

SECOND REGULAR SESSION

HOUSE BILL NO. 2903

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NURRENBERN.

5709H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 407.924, 407.925, 407.926, 407.927, 407.928, 407.929, 407.931, 407.933, and 407.934, RSMo, and to enact in lieu thereof ten new sections relating to tobacco products, with penalty provisions and a delayed effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 407.924, 407.925, 407.926, 407.927, 407.928, 407.929, 407.931, 2 407.933, and 407.934, RSMo, are repealed and ten new sections enacted in lieu thereof, to be 3 known as sections 407.924, 407.925, 407.926, 407.927, 407.928, 407.929, 407.930, 407.931, 4 407.933, and 407.934, to read as follows:

407.924. 1. The division of [~~liquor~~] **alcohol and tobacco** control within the 2 department of public safety shall implement and enforce the provisions of sections [~~407.925~~] 3 **407.924** to 407.934.

4 2. Beginning January 1, 2003, the division [~~of liquor control~~] shall submit an annual 5 report to the general assembly on the effectiveness of sections [~~407.925~~] **407.924** to 407.934 6 in reducing tobacco [~~possession~~] **use** by [~~minors~~] **persons under twenty-one years of age** 7 and the enforcement activities by the division for violations of sections [~~407.925~~] **407.924** to 8 407.934.

407.925. As used in sections [~~407.925~~] **407.924** to 407.934, the following terms 2 mean:

3 (1) "Alternative nicotine product", any noncombustible product containing nicotine 4 that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by 5 any other means. Alternative nicotine product does not include any vapor product, tobacco

EXPLANATION — Matter enclosed in bold-faced brackets [~~thus~~] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 product or any product regulated as a drug or device by the ~~[United States]~~ U.S. Food and
7 Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act;

8 (2) ~~["Center of youth activities", any playground, school or other facility, when such
9 facility is being used primarily by persons under the age of eighteen for recreational,
10 educational or other purposes;~~

11 ~~(3)~~ "Distribute", a conveyance to the public by sale, barter, gift or sample;

12 ~~[(4) "Minor", a person under the age of eighteen;~~

13 ~~(5)~~ **(3) "Division", the division of alcohol and tobacco control within the
14 department of public safety;**

15 **(4) "Municipality", the city, village or town within which tobacco products,
16 alternative nicotine products or vapor products are sold or distributed or, in the case of
17 tobacco products, alternative nicotine products or vapor products that are not sold or
18 distributed within a city, village or town, the county in which they are sold or distributed;**

19 ~~[(6)~~ **(5) "Nicotine liquid container", a bottle or other container of liquid or other
20 substance containing varying amounts of nicotine, flavorings, or other chemicals that is
21 sold, marketed, or intended for use in a vapor product but does not include a liquid or
22 other substance containing nicotine in a cartridge that is sold, marketed, or intended for
23 use in a vapor product if such cartridge is prefilled and sealed by the manufacturer and
24 not intended to be opened by the consumer;**

25 **(6) "Person", an individual, partnership, copartnership, firm, company, public or
26 private corporation, association, joint stock company, trust, estate, political subdivision or any
27 agency, board, department or bureau of the state or federal government, or any other legal
28 entity which is recognized by law as the subject of rights and duties;**

29 (7) "Proof of age", a driver's license or other ~~[generally accepted means of]~~
30 **government-issued** identification that contains **a person's date of birth and [a] picture [of**
31 ~~the individual]~~ and appears on its face to be valid;

32 (8) "Rolling papers", paper designed, manufactured, marketed, or sold for use
33 primarily as a wrapping or enclosure for tobacco, which enables a person to roll loose tobacco
34 into a smokable cigarette;

35 (9) "Sample", a tobacco product, alternative nicotine product, or vapor product
36 distributed to members of the general public at no cost or at nominal cost for product
37 promotional purposes;

38 (10) "Sampling", the distribution to members of the general public of tobacco
39 product, alternative nicotine product or vapor product samples;

40 (11) "Tobacco products", any substance ~~[containing tobacco leaf,]~~ **made or derived
41 from tobacco or nicotine that is intended for human consumption** including, but not
42 limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or ~~[dipping tobacco but~~

43 ~~does not include alternative nicotine products, or~~ vapor products. **"Tobacco products" also**
44 **means any component or accessory used in the consumption of tobacco products,**
45 **regardless of whether the component or accessory contains nicotine including, but not**
46 **limited to, filters, cartridges, pods, pens, rolling papers, and pipes;**

