

SENATE BILL No. 373

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3-25; IC 7.1-3-18.5; IC 7.1-5-12-5; IC 7.1-6-2; IC 7.1-7; IC 24-3-5; IC 35-31.5-2; IC 35-43-5-3.8; IC 35-46-1.

Synopsis: Vaping and tobacco. Prohibits a person who is less than 21 years of age from buying or possessing: (1) cigarettes; (2) tobacco products; (3) e-liquid; or (4) electronic cigarettes. Makes conforming changes regarding enforcement provisions, sales certificates, prohibition of delivery sales, and notices posted at retail establishments and at vending machines. Makes technical corrections.

Effective: July 1, 2020.

Mrvan

January 13, 2020, read first time and referred to Committee on Health and Provider Services.



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.

SENATE BILL No. 373

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
16 transact business.
- 17 (4) The address of the applicant's principal place of business or



- 1 headquarters, if any.
- 2 (5) The statement required under section 2.6 of this chapter.
- 3 (b) A separate certificate is required for each location where the
- 4 tobacco products or electronic cigarettes are sold or distributed.
- 5 (c) A certificate holder shall conspicuously display the holder's
- 6 certificate on the holder's premises where the tobacco products or
- 7 electronic cigarettes are sold or distributed.
- 8 (d) Any intentional misstatement or suppression of a material fact
- 9 in an application filed under this section constitutes grounds for denial
- 10 of the certificate.
- 11 (e) A certificate may be issued only to a person who meets the
- 12 following requirements:
- 13 (1) If the person is an individual, the person must be at least
- 14 ~~eighteen (18)~~ **twenty-one (21)** years of age.
- 15 (2) The person must be authorized to do business in Indiana.
- 16 (f) The fees collected under this section shall be deposited in the
- 17 enforcement and administration fund under IC 7.1-4-10.
- 18 SECTION 3. IC 7.1-3-18.5-5, AS AMENDED BY P.L.214-2016,
- 19 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2020]: Sec. 5. (a) Subject to subsection (b), the commission
- 21 may suspend the certificate of a person who fails to pay a civil penalty
- 22 imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11,
- 23 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.
- 24 (b) Before enforcing the imposition of a civil penalty or suspending
- 25 or revoking a certificate under this chapter, the commission shall
- 26 provide written notice of the alleged violation to the certificate holder
- 27 and conduct a hearing. The commission shall provide written notice of
- 28 the civil penalty or suspension or revocation of a certificate to the
- 29 certificate holder.
- 30 (c) Subject to subsection (b), the commission shall revoke the
- 31 certificate of a person upon a finding by a preponderance of the
- 32 evidence that the person:
- 33 (1) has violated IC 35-45-5-3, IC 35-45-5-3.5, IC 35-45-5-4,
- 34 IC 35-46-1-11, IC 35-46-1-11.2, or IC 35-46-1-11.8;
- 35 (2) has committed habitual illegal sale of tobacco **or an**
- 36 **electronic cigarette** as established under ~~IC 35-46-1-10.2(h);~~
- 37 **IC 35-46-1-10.2(i);** or
- 38 (3) has committed habitual illegal entrance by a minor as
- 39 established under IC 35-46-1-11.7(f).
- 40 SECTION 4. IC 7.1-3-18.5-8, AS AMENDED BY P.L.214-2016,
- 41 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 42 JULY 1, 2020]: Sec. 8. The commission may mitigate civil penalties



1 imposed against a certificate holder for violating IC 35-46-1-10,
 2 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.5,
 3 IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the provisions of this
 4 chapter if a certificate holder provides a training program for the
 5 certificate holder's employees that includes at least the following
 6 topics:

7 (1) Laws governing the sale of tobacco products and electronic
 8 cigarettes.

9 (2) Methods of recognizing and handling customers who are less
 10 than ~~eighteen (18) years of the legal age to purchase tobacco~~
 11 **products and electronic cigarettes.**

12 (3) Procedures for proper examination of identification cards to
 13 verify that ~~customers are under eighteen (18) years of a customer~~
 14 **is less than the legal age to purchase tobacco products and**
 15 **electronic cigarettes.**

16 SECTION 5. IC 7.1-3-18.5-9, AS AMENDED BY P.L.231-2015,
 17 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 9. A certificate holder shall exercise due diligence
 19 in the supervision and training of the certificate holder's employees or
 20 agents in the handling and sale of tobacco products and electronic
 21 cigarettes on the holder's retail premises. Proof that employees or
 22 agents of the certificate holder, while in the scope of their employment,
 23 committed at least six (6) violations relating to ~~IC 35-46-1-10.2(a)~~
 24 **IC 35-46-1-10.2(b)** in any one hundred eighty (180) day period shall
 25 be prima facie evidence of a lack of due diligence by the certificate
 26 holder in the supervision and training of the certificate holder's
 27 employees or agents.

