

SENATE BILL No. 423

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 7.1-6-2-4; IC 7.1-7; IC 24-3-5; IC 35-43-5; IC 35-46-1.

Synopsis: Smoking age. Requires an individual to be at least 21 years of age (instead of at least 18 years of age) to: (1) purchase, possess, or sell tobacco, e-liquid, or electronic cigarettes; or (2) enter certain businesses where smoking is permitted.

Effective: July 1, 2020.

Grooms

January 15, 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. 423

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) years of age.~~ **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 7.1-3-18.5-8, AS AMENDED BY P.L.214-2016,
- 19 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2020]: Sec. 8. The commission may mitigate civil penalties
- 21 imposed against a certificate holder for violating IC 35-46-1-10,
- 22 IC 35-46-1-10.2, IC 35-46-1-11, IC 35-46-1-11.2, IC 35-46-1-11.5,
- 23 IC 35-46-1-11.7, IC 35-46-1-11.8, or any of the provisions of this
- 24 chapter if a certificate holder provides a training program for the
- 25 certificate holder's employees that includes at least the following
- 26 topics:
- 27 (1) Laws governing the sale of tobacco products and electronic
- 28 cigarettes.
- 29 (2) Methods of recognizing and handling customers who are less
- 30 than ~~eighteen (18)~~ **twenty-one (21)** years of age.
- 31 (3) Procedures for proper examination of identification cards to
- 32 verify that customers are under ~~eighteen (18)~~ **twenty-one (21)**
- 33 years of age.
- 34 SECTION 4. IC 7.1-5-12-5, AS AMENDED BY P.L.231-2015,
- 35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (c) and
- 37 subject to section 13 of this chapter, smoking may be allowed in the
- 38 following:
- 39 (1) A horse racing facility operated under a permit under
- 40 IC 4-31-5 and any other permanent structure on land owned or
- 41 leased by the owner of the facility that is adjacent to the facility.
- 42 (2) A riverboat (as defined in IC 4-33-2-17) and any other



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



- 1 (A) The business is exempt from federal income taxation
 2 under 26 U.S.C. 501(c).
 3 (B) The business:
 4 (i) meets the requirements to be considered a club under
 5 IC 7.1-3-20-1; or
 6 (ii) is a fraternal club (as defined in IC 7.1-3-20-7).
 7 (C) The business provides food or alcoholic beverages only to
 8 its bona fide members and their guests.
 9 (D) The business:
 10 (i) provides a separate, enclosed, designated smoking room
 11 or area that is adequately ventilated to prevent migration of
 12 smoke to nonsmoking areas of the premises;
 13 (ii) allows smoking only in the room or area described in
 14 item (i);
 15 (iii) does not allow an individual who is less than ~~eighteen~~
 16 **(18) twenty-one (21)** years of age to enter into the room or
 17 area described in item (i); and
 18 (iv) allows a guest in the smoking room or area described in
 19 item (i) only when accompanied by a bona fide member of
 20 the business.
 21 (8) A retail tobacco store used primarily for the sale of tobacco
 22 products and tobacco accessories that meets the following
 23 requirements:
 24 (A) The owner or operator of the store holds a valid tobacco
 25 sales certificate issued under IC 7.1-3-18.5.
 26 (B) The store prohibits entry by an individual who is less than
 27 ~~eighteen (18)~~ **twenty-one (21)** years of age.
 28 (C) The sale of products other than tobacco products and
 29 tobacco accessories is merely incidental.
 30 (D) The sale of tobacco products accounts for at least
 31 eighty-five percent (85%) of the store's annual gross sales.
 32 (E) Food or beverages are not sold in a manner that requires
 33 consumption on the premises, and there is not an area set aside
 34 for customers to consume food or beverages on the premises.
 35 (9) A bar or tavern:
 36 (A) for which a permittee holds:
 37 (i) a beer retailer's permit under IC 7.1-3-4;
 38 (ii) a liquor retailer's permit under IC 7.1-3-9; or
 39 (iii) a wine retailer's permit under IC 7.1-3-14;
 40 (B) that does not employ an individual who is less than
 41 eighteen (18) years of age;
 42 (C) that does not allow an individual who:



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



1 of age is permitted.