47 (12) "Vapor product", any noncombustible product containing nicotine, **whether**
48 **natural or synthetic**, that employs a heating element, power source, electronic circuit, or
49 other electronic, chemical or mechanical means, regardless of shape or size, that can be used
50 to produce vapor from nicotine in a solution or other form. ~~[Vapor product]~~ **"Vapor**
51 **product"** includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic
52 pipe, or similar product or device and any vapor cartridge or other container of nicotine in a
53 solution or other form that is intended to be used with or in an electronic cigarette, electronic
54 cigar, electronic cigarillo, electronic pipe, or similar product or device. **"Vapor product"**
55 **also includes any device classified by the U.S. Food and Drug Administration as an**
56 **electronic nicotine delivery system.** ~~[Vapor product]~~ **"Vapor product"** does not include
57 any alternative nicotine product ~~[or tobacco product]~~;

58 (13) "Vending machine", any mechanical electric or electronic, self-service device
59 which, upon insertion of money, tokens or any other form of payment, dispenses tobacco
60 products, alternative nicotine products, or vapor products.

407.926. 1. Any person or entity who sells tobacco products, alternative nicotine
2 products, or vapor products shall deny the sale of such tobacco products to any person who is
3 less than ~~[eighteen]~~ **twenty-one** years of age.

4 2. ~~[Any person]~~ **The owner of the establishment** or entity ~~[who]~~ **that** sells or
5 distributes tobacco products, alternative nicotine products, or vapor products by mail or
6 through the internet in this state in violation of subsection 1 of this section shall be assessed a
7 fine of ~~[two]~~ **five** hundred ~~[fifty]~~ dollars for the first violation and ~~[five hundred dollars]~~ **shall**
8 **be prohibited from selling or distributing tobacco products, alternative nicotine**
9 **products, or vapor products for a period of one month** for each subsequent violation, **with**
10 **a fine of five hundred dollars per day for any violation of such sales or distribution**
11 **prohibition.**

12 3. Alternative nicotine products and vapor products shall only be sold to persons
13 ~~[eighteen]~~ **twenty-one** years of age or older~~;~~ **and** shall be subject to local and state sales tax
14 ~~[, but shall not be otherwise taxed or]~~. **Alternative nicotine and vapor products shall be**
15 **regulated as tobacco products.**

16 4. (1) Any nicotine liquid container that is sold at retail in this state shall satisfy the
17 child-resistant effectiveness standards set forth in 16 CFR 1700.15(b) as in effect on August
18 28, 2015, when tested in accordance with the method described in 16 CFR 1700.20 as in
19 effect on August 28, 2015.

20 (2) ~~[For the purposes of this subsection, "nicotine liquid container" shall mean a~~
21 ~~bottle or other container of liquid or other substance containing nicotine if the liquid or~~
22 ~~substance is sold, marketed, or intended for use in a vapor product. A "nicotine liquid~~
23 ~~container" shall not include a liquid or other substance containing nicotine in a cartridge that~~
24 ~~is sold, marketed, or intended for use in a vapor product, provided that such cartridge is~~
25 ~~prefilled and sealed by the manufacturer and not intended to be opened by the consumer.~~

26 ~~(3)~~ Any person who engages in retail sales of liquid nicotine containers in this state
27 in violation of this subsection shall be assessed a fine of two hundred fifty dollars for the first
28 violation and five hundred dollars for each subsequent violation.

29 ~~[(4)]~~ (3) The department of health and senior services may adopt rules necessary to
30 carry out the provisions of this subsection. Any rule or portion of a rule, as that term is
31 defined in section 536.010, that is created under the authority delegated in this section shall
32 become effective only if it complies with and is subject to all of the provisions of chapter 536
33 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
34 of the powers vested with the general assembly under chapter 536 to review, to delay the
35 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
36 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015,
37 shall be invalid and void.