28 SECTION 6. IC 7.1-5-12-5, AS AMENDED BY P.L.231-2015,
 29 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (c) and
 31 subject to section 13 of this chapter, smoking may be allowed in the
 32 following:

33 (1) A horse racing facility operated under a permit under
 34 IC 4-31-5 and any other permanent structure on land owned or
 35 leased by the owner of the facility that is adjacent to the facility.

36 (2) A riverboat (as defined in IC 4-33-2-17) and any other
 37 permanent structure that is:

38 (A) owned or leased by the owner of the riverboat; and

39 (B) located on land that is adjacent to:

40 (i) the dock to which the riverboat is moored; or

41 (ii) the land on which the riverboat is situated in the case of
 42 a riverboat described in IC 4-33-2-17(2).



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



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



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



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

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

16 SECTION 8. IC 7.1-6-2-4, AS AMENDED BY P.L.20-2013,
 17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 4. (a) An enforcement officer vested with full
 19 police powers and duties may engage a person less than ~~eighteen (18)~~
 20 **twenty-one (21)** years of age as part of an enforcement action under
 21 this article if the initial or contemporaneous receipt or purchase of a
 22 tobacco product, **e-liquid**, or electronic cigarette by a person less than
 23 ~~eighteen (18)~~ **twenty-one (21)** years of age occurs under the direction
 24 of an enforcement officer vested with full police powers and duties and
 25 is part of the enforcement action.

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

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

32 (2) allow a person less than ~~eighteen (18)~~ **twenty-one (21)** years
 33 of age to purchase or receive a tobacco product, **e-liquid**, or
 34 electronic cigarette as part of an enforcement action under
 35 subsection (a) without the written permission of the person's
 36 parents or legal guardians.

37 SECTION 9. 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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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 16. IC 7.1-7-6-2, AS AMENDED BY P.L.206-2017,
27 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2020]: Sec. 2. (a) This subsection does not apply to a delivery
29 sale as defined in IC 7.1-7-2-6.3, **and a person cannot be charged**
30 **with a violation under this section and a violation set forth in**
31 **IC 35-46-1-10 or IC 35-46-1-10.2.** If a retailer:

- 32 (1) knowingly and intentionally sells e-liquid to a ~~minor~~; **an**
33 **individual who is less than twenty-one (21) years of age**; or
- 34 (2) knowingly, intentionally, or negligently fails to verify the age
35 of a person who appears to be less than twenty-seven (27) years
36 of age by checking a government issued identification and sells
37 the person e-liquid;

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

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

- 42 (1) If the retail establishment at that specific business location has



1 not been issued a citation or summons for a violation of this
 2 section in the previous one hundred eighty (180) days, a civil
 3 penalty of up to two hundred dollars (\$200).

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

8 (3) If the retail establishment at that specific business location has
 9 had two (2) citations or summonses issued for a violation of this
 10 section in the previous one hundred eighty (180) days, a civil
 11 penalty of up to seven hundred dollars (\$700).

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

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

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

21 (d) The following defenses are available to a retail establishment
 22 accused of selling or distributing e-liquid to a person who is less than
 23 ~~eighteen (18)~~ **twenty-one (21)** years of age:

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

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

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

35 (e) It is a defense that the accused retail establishment sold or
 36 delivered e-liquid to a person who acted in the ordinary course of
 37 employment or a business concerning e-liquid **for the following**
 38 **activities:**

39 (1) Agriculture.

40 (2) Processing.

41 (3) Transporting.

42 (4) Wholesaling. ~~or~~



1 (5) Retailing.

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

5 (g) Unless a person buys or receives e-liquid under the direction of
6 a law enforcement officer as part of an enforcement action, a retail
7 establishment that sells or distributes e-liquid is not liable for a
8 violation of this section unless the person less than ~~eighteen (18)~~
9 **twenty-one (21)** years of age who bought or received the e-liquid is
10 issued a citation or summons in violation of this article.

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

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

17 SECTION 17. 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 cannot be charged with a violation**
20 **under this section and a violation set forth in IC 35-46-1-10 or**
21 **IC 35-46-1-10.2.** A person who knowingly or intentionally makes a
22 delivery sale of ~~e-liquids~~ **an e-liquid to a minor an individual who is**
23 **less than twenty-one (21) years of age** commits a Class C infraction.