2 (2) Any room that is intended for use by an individual who is less
3 than ~~eighteen (18)~~ years of age: **twenty-one (21) years of age.**

4 (d) The owner, operator, or manager of an establishment or premises
5 that is listed under subsection (a) and that allows smoking shall provide
6 a verified statement to the commission that states that the establishment
7 or premises qualifies for the exemption. The commission may require
8 the owner, operator, or manager of an establishment or premises to
9 provide documentation or additional information concerning the
10 exemption of the establishment or premises.

11 SECTION 5. IC 7.1-6-2-4, AS AMENDED BY P.L.20-2013,
12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2020]: Sec. 4. (a) An enforcement officer vested with full
14 police powers and duties may engage a person less than ~~eighteen (18)~~
15 **twenty-one (21)** years of age as part of an enforcement action under
16 this article if the initial or contemporaneous receipt or purchase of a
17 tobacco product or electronic cigarette by a person less than ~~eighteen~~
18 **(18) twenty-one (21)** years of age occurs under the direction of an
19 enforcement officer vested with full police powers and duties and is
20 part of the enforcement action.

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

23 (1) recruit or attempt to recruit a person less than ~~eighteen (18)~~
24 **twenty-one (21)** years of age to participate in an enforcement
25 action under subsection (a) at the scene of a violation of section
26 2 of this chapter; or

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

31 SECTION 6. IC 7.1-7-2-17, AS ADDED BY P.L.176-2015,
32 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2020]: Sec. 17. "Minor" means an individual who is less than
34 ~~eighteen (18)~~ **twenty-one (21)** years of age.

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

41 SECTION 8. IC 7.1-7-6-2, AS AMENDED BY P.L.206-2017,
42 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 2. (a) This subsection does not apply to a delivery
2 sale as defined in IC 7.1-7-2-6.3. If a retailer:

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

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

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

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

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

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

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

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

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

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

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

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



- 1 (3) The appearance of the purchaser or recipient was such that an
 2 ordinary prudent person would believe that the purchaser or
 3 recipient was not less than the age that complies with regulations
 4 promulgated by the federal Food and Drug Administration.
- 5 (e) It is a defense that the accused retail establishment sold or
 6 delivered e-liquid to a person who acted in the ordinary course of
 7 employment or a business concerning e-liquid:
- 8 (1) agriculture;
 9 (2) processing;
 10 (3) transporting;
 11 (4) wholesaling; or
 12 (5) retailing.
- 13 (f) As used in this section, "distribute" means to give e-liquid to
 14 another person as a means of promoting, advertising, or marketing
 15 e-liquid to the general public.
- 16 (g) Unless a person buys or receives e-liquid under the direction of
 17 a law enforcement officer as part of an enforcement action, a retail
 18 establishment that sells or distributes e-liquid is not liable for a
 19 violation of this section unless the person less than ~~eighteen (18)~~
 20 **twenty-one (21)** years of age who bought or received the e-liquid is
 21 issued a citation or summons in violation of this article.
- 22 (h) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 23 this section must be deposited in the Richard D. Doyle youth tobacco
 24 education and enforcement fund (IC 7.1-6-2-6).
- 25 (i) A person who violates subsection (a) at least six (6) times in any
 26 one hundred eighty (180) day period commits habitual illegal sale of
 27 e-liquid, a Class B infraction.
- 28 SECTION 9. IC 24-3-5-4, AS AMENDED BY P.L.160-2005,
 29 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2020]: Sec. 4. Subject to section 4.5 of this chapter, a
 31 merchant may not mail or ship cigarettes as part of a delivery sale
 32 unless, before mailing or shipping the cigarettes, the merchant:
- 33 (1) obtains from the prospective customer a written statement
 34 signed by the prospective customer under penalty of perjury:
- 35 (A) providing the prospective customer's address and date of
 36 birth;
- 37 (B) advising the prospective customer that:
- 38 (i) signing another person's name to the statement required
 39 under this subdivision may subject the person to a civil
 40 monetary penalty of not more than one thousand dollars
 41 (\$1,000); and
 42 (ii) purchasing cigarettes by a person less than ~~eighteen (18)~~