38 ~~[(5) The provisions of this subsection and any rules adopted hereunder shall be null,~~
39 ~~void, and of no force and effect upon the effective date of the final regulations issued by the~~
40 ~~federal Food and Drug Administration or from any other federal agency if such regulations~~
41 ~~mandate child resistant effectiveness standards for nicotine liquid containers.]~~

407.927. The owner of an establishment at which tobacco products, alternative
2 nicotine products, vapor products, or rolling papers are ~~[sold at retail or through vending~~
3 ~~machines]~~ **distributed** shall cause to be prominently displayed in a conspicuous place at
4 every display from which tobacco products, alternative nicotine products, or vapor products
5 are sold and on every vending machine where tobacco products are ~~[purchased]~~ **distributed** a
6 sign that shall:

7 (1) Contain in red lettering at least one-half inch high on a white background the
8 following: "It is a violation of state law for cigarettes, other tobacco products, alternative
9 nicotine products, or vapor products to be sold or otherwise provided to any person under the
10 age of ~~[eighteen or for such person to purchase, attempt to purchase or possess cigarettes,~~
11 ~~other tobacco products, alternative nicotine products or vapor products]~~ **twenty-one.**"; and

12 (2) Include a depiction of a pack of cigarettes at least two inches high defaced by a
13 red diagonal diameter of a surrounding red circle, and the words "Under ~~[18]~~ **21**".

407.928. No person or entity shall sell individual packs of cigarettes, **tobacco products, alternative nicotine products, vapor products**, or smokeless tobacco products unless such packs satisfy one of the following conditions prior to the time of sale:

(1) It is sold through a vending machine **located in an establishment not accessible to persons under twenty-one years of age**; or

(2) It is displayed behind the check-out counter ~~[or it is within the unobstructed line of sight of the sales clerk or store attendant from the checkout counter].~~

407.929. 1. A person or entity selling tobacco products, alternative nicotine products, or vapor products or rolling papers or distributing tobacco product, alternative nicotine product, or vapor product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of ~~[eighteen]~~ **thirty**.

2. The operator's or chauffeur's license issued pursuant to the provisions of section 302.177, or the operator's or chauffeur's license issued pursuant to the laws of any state or possession of the United States to residents of those states or possessions, or an identification card as provided for in section 302.181, or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the division ~~[of liquor control]~~ or any owner or employee of an establishment that sells tobacco **products**, alternative nicotine products, or vapor products, for the purpose of aiding the ~~[registrant]~~ **owner**, agent, or employee to determine whether or not the person is at least ~~[eighteen]~~ **twenty-one** years of age when such person desires to purchase ~~[or possess]~~ tobacco products, alternative nicotine products, or vapor products ~~[procured from a registrant]~~. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

3. Any person who shall, without authorization from the department of revenue, reproduce, alter, modify or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars, and confinement for not more than one year, or by both such fine and imprisonment.

4. Reasonable reliance on proof of age ~~[or on the appearance of the purchaser or recipient]~~ shall be a defense to any action for a violation of subsections 1 ~~[,]~~ **and 2** ~~[and 3]~~ of section 407.931. ~~[No person shall be liable for more than one violation of subsections 2 and 3 of section 407.931 on any single day.]~~

407.930. 1. No person or entity shall sell cigarettes, tobacco products, alternative nicotine products, or vapor products unless the person has a retail sales tax license.

3 **2. In addition to the retail sales tax license required under subsection 1 of this**
4 **section, any person or entity selling, providing, or distributing tobacco products,**
5 **alternative nicotine products, or vapor products, in any quantity, shall apply with the**
6 **division of alcohol and tobacco control for a license under subsection 3 of this section**
7 **prior to such sale, provision, or distribution through an application on the division's**
8 **website.**

9 **3. All persons or entities selling, providing, or distributing tobacco products,**
10 **alternative nicotine products, or vapor products, in any quantity, on or before January**
11 **1, 2023, shall have forty-five days to apply with the division for a license to sell, provide,**
12 **or distribute tobacco products, alternative nicotine products, or vapor products, during**
13 **which time such persons or entities may continue to sell, provide, or distribute such**
14 **products; provided that, such persons or entities shall be required to apply with the**
15 **division by the end of the forty-five-day period in order to continue to sell, provide, or**
16 **distribute such products. All other persons or entities selling, providing, or distributing**
17 **such products after January 1, 2023, shall be required to apply with the division and be**
18 **approved prior to engaging in such sale, provision, or distribution in this state. For**
19 **every license for selling, providing, or distributing tobacco products, alternative nicotine**
20 **products, or vapor products, the licensee shall pay to the director of revenue the sum of**
21 **one hundred dollars.**