24 SECTION 18. IC 7.1-7-6-6, AS ADDED BY P.L.206-2017,
25 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2020]: Sec. 6. (a) As used in this section, "good faith effort to
27 verify the age of ~~a~~ **the purchaser of e-liquids**" **e-liquid"** means:

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

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

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

35 SECTION 19. IC 24-3-5-4, AS AMENDED BY P.L.160-2005,
36 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2020]: Sec. 4. Subject to section 4.5 of this chapter, a
38 merchant may not mail or ship cigarettes as part of a delivery sale
39 unless, before mailing or shipping the cigarettes, the merchant:

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

42 (A) providing the prospective customer's address and date of



- 1 birth;
- 2 (B) advising the prospective customer that:
- 3 (i) signing another person's name to the statement required
- 4 under this subdivision may subject the person to a civil
- 5 monetary penalty of not more than one thousand dollars
- 6 (\$1,000); and
- 7 (ii) purchasing cigarettes by a person less than ~~eighteen (18)~~
- 8 **twenty-one (21)** years of age is a Class C infraction under
- 9 IC 35-46-1-10.5;
- 10 (C) confirming that the cigarette order was placed by the
- 11 prospective customer;
- 12 (D) providing a warning under 15 U.S.C. 1333(a)(1); and
- 13 (E) stating the sale of cigarettes by delivery sale is a taxable
- 14 event for purposes of IC 6-7-1;
- 15 (2) makes a good faith effort to verify the information in the
- 16 written statement obtained under subdivision (1) by using a
- 17 federal or commercially available data base; and
- 18 (3) receives payment for the delivery sale by a credit or debit card
- 19 issued in the name of the prospective purchaser.
- 20 SECTION 20. IC 24-3-5-5, AS AMENDED BY P.L.160-2005,
- 21 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 22 JULY 1, 2020]: Sec. 5. (a) A merchant who mails or ships cigarettes as
- 23 part of a delivery sale shall:
- 24 (1) use a mailing or shipping service that requires the customer or
- 25 a person at least ~~eighteen (18)~~ **twenty-one (21)** years of age who
- 26 is designated by the customer to:
- 27 (A) sign to accept delivery of the cigarettes; and
- 28 (B) present a valid operator's license issued under IC 9-24-3 or
- 29 an identification card issued under IC 9-24-16 if the customer
- 30 or the customer's designee, in the opinion of the delivery agent
- 31 or employee of the mailing or shipping service, appears to be
- 32 less than twenty-seven (27) years of age;
- 33 (2) provide to the mailing or shipping service used under
- 34 subdivision (1) proof of compliance with section 6(a) of this
- 35 chapter; and
- 36 (3) include the following statement in bold type or capital letters
- 37 on an invoice or shipping document:
- 38 INDIANA LAW PROHIBITS THE MAILING OR SHIPPING
- 39 OF CIGARETTES TO A PERSON LESS THAN ~~EIGHTEEN~~
- 40 **(18) TWENTY-ONE (21)** YEARS OF AGE AND
- 41 REQUIRES PAYMENT OF ALL APPLICABLE TAXES.
- 42 (b) The commission may impose a civil penalty of not more than



1 one thousand dollars (\$1,000) if a mailing or shipping service:
 2 (1) delivers cigarettes as part of a delivery sale without first
 3 receiving proof from the merchant of compliance with section
 4 6(a) of this chapter; or
 5 (2) fails to obtain a signature and proof of identification of the
 6 customer or the customer's designee under subsection (a)(1).
 7 The commission shall deposit amounts collected under this subsection
 8 into the **Richard D. Doyle** youth tobacco education and enforcement
 9 fund established by IC 7.1-6-2-6.
 10 (c) The following apply to a merchant that mails or ships cigarettes
 11 as part of a delivery sale without using a third party service as required
 12 by subsection (a)(1):
 13 (1) The merchant shall require the customer or a person at least
 14 ~~eighteen (18)~~ **twenty-one (21)** years of age who is designated by
 15 the customer to:
 16 (A) sign to accept delivery of the cigarettes; and
 17 (B) present a valid operator's license issued under IC 9-24-3 or
 18 identification card issued under IC 9-24-16 if the customer or
 19 the customer's designee, in the opinion of the merchant or the
 20 merchant's employee making the delivery, appears to be less
 21 than twenty-seven (27) years of age.
 22 (2) The commission may impose a civil penalty of not more than
 23 one thousand dollars (\$1,000) if the merchant:
 24 (A) delivers the cigarettes without first complying with section
 25 6(a) of this chapter; or
 26 (B) fails to obtain a signature and proof of identification of the
 27 customer or the customer's designee under subdivision (1).
 28 The commission shall deposit amounts collected under this
 29 subdivision into the **Richard D. Doyle** youth tobacco education
 30 and enforcement fund established by IC 7.1-6-2-6.
 31 SECTION 21. IC 24-3-5-8, AS AMENDED BY P.L.160-2005,
 32 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2020]: Sec. 8. The commission may impose a civil penalty of
 34 not more one thousand dollars (\$1,000) on a:
 35 (1) customer who signs another person's name to a statement
 36 required under section 4(1) of this chapter; or
 37 (2) merchant who sells cigarettes by delivery sale to a person less
 38 than ~~eighteen (18)~~ **twenty-one (21)** years of age.
 39 The commission shall deposit amounts collected under this section into
 40 the **Richard D. Doyle** youth tobacco education and enforcement fund
 41 established by IC 7.1-6-2-6.
 42 SECTION 22. IC 35-31.5-2-100, AS AMENDED BY P.L.185-2019,