- 1 **twenty-one (21)** years of age is a Class C infraction under
 2 IC 35-46-1-10.5;
- 3 (C) confirming that the cigarette order was placed by the
 4 prospective customer;
- 5 (D) providing a warning under 15 U.S.C. 1333(a)(1); and
- 6 (E) stating the sale of cigarettes by delivery sale is a taxable
 7 event for purposes of IC 6-7-1;
- 8 (2) makes a good faith effort to verify the information in the
 9 written statement obtained under subdivision (1) by using a
 10 federal or commercially available data base; and
- 11 (3) receives payment for the delivery sale by a credit or debit card
 12 issued in the name of the prospective purchaser.
- 13 SECTION 10. IC 24-3-5-5, AS AMENDED BY P.L.160-2005,
 14 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2020]: Sec. 5. (a) A merchant who mails or ships cigarettes as
 16 part of a delivery sale shall:
- 17 (1) use a mailing or shipping service that requires the customer or
 18 a person at least ~~eighteen (18)~~ **twenty-one (21)** years of age who
 19 is designated by the customer to:
- 20 (A) sign to accept delivery of the cigarettes; and
- 21 (B) present a valid operator's license issued under IC 9-24-3 or
 22 an identification card issued under IC 9-24-16 if the customer
 23 or the customer's designee, in the opinion of the delivery agent
 24 or employee of the mailing or shipping service, appears to be
 25 less than ~~twenty-seven (27)~~ **thirty (30)** years of age;
- 26 (2) provide to the mailing or shipping service used under
 27 subdivision (1) proof of compliance with section 6(a) of this
 28 chapter; and
- 29 (3) include the following statement in bold type or capital letters
 30 on an invoice or shipping document:
- 31 INDIANA LAW PROHIBITS THE MAILING OR SHIPPING
 32 OF CIGARETTES TO A PERSON LESS THAN ~~EIGHTEEN~~
 33 ~~(18)~~ **TWENTY-ONE (21)** YEARS OF AGE AND
 34 REQUIRES PAYMENT OF ALL APPLICABLE TAXES.
- 35 (b) The commission may impose a civil penalty of not more than
 36 one thousand dollars (\$1,000) if a mailing or shipping service:
- 37 (1) delivers cigarettes as part of a delivery sale without first
 38 receiving proof from the merchant of compliance with section
 39 6(a) of this chapter; or
- 40 (2) fails to obtain a signature and proof of identification of the
 41 customer or the customer's designee under subsection (a)(1).
 42 The commission shall deposit amounts collected under this subsection



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

3 (c) The following apply to a merchant that mails or ships cigarettes
4 as part of a delivery sale without using a third party service as required
5 by subsection (a)(1):

6 (1) The merchant shall require the customer or a person at least
7 ~~eighteen (18)~~ **twenty-one (21)** years of age who is designated by
8 the customer to:

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

10 (B) present a valid operator's license issued under IC 9-24-3 or
11 identification card issued under IC 9-24-16 if the customer or
12 the customer's designee, in the opinion of the merchant or the
13 merchant's employee making the delivery, appears to be less
14 than ~~twenty-seven (27)~~ **thirty (30)** years of age.

15 (2) The commission may impose a civil penalty of not more than
16 one thousand dollars (\$1,000) if the merchant:

17 (A) delivers the cigarettes without first complying with section
18 6(a) of this chapter; or

19 (B) fails to obtain a signature and proof of identification of the
20 customer or the customer's designee under subdivision (1).

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

24 SECTION 11. IC 24-3-5-8, AS AMENDED BY P.L.160-2005,
25 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2020]: Sec. 8. The commission may impose a civil penalty of
27 not more one thousand dollars (\$1,000) on a:

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

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

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

35 SECTION 12. IC 35-43-5-3.5, AS AMENDED BY P.L.158-2013,
36 SECTION 471, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2020]: Sec. 3.5. (a) Except as provided in
38 subsection (c), a person who knowingly or intentionally obtains,
39 possesses, transfers, or uses the identifying information of another
40 person, including the identifying information of a person who is
41 deceased:

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



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



1 SECTION 473, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2020]: Sec. 3.8. (a) A person who knowingly or
 3 intentionally obtains, possesses, transfers, or uses the synthetic
 4 identifying information:

- 5 (1) with intent to harm or defraud another person;
 6 (2) with intent to assume another person's identity; or
 7 (3) with intent to profess to be another person;

8 commits synthetic identity deception, a Level 6 felony.

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

- 10 (1) a person obtains, possesses, transfers, or uses the synthetic
 11 identifying information of more than one hundred (100) persons;
 12 or
 13 (2) the fair market value of the fraud or harm caused by the
 14 offense is at least fifty thousand dollars (\$50,000).