22 **4. (1) On approval of the application and payment of the license fee provided in**
23 **this section, the division of alcohol and tobacco control shall grant the applicant a**
24 **license to sell, provide, or distribute tobacco products, alternative nicotine products, or**
25 **vapor products for a term to expire on the thirtieth day of June next succeeding the date**
26 **of such license. A separate license shall be required for each place of business. Of the**
27 **fee to be paid for any such license, the fee shall be prorated on a monthly basis for the**
28 **months remaining from the date of the license to the next succeeding July first.**

29 **(2) The division shall provide the applicant a notice of license that the applicant**
30 **shall prominently display at the location address for which the applicant received such**
31 **notice. The notice shall clearly state the licensed location address and the valid license**
32 **time period on the face of the notice.**

33 **5. (1) All persons or entities shall apply for renewal of their license annually for**
34 **each location at which tobacco products, alternative nicotine products, or vapor**
35 **products shall be sold, provided, or distributed. Each location licensed shall be**
36 **accompanied by a license renewal fee of one hundred dollars payable to the director of**
37 **revenue.**

38 **(2) Applications for renewal of licenses shall be filed on or before the first day of**
39 **May of each calendar year.**

40 **(3) In case of failure to submit the completed renewal application required under**
41 **this subsection on or before the first day of May, there shall be added to the amount of**
42 **the renewal fee a late charge of fifty dollars from the second day of May to the last day**
43 **of May; a late charge of one hundred dollars if the renewal application is submitted on**
44 **the first day of June to the last day of June; or a late charge of one hundred fifty dollars**
45 **if the renewal application is submitted after the last day of June.**

46 **(4) The license fee and associated late charges provided for under this subsection**
47 **shall be allocated as follows:**

48 **(a) One-half to the division, for the costs to administer and maintain the registry**
49 **and to enforce the provisions of sections 407.924 to 407.934; and**

50 **(b) One-half to the department of health and senior services for tobacco**
51 **prevention and cessation activities.**

 407.931. 1. It shall be unlawful for any person **or entity** to sell, provide or distribute
2 tobacco products, alternative nicotine products, **rolling papers**, or vapor products to persons
3 under [~~eighteen~~] **twenty-one** years of age, **or sell individual cigarettes to any person in this**
4 **state.**

5 2. All vending machines that dispense tobacco products, alternative nicotine products,
6 or vapor products shall be located within [~~the unobstructed line of sight and under the direct~~
7 ~~supervision of an adult responsible for preventing persons less than eighteen years of age~~
8 ~~from purchasing any tobacco product, alternative nicotine product, or vapor product from~~
9 ~~such machine or shall be equipped with a lock out device to prevent the machines from being~~
10 ~~operated until the person responsible for monitoring sales from the machines disables the~~
11 ~~lock. Such locking device shall be of a design that prevents it from being left in an unlocked~~
12 ~~condition and which will allow only a single sale when activated. A locking device shall not~~
13 ~~be required on machines that are located in areas where persons less than eighteen years of~~
14 ~~age are not permitted or prohibited by law]~~ **establishments that persons under twenty-one**
15 **years of age are prohibited from accessing.** An owner of an establishment whose vending
16 machine is not in compliance with the provisions of this subsection shall be subject to the
17 penalties contained in subsection [5] **3** of this section. A determination of noncompliance
18 may be made by a local law enforcement agency or the division [~~of liquor control. Nothing in~~
19 ~~this section shall apply to a vending machine if located in a factory, private club or other~~
20 ~~location not generally accessible to the general public].~~

21 3. [~~No person or entity shall sell, provide or distribute any tobacco product,~~
22 ~~alternative nicotine product, or vapor product or rolling papers to any minor, or sell any~~
23 ~~individual cigarettes to any person in this state. This subsection shall not apply to the~~
24 ~~distribution by family members on property that is not open to the public.~~

25 ~~4. Any person including, but not limited to, a sales clerk, owner or operator who~~
26 ~~violates subsection 1, 2 or 3 of this section or section 407.927 shall be penalized as follows:~~

27 ~~(1) For the first offense, twenty five dollars;~~

28 ~~(2) For the second offense, one hundred dollars;~~

29 ~~(3) For a third and subsequent offense, two hundred fifty dollars.~~

30 ~~5.] Any owner of the establishment where tobacco products, alternative nicotine~~
31 ~~products, or vapor products are available for [sale who violates subsection 3 of this section, in~~
32 ~~addition to the penalties established in subsection 4 of this section,]~~ **distribution and where**
33 **a violation of any provision of sections 407.927 to 407.929 or this section occurs shall be**
34 **penalized in the following manner:**