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

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

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

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

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

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

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

18 SECTION 24. IC 35-43-5-3.8, AS AMENDED BY P.L.158-2013,
19 SECTION 473, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2020]: Sec. 3.8. (a) A person who knowingly or
21 intentionally obtains, possesses, transfers, or uses the synthetic
22 identifying information:

23 (1) with intent to harm or defraud another person;

24 (2) with intent to assume another person's identity; or

25 (3) with intent to profess to be another person;

26 commits synthetic identity deception, a Level 6 felony.

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

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

30 or

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

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

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

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

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

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

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



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

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

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

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

10 SECTION 25. IC 35-46-1-1.4 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2020]: **Sec. 1.4. As used in this chapter,**
 13 **"e-liquid" has the meaning set forth in IC 7.1-7-2-10.**

14 SECTION 26. IC 35-46-1-10, AS AMENDED BY P.L.20-2013,
 15 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2020]: Sec. 10. (a) **A person cannot be charged with a**
 17 **violation under this section and a violation set forth in IC 7.1-7.**

18 (b) A person who knowingly:

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

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

24 commits a Class C infraction. For a sale to take place under this
 25 section, the buyer must pay the seller for the tobacco product or the
 26 electronic cigarette.

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

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

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

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

40 (3) The appearance of the purchaser or recipient was such that an
 41 ordinary prudent person would believe that the purchaser or
 42 recipient was not less than the age that complies with regulations



1 promulgated by the federal Food and Drug Administration.

2 ~~(d)~~ **(e)** It is a defense that the accused person sold or delivered the
3 tobacco or electronic cigarette to a person who acted in the ordinary
4 course of employment or a business concerning tobacco or electronic
5 cigarettes **for the following activities:**

- 6 (1) Agriculture.
7 (2) Processing.
8 (3) Transporting.
9 (4) Wholesaling, ~~or~~
10 (5) Retailing.

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

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

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

25 SECTION 27. IC 35-46-1-10.2, AS AMENDED BY P.L.20-2013,
26 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2020]: Sec. 10.2. (a) **A person cannot be charged with a
28 violation under this section and a violation set forth in IC 7.1-7.**

29 **(b)** A retail establishment that sells or distributes tobacco or an
30 electronic cigarette to a person less than ~~eighteen~~ **(+18) twenty-one (21)**
31 years of age commits a Class C infraction. For a sale to take place
32 under this section, the buyer must pay the retail establishment for the
33 tobacco product or electronic cigarette. Notwithstanding
34 IC 34-28-5-4(c), a civil judgment for an infraction committed under
35 this section must be imposed as follows:

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



1 penalty of up to four hundred dollars (\$400).

2 (3) If the retail establishment at that specific business location has
3 had two (2) citations or summonses issued for a violation of this
4 section in the previous one hundred eighty (180) days, a civil
5 penalty of up to seven hundred dollars (\$700).

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

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

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

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

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

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

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

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

34 (1) Agriculture.

35 (2) Processing.

36 (3) Transporting.

37 (4) Wholesaling. ~~or~~

38 (5) Retailing.

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



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

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

11 ~~(h)~~ **(i)** A person who violates subsection ~~(a)~~ **(b)** at least six (6) times
 12 in any one hundred eighty (180) day period commits habitual illegal
 13 sale of tobacco **or an electronic cigarette**, a Class B infraction.