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

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

- 19 (A) an alcoholic beverage (as defined in IC 7.1-1-3-5); or
 20 (B) **a cigarette or tobacco product (as defined in**
 21 **IC 6-7-2-5);**

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

- 24 (A) ~~a cigarette or tobacco product (as defined in IC 6-7-2-5);~~
 25 ~~(B)~~ (A) a periodical, a videotape, or other communication
 26 medium that contains or depicts nudity (as defined in
 27 IC 35-49-1-5);
 28 ~~(C)~~ (B) admittance to a performance (live or on film) that
 29 prohibits the attendance of the minor based on age; or
 30 ~~(D)~~ (C) an item that is prohibited by law for use or
 31 consumption by a minor.

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

34 SECTION 14. IC 35-46-1-10, AS AMENDED BY P.L.20-2013,
 35 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2020]: Sec. 10. (a) A person **commits a Class C infraction**
 37 **who knowingly: if:**

- 38 (1) **the person knowingly** sells or distributes tobacco or a
 39 electronic cigarette to a person less than ~~eighteen (18)~~
 40 **twenty-one (21)** years of age; or
 41 (2) **the person is at least twenty-one (21) years of age and**
 42 **knowingly** purchases tobacco or an electronic cigarette for



1 delivery to another person who is less than ~~eighteen (18)~~
 2 **twenty-one (21)** years of age.
 3 ~~commits a Class C infraction.~~ For a sale to take place under this
 4 section, the buyer must pay the seller for the tobacco product or the
 5 electronic cigarette.

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

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

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

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

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

23 (d) It is a defense that the accused person sold or delivered the
 24 tobacco or electronic cigarette to a person who acted in the ordinary
 25 course of employment or a business concerning tobacco or electronic
 26 cigarettes:

- 27 (1) agriculture;
- 28 (2) processing;
- 29 (3) transporting;
- 30 (4) wholesaling; or
- 31 (5) retailing.

32 (e) As used in this section, "distribute" means to give tobacco or an
 33 electronic cigarette to another person as a means of promoting,
 34 advertising, or marketing the tobacco or electronic cigarette to the
 35 general public.

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



1 (g) 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 (IC 7.1-6-2-6).

4 SECTION 15. IC 35-46-1-10.2, AS AMENDED BY P.L.20-2013,
 5 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]: Sec. 10.2. (a) A retail establishment that sells or
 7 distributes tobacco or an electronic cigarette to a person less than
 8 ~~eighteen (18)~~ **twenty-one (21)** years of age commits a Class C
 9 infraction. For a sale to take place under this section, the buyer must
 10 pay the retail establishment for the tobacco product or electronic
 11 cigarette. 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, a civil
 16 penalty of up to two hundred dollars (\$200).

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, a civil
 20 penalty of up to four hundred dollars (\$400).

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, a civil
 24 penalty of up to seven hundred dollars (\$700).

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

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

32 (b) It is not a defense that the person to whom the tobacco or
 33 electronic cigarette was sold or distributed did not smoke, chew, inhale,
 34 or otherwise consume the tobacco or electronic cigarette.

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

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

41 (2) The buyer or recipient produced a photographic identification
 42 card issued under IC 9-24-16-1 or a similar card issued under the



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

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

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

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

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

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

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

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

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

37 (1) purchases tobacco or an electronic cigarette;
38 (2) accepts tobacco or an electronic cigarette for personal use; or
39 (3) possesses tobacco or an electronic cigarette on his person;
40 commits a Class C infraction.

