to another person as a means of promoting, advertising, or marketing the tobacco, **e-liquid**, or electronic cigarette to the general public.

~~(g)~~ **(h)** Unless a person buys or receives tobacco or an electronic cigarette under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco, **an e-liquid**, or an electronic cigarette is not liable for a violation of this section unless the person less than ~~eighteen (18)~~ **twenty-one (21)** years of age who bought or received the tobacco, **an e-liquid**, or electronic cigarette is issued a citation or summons under section 10.5 of this chapter.

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

~~(h)~~ **(j)** A person who violates subsection ~~(a)~~ **(b)** at least six (6) times in any ~~one hundred eighty (180) day~~ **one (1) year** period commits habitual illegal sale of tobacco, a Class B infraction.

SECTION 36. IC 35-46-1-10.5, AS AMENDED BY P.L.20-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10.5. (a) A person less than ~~eighteen (18)~~ **twenty-one (21)** years of age who:

- (1) purchases tobacco, **an e-liquid**, or an electronic cigarette;
- (2) accepts tobacco, **an e-liquid**, or an electronic cigarette for personal use; or
- (3) possesses tobacco, **an e-liquid**, or an electronic cigarette on ~~his~~ **the person's** person;

commits a Class C infraction.

(b) It is a defense under subsection (a) that the accused person acted in the ordinary course of employment in a business concerning tobacco, **an e-liquid**, or ~~an electronic cigarettes:~~ **cigarette for the following activities:**

- (1) Agriculture.
- (2) Processing.
- (3) Transporting.
- (4) Wholesaling, ~~or~~
- (5) Retailing.

SECTION 37. IC 35-46-1-11, AS AMENDED BY P.L.20-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11. (a) A tobacco or electronic cigarette vending machine that is located in a public place must bear the following conspicuous notices:

- (1) A notice:



(A) that reads as follows, with the capitalization indicated: "If you are under ~~18~~ **21** years of age, **YOU ARE FORBIDDEN** by Indiana law to buy tobacco or electronic cigarettes from this machine."; or

(B) that:

(i) conveys a message substantially similar to the message described in clause (A); and

(ii) is formatted with words and in a form authorized under the rules adopted by the alcohol and tobacco commission.

(2) A notice that reads as follows, "Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight.".

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

(b) A person who owns or has control over a tobacco or electronic cigarette vending machine in a public place and who:

(1) fails to post a notice required by subsection (a) on the vending machine; or

(2) fails to replace a notice within one (1) month after it is removed or defaced;

commits a Class C infraction.

(c) An establishment selling tobacco or electronic cigarettes at retail shall post and maintain in a conspicuous place, at the point of sale, the following:

(1) Signs printed in letters at least one-half (1/2) inch high, reading as follows:

(A) "The sale of tobacco or electronic cigarettes to persons under ~~18~~ **21** years of age is forbidden by Indiana law.".

(B) "Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight.".

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

(d) A person who:

(1) owns or has control over an establishment selling tobacco or electronic cigarettes at retail; and

(2) fails to post and maintain the sign required by subsection (c);

commits a Class C infraction.".

Delete pages 19 through 23.



Page 24, delete lines 1 through 16.

Page 24, delete lines 33 through 42, begin a new paragraph and insert:

"SECTION 41. IC 35-46-1-11.5, AS AMENDED BY P.L.20-2013, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11.5. (a) Except for a coin machine that is placed in or directly adjacent to an entranceway or an exit, or placed in a hallway, a restroom, or another common area that is accessible to persons who are less than ~~eighteen (18)~~ **twenty-one (21)** years of age, this section does not apply to a coin machine that is located in the following:

- (1) That part of a licensed premises (as defined in IC 7.1-1-3-20) where entry is limited to persons who are at least ~~eighteen (18)~~ **twenty-one (21)** years of age.
- (2) Private industrial or office locations that are customarily accessible only to persons who are at least ~~eighteen (18)~~ **twenty-one (21)** years of age.
- (3) Private clubs if the membership is limited to persons who are at least ~~eighteen (18)~~ **twenty-one (21)** years of age.
- (4) Riverboats where entry is limited to persons who are at least twenty-one (21) years of age and on which lawful gambling is authorized.

(b) As used in this section, "coin machine" has the meaning set forth in IC 35-43-5-1.

(c) Except as provided in subsection (a), an owner of a retail establishment may not:

- (1) distribute or sell tobacco or electronic cigarettes by use of a coin machine; or
- (2) install or maintain a coin machine that is intended to be used for the sale or distribution of tobacco or electronic cigarettes.

(d) An owner of a retail establishment who violates this section commits a Class C infraction. A citation or summons issued under this section must provide notice that the coin machine must be moved within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the owner of the retail establishment has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the owner of the retail establishment has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars



(\$250).

(3) If the owner of the retail establishment has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days for the same machine, the coin machine shall be removed or impounded by a law enforcement officer having jurisdiction where the violation occurs.

An owner of a retail establishment may not be issued a citation or summons for a violation of this section more than once every two (2) business days for each business location.

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

Delete page 25.

Page 26, line 4, after "products" insert ", **e-liquids, or electronic cigarettes**,".

Page 26, line 23, strike "one hundred eighty (180) days," and insert "**one (1) year**,".

Page 26, line 24, strike "two" and insert "**four**".

Page 26, line 24, strike "\$200." and insert "**(\$400)**."

Page 26, line 25, after "previous" strike "one".

Page 26, line 26, strike "hundred eighty (180) days," and insert "**one (1) year**,".

Page 26, line 26, strike "four" and insert "**eight**".

Page 26, line 27, strike "\$400." and insert "**(\$800)**."

Page 26, line 28, strike "one".

Page 26, line 29, strike "hundred eighty (180) days," and insert "**one (1) year**,".

Page 26, line 29, strike "seven hundred" and insert "**one thousand four hundred**".

Page 26, line 30, strike "\$700." and insert "**(\$1,400)**."

Page 26, line 32, strike "one hundred eighty (180) days," and insert "**one (1) year**,".

Page 26, line 33, strike "one" and insert "**two**".

Page 26, line 33, strike "\$1,000." and insert "**(\$2,000)**."

Page 27, line 3, delete "products".

Page 27, line 3, reset in roman "or electronic".

Page 27, line 4, reset in roman "cigarettes".

Page 27, line 6, delete "products".

Page 27, line 6, reset in roman "or electronic cigarettes".

Page 27, line 10, delete "products;".

Page 27, line 10, reset in roman "or electronic".

Page 27, line 11, reset in roman "cigarettes;".



Page 27, line 15, delete "products".

Page 27, line 15, reset in roman "or electronic cigarettes".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1006 as reprinted January 17, 2020.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 10, Nays 0.