14 SECTION 28. IC 35-46-1-10.5, AS AMENDED BY P.L.20-2013,
 15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2020]: Sec. 10.5. (a) A person less than ~~eighteen (18)~~
 17 **twenty-one (21)** years of age who:

- 18 (1) purchases tobacco, **an e-liquid**, or an electronic cigarette;
 - 19 (2) accepts tobacco, **an e-liquid**, or an electronic cigarette for
 20 personal use; or
 - 21 (3) possesses tobacco, **an e-liquid**, or an electronic cigarette on
 22 **his the person's** person;
- 23 commits a Class C infraction.

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

- 27 (1) Agriculture.
- 28 (2) Processing.
- 29 (3) Transporting.
- 30 (4) Wholesaling. ~~or~~
- 31 (5) Retailing.

32 SECTION 29. IC 35-46-1-11, AS AMENDED BY P.L.20-2013,
 33 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2020]: Sec. 11. (a) A tobacco or electronic cigarette vending
 35 machine that is located in a public place must bear the following
 36 conspicuous notices:

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



- 1 (i) conveys a message substantially similar to the message
- 2 described in clause (A); and
- 3 (ii) is formatted with words and in a form authorized under
- 4 the rules adopted by the alcohol and tobacco commission.
- 5 (2) A notice that reads as follows, "Smoking by Pregnant Women
- 6 May Result in Fetal Injury, Premature Birth, and Low Birth
- 7 Weight."
- 8 (3) A notice printed in letters and numbers at least one-half (1/2)
- 9 inch high that displays a toll free phone number for assistance to
- 10 callers in quitting smoking, as determined by the state department
- 11 of health.
- 12 (b) A person who owns or has control over a tobacco or electronic
- 13 cigarette vending machine in a public place and who:
- 14 (1) fails to post a notice required by subsection (a) on the vending
- 15 machine; or
- 16 (2) fails to replace a notice within one (1) month after it is
- 17 removed or defaced;
- 18 commits a Class C infraction.
- 19 (c) An establishment selling tobacco or electronic cigarettes at retail
- 20 shall post and maintain in a conspicuous place, at the point of sale, the
- 21 following:
- 22 (1) Signs printed in letters at least one-half (1/2) inch high,
- 23 reading as follows:
- 24 (A) "The sale of tobacco or electronic cigarettes to persons
- 25 under ~~18~~ **21** years of age is forbidden by Indiana law."
- 26 (B) "Smoking by Pregnant Women May Result in Fetal Injury,
- 27 Premature Birth, and Low Birth Weight."
- 28 (2) A sign printed in letters and numbers at least one-half (1/2)
- 29 inch high that displays a toll free phone number for assistance to
- 30 callers in quitting smoking, as determined by the state department
- 31 of health.
- 32 (d) A person who:
- 33 (1) owns or has control over an establishment selling tobacco or
- 34 electronic cigarettes at retail; and
- 35 (2) fails to post and maintain the sign required by subsection (c);
- 36 commits a Class C infraction.
- 37 SECTION 30. IC 35-46-1-11.5, AS AMENDED BY P.L.20-2013,
- 38 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 39 JULY 1, 2020]: Sec. 11.5. (a) Except for a coin machine that is placed
- 40 in or directly adjacent to an entranceway or an exit, or placed in a
- 41 hallway, a restroom, or another common area that is accessible to
- 42 persons who are less than ~~eighteen (18)~~ **twenty-one (21)** years of age,



1 this section does not apply to a coin machine that is located in the
2 following:

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

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

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

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

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

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

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

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

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

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

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

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

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



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

4 SECTION 31. IC 35-46-1-11.7, AS AMENDED BY P.L.94-2008,
 5 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]: Sec. 11.7. (a) A retail establishment that has as its
 7 primary purpose the sale of tobacco products may not allow an
 8 individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age
 9 to enter the retail establishment.

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

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

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

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

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

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

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

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

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

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

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

42 (f) A person who violates subsection (a) at least six (6) times in any



1 one hundred eighty (180) day period commits habitual illegal entrance
2 by a minor, a Class B infraction.

3 SECTION 32. IC 35-46-1-11.8, AS AMENDED BY P.L.20-2013,
4 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2020]: Sec. 11.8. (a) As used in this section, "self-service
6 display" means a display that contains tobacco or electronic cigarettes
7 in an area where a customer:

8 (1) is permitted; and

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

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

13 (1) has a primary purpose to sell tobacco or electronic cigarettes;
14 and

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

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

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