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



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



- 1 (B) "Smoking by Pregnant Women May Result in Fetal Injury,
 2 Premature Birth, and Low Birth Weight."
 3 (2) A sign printed in letters and numbers at least one-half (1/2)
 4 inch high that displays a toll free phone number for assistance to
 5 callers in quitting smoking, as determined by the state department
 6 of health.
 7 (d) A person who:
 8 (1) owns or has control over an establishment selling tobacco or
 9 electronic cigarettes at retail; and
 10 (2) fails to post and maintain the sign required by subsection (c);
 11 commits a Class C infraction.
 12 SECTION 18. IC 35-46-1-11.5, AS AMENDED BY P.L.20-2013,
 13 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2020]: Sec. 11.5. (a) Except for a coin machine that is placed
 15 in or directly adjacent to an entranceway or an exit, or placed in a
 16 hallway, a restroom, or another common area that is accessible to
 17 persons who are less than ~~eighteen (18)~~ **twenty-one (21)** years of age,
 18 this section does not apply to a coin machine that is located in the
 19 following:
 20 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)
 21 where entry is limited to persons who are at least ~~eighteen (18)~~
 22 **twenty-one (21)** years of age.
 23 (2) Private industrial or office locations that are customarily
 24 accessible only to persons who are at least ~~eighteen (18)~~
 25 **twenty-one (21)** years of age.
 26 (3) Private clubs if the membership is limited to persons who are
 27 at least ~~eighteen (18)~~ **twenty-one (21)** years of age.
 28 (4) Riverboats where entry is limited to persons who are at least
 29 twenty-one (21) years of age and on which lawful gambling is
 30 authorized.
 31 (b) As used in this section, "coin machine" has the meaning set forth
 32 in IC 35-43-5-1.
 33 (c) Except as provided in subsection (a), an owner of a retail
 34 establishment may not:
 35 (1) distribute or sell tobacco or electronic cigarettes by use of a
 36 coin machine; or
 37 (2) install or maintain a coin machine that is intended to be used
 38 for the sale or distribution of tobacco or electronic cigarettes.
 39 (d) An owner of a retail establishment who violates this section
 40 commits a Class C infraction. A citation or summons issued under this
 41 section must provide notice that the coin machine must be moved
 42 within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil



1 judgment for an infraction committed under this section must be
2 imposed as follows:

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

6 (2) If the owner of the retail establishment has had one (1) citation
7 or summons issued for a violation of this section in the previous
8 ninety (90) days, a civil penalty of two hundred fifty dollars
9 (\$250).

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

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

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

21 SECTION 19. IC 35-46-1-11.7, AS AMENDED BY P.L.94-2008,
22 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2020]: Sec. 11.7. (a) A retail establishment that has as its
24 primary purpose the sale of tobacco products may not allow an
25 individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age
26 to enter the retail establishment.

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

30 (c) A retail establishment described in subsection (a) must
31 conspicuously post on all entrances to the retail establishment the
32 following:

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

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

42 (1) If the person has not been cited for a violation of this section



- 1 in the previous one hundred eighty (180) days, a civil penalty of
 2 up to two hundred dollars (\$200).
- 3 (2) If the person has had one (1) violation in the previous one
 4 hundred eighty (180) days, a civil penalty of up to four hundred
 5 dollars (\$400).
- 6 (3) If the person has had two (2) violations in the previous one
 7 hundred eighty (180) days, a civil penalty of up to seven hundred
 8 dollars (\$700).
- 9 (4) If the person has had three (3) or more violations in the
 10 previous one hundred eighty (180) days, a civil penalty of up to
 11 one thousand dollars (\$1,000).
- 12 A person may not be cited more than once every twenty-four (24)
 13 hours.
- 14 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 15 this section must be deposited in the Richard D. Doyle youth tobacco
 16 education and enforcement fund established under IC 7.1-6-2-6.
- 17 (f) A person who violates subsection (a) at least six (6) times in any
 18 one hundred eighty (180) day period commits habitual illegal entrance
 19 by a minor, a Class B infraction.
- 20 SECTION 20. IC 35-46-1-11.8, AS AMENDED BY P.L.20-2013,
 21 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2020]: Sec. 11.8. (a) As used in this section, "self-service
 23 display" means a display that contains tobacco or electronic cigarettes
 24 in an area where a customer:
- 25 (1) is permitted; and
 26 (2) has access to the tobacco or electronic cigarettes without
 27 assistance from a sales person.
- 28 (b) This section does not apply to a self-service display located in
 29 a retail establishment that:
- 30 (1) has a primary purpose to sell tobacco or electronic cigarettes;
 31 and
 32 (2) prohibits entry by persons who are less than ~~eighteen (18)~~
 33 **twenty-one (21)** years of age.
- 34 (c) The owner of a retail establishment that sells or distributes
 35 tobacco or electronic cigarettes through a self-service display, other
 36 than a coin operated machine operated under IC 35-46-1-11 or
 37 IC 35-46-1-11.5, commits a Class C infraction.
- 38 (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 39 this section must be deposited in the Richard D. Doyle youth tobacco
 40 education and enforcement fund (IC 7.1-6-2-6).