35 ~~(1) For the first [violation per location within two years, a reprimand shall be issued~~
36 ~~by the division of liquor control]~~ **offense within thirty-six months, the division shall issue a**
37 **written warning describing the failure and how to address the failure within seven days;**

38 ~~(2) For the second [violation per location within two years, the division of liquor~~
39 ~~control]~~ **offense within thirty-six months, the division shall issue a citation prohibiting the**
40 **[outlet] location from selling, providing, or distributing tobacco products, alternative**
41 **nicotine products, or vapor products for a [twenty-four hour] ten-day period. Any person or**
42 **entity in violation of this citation shall be assessed a fine of five hundred dollars per day**
43 **such person or entity sells, provides, or distributes such products;**

44 ~~(3) For the third [violation per location within two years, the division of liquor~~
45 ~~control]~~ **offense within thirty-six months, the division shall issue a citation prohibiting the**
46 **[outlet] location from selling, providing, or distributing tobacco products, alternative**
47 **nicotine products, or vapor products for a [forty-eight hour] sixty-day period. Any person**
48 **or entity in violation of this citation shall be assessed a fine of five hundred dollars per**
49 **day such person or entity sells, provides, or distributes such products; and**

50 ~~(4) For the fourth [and any subsequent violations per location within two years, the~~
51 ~~division of liquor control]~~ **offense within thirty-six months, the division shall issue a**
52 **citation prohibiting the [outlet] location from selling, providing, or distributing tobacco**
53 **products [for a five-day period] permanently. Any person or entity in violation of this**
54 **citation shall be assessed a fine of five hundred dollars per day such person or entity**
55 **sells, provides, or distributes such products.**

56 **4. In addition to any other penalty, any owner of the establishment where**
57 **tobacco products, alternative nicotine products, or vapor products are available for**
58 **distribution and where a violation of sections 407.924 to 407.934, or any federal law**
59 **relating to tobacco product, alternative nicotine product, or vapor product sales occurs**
60 **shall be subject to penalties stated in this section, including fines, license suspension, and**
61 **license revocation.**

62 ~~[6. Any owner of the establishment where tobacco products are available for sale who~~
63 ~~violates subsection 3 of this section shall not be penalized pursuant to this section if such~~
64 ~~person documents the following:~~

65 ~~(1) An in-house or other tobacco compliance employee training program was in place~~
66 ~~to provide the employee with information on the state and federal regulations regarding sales~~
67 ~~of tobacco products, alternative nicotine products, or vapor products to minors. Such training~~
68 ~~program must be attended by all employees who sell tobacco products, alternative nicotine~~
69 ~~products, or vapor products to the general public;~~

70 ~~(2) A signed statement by the employee stating that the employee has been trained~~
71 ~~and understands the state laws and federal regulations regarding the sale of tobacco products,~~
72 ~~alternative nicotine products, or vapor products to minors; and~~

73 ~~(3) Such in-house or other tobacco compliance training meets the minimum training~~
74 ~~criteria, which shall not exceed a total of ninety minutes in length, established by the division~~
75 ~~of liquor control.~~

76 ~~7. The exemption in subsection 6 of this section shall not apply to any person who is~~
77 ~~considered the general owner or operator of the outlet where tobacco products, alternative~~
78 ~~nicotine products, or vapor products are available for sale if:~~

79 ~~(1) Four or more violations per location of subsection 3 of this section occur within a~~
80 ~~one-year period; or~~

81 ~~(2) Such person knowingly violates or knowingly allows his or her employees to~~
82 ~~violate subsection 3 of this section.~~

83 ~~8. If a sale is made by an employee of the owner of an establishment in violation of~~
84 ~~sections 407.925 to 407.934, the employee shall be guilty of an offense established in~~
85 ~~subsections 1, 2 and 3 of this section. If a vending machine is in violation of section 407.927,~~
86 ~~the owner of the establishment shall be guilty of an offense established in subsections 3 and 4~~
87 ~~of this section. If a sample is distributed by an employee of a company conducting the~~
88 ~~sampling, such employee shall be guilty of an offense established in subsections 3 and 4 of~~
89 ~~this section.~~

90 ~~9. A person cited for selling, providing or distributing any tobacco product,~~
91 ~~alternative nicotine product, or vapor product to any individual less than eighteen years of age~~
92 ~~in violation of subsection 1, 2 or 3 of this section shall conclusively be presumed to have~~
93 ~~reasonably relied on proof of age of the purchaser or recipient, and such person shall not be~~
94 ~~found guilty of such violation if such person raises and proves as an affirmative defense that~~
95 ~~such individual presented a driver's license or other government issued photo identification~~
96 ~~purporting to establish that such individual was eighteen years of age or older.~~

97 ~~40.]~~ **5.** Any person adversely affected by this section may file an appeal with the
 98 administrative hearing commission which shall be adjudicated pursuant to the procedures
 99 established in chapter 621.

 407.933. 1. No person less than ~~[eighteen]~~ **twenty-one** years of age shall purchase,
 2 attempt to purchase or possess cigarettes, other tobacco products, alternative nicotine
 3 products, or vapor products unless such person is an employee of a seller of cigarettes,
 4 tobacco products, alternative nicotine products, or vapor products and is in such possession to
 5 effect a sale in the course of employment, or an employee of the division ~~[of liquor control]~~
 6 for enforcement purposes pursuant to ~~[subsection 5 of]~~ section 407.934.

7 2. Any person less than ~~[eighteen]~~ **twenty-one** years of age shall not misrepresent his
 8 or her age to purchase cigarettes, tobacco products, alternative nicotine products, or vapor
 9 products.

10 3. Any person who violates the provisions of this section shall be penalized as
 11 follows:

12 (1) For the first violation, the person is guilty of an infraction and shall have any
 13 cigarettes, tobacco products, alternative nicotine products, or vapor products confiscated; **and**

14 (2) For a second violation and any subsequent violations, the person is guilty of an
 15 infraction, shall have any cigarettes, tobacco products, alternative nicotine products, or vapor
 16 products confiscated and shall complete a tobacco education or smoking cessation program, if
 17 available.

 407.934. 1. ~~[No person shall sell cigarettes, tobacco products, alternative nicotine
 2 products, or vapor products unless the person has a retail sales tax license.]~~

3 ~~2. The department of revenue shall permit persons to designate through the internet or
 4 by including a place on all sales tax license applications for the applicant to designate himself
 5 or herself as a seller of tobacco products, alternative nicotine products, or vapor products and
 6 to provide a list of all locations where the applicant sells such products.]~~

7 ~~3. On or before July first of each year, the department of revenue shall make available
 8 to the division of liquor control and the department of mental health a complete list of every
 9 establishment which sells cigarettes, other tobacco products, alternative nicotine products, or
 10 vapor products in this state.]~~

11 ~~4.]~~ The division ~~[of liquor control]~~ shall have the authority to inspect stores ~~[and],~~
 12 tobacco outlets, **and any registered entity under section 407.930** for compliance with all
 13 laws related to access of tobacco products, alternative nicotine products, or vapor products to
 14 ~~[minors]~~ **persons under twenty-one years of age and the provisions of sections 407.924 to**
 15 **407.934.** The division may employ a person ~~[seventeen]~~ **between sixteen and twenty** years
 16 of age, with parental consent **for a person under eighteen years of age,** to attempt to
 17 purchase tobacco **products or alternative nicotine products** for the purpose of inspection or

18 enforcement of tobacco laws. **The division shall conduct inspections of retailers to ensure**
19 **compliance with sections 407.924 to 407.934.**

20 **2. A compliance check by the U.S. Food and Drug Administration program that**
21 **is contracted through the division shall satisfy the required compliance check of the**
22 **state.**

23 ~~[5-]~~ **3. The ~~[supervisor of]~~ the division ~~[of liquor control]~~ shall not use ~~[minors]~~**
24 **persons under twenty-one years of age** to enforce the provisions of this chapter unless the
25 ~~[supervisor]~~ **division** promulgates rules that establish standards for the use of ~~[minors]~~
26 **persons under twenty-one years of age.** The ~~[supervisor]~~ **division** shall establish
27 mandatory guidelines for the use of ~~[minors]~~ **persons under twenty-one years of age** in
28 investigations by a state, county, municipal or other local law enforcement authority which
29 shall be followed by such authority and which shall, at a minimum, provide for the following:

30 (1) The ~~[minor]~~ **person** shall be ~~[seventeen]~~ **between sixteen and twenty** years of
31 age;

32 (2) The ~~[minor]~~ **person** shall have a youthful appearance, and ~~[the minor]~~, if a male,
33 shall not have facial hair or a receding hairline and if a female, shall not wear excessive
34 makeup or excessive jewelry;

35 (3) The state, county, municipal or other local law enforcement agency shall obtain
36 the consent of the ~~[minor's]~~ **person's** parent or legal guardian before the use of such ~~[minor]~~
37 **person**, on a form approved by the ~~[supervisor]~~ **division, if the person is under eighteen**
38 **years of age;**

39 (4) The state, county, municipal or other local law enforcement agency shall make a
40 photocopy of the ~~[minor's]~~ **person's** valid identification showing the ~~[minor's]~~ **person's**
41 correct date of birth;

42 (5) Any attempt by such ~~[minor]~~ **person** to purchase tobacco products, alternative
43 nicotine products, or vapor products shall be videotaped or audiotaped with equipment
44 sufficient to record all statements made by the ~~[minor]~~ **person** and the seller of the tobacco
45 product, **alternative nicotine product, or vapor product;**

46 (6) The ~~[minor]~~ **person** shall carry his or her own identification showing ~~[the minor's]~~
47 **his or her** correct date of birth and shall, upon request, produce such identification to the
48 seller of the tobacco product, alternative nicotine product, or vapor product;

49 (7) The ~~[minor]~~ **person** shall answer truthfully any questions about his or her age and
50 shall not remain silent when asked questions regarding his or her age;

51 (8) The ~~[minor]~~ **person** shall not lie to the seller of the tobacco product, alternative
52 nicotine product, or vapor product to induce a sale of tobacco products, **alternative nicotine**
53 **products, or vapor products;**

54 (9) The ~~[minor]~~ **person** shall not be employed by the state, county, municipal or other
55 local law enforcement agency on an incentive or quota basis;

56 (10) The state, county, municipal or other local law enforcement agency shall, within
57 forty-eight hours, contact or take all reasonable steps to contact the owner or manager of the
58 establishment if a violation occurs;

59 (11) The state, county, municipal or other local law enforcement agency shall
60 maintain records of each visit to an establishment where a ~~[minor]~~ **person under twenty-one**
61 **years of age** is used by the state, county, municipal or other local law enforcement agency for
62 a period of at least one year following the incident, regardless of whether a violation occurs at
63 each visit, and such records shall, at a minimum, include the following information:

64 (a) The signed consent form of the ~~[minor's]~~ **person's** parent or legal guardian **if the**
65 **person is under eighteen years of age;**

66 (b) A ~~[Polaroid]~~ photograph of the ~~[minor]~~ **person;**

67 (c) A photocopy of the ~~[minor's]~~ **person's** valid identification, showing the ~~[minor's]~~
68 **person's** correct date of birth;

69 (d) An information sheet completed by the ~~[minor]~~ **person** on a form approved by the
70 supervisor; and

71 (e) The name of each establishment visited by the ~~[minor]~~ **person**, and the date and
72 time of each visit.

73 ~~[6-]~~ **4.** If the state, county, municipal, or other local law enforcement authority uses
74 ~~[minors]~~ **persons under twenty-one years of age** in investigations or in enforcing or
75 determining violations of ~~[this chapter]~~ **sections 407.924 to 407.934** or any local ordinance
76 and does not comply with the mandatory guidelines established by the ~~[supervisor of liquor~~
77 ~~control]~~ **division** in subsection ~~[5]~~ **3** of this section, the ~~[supervisor of liquor control]~~ **division**
78 shall not take any disciplinary action against the establishment or seller ~~[pursuant to this~~
79 ~~chapter]~~ **under sections 407.924 to 407.934** based on an alleged violation discovered when
80 using a ~~[minor]~~ **person under twenty-one years of age** and shall not cooperate in any way
81 with the state, county, municipal, or other local law enforcement authority in prosecuting any
82 alleged violation discovered when using a ~~[minor]~~ **person under twenty-one years of age.**

Section B. The enactment of section 407.930 and the repeal and reenactment of
2 sections 407.924, 407.925, 407.926, 407.927, 407.928, 407.929, 407.931, 407.933, and
3 407.934 shall become effective January 1, 2023.

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