

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 322

Introduced by Crawford, 45; Blood, 3.

Read first time January 16, 2019

Committee:

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-1419 and 28-1427, Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to enforcement of certain tobacco restriction
- 4 provisions relating to possession by minors; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1419, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-1419 (1) Whoever shall sell, give, or furnish, in any way, any
4 tobacco in any form whatever, or any cigars, cigarettes, cigarette paper,
5 vapor products, or alternative nicotine products, to any minor under
6 eighteen years of age, is guilty of a Class III misdemeanor for each
7 offense.

8 (2)(a) In order to further the public policy of deterring licensees
9 or other persons from violating subsection (1) of this section, a person
10 who is at least fifteen years of age but under eighteen years of age may
11 assist a peace officer or a private contractor hired as part of a
12 licensee-organized self-compliance check in determining compliance with
13 such subsection if:

14 (i) The parent or legal guardian of the person has given written
15 consent for the person to participate in such compliance check;

16 (ii) The person is an employee, a volunteer, or an intern with:

17 (A) A state or local law enforcement agency;

18 (B) The Department of Health and Human Services or a tobacco
19 prevention coalition that receives grant funding under section 71-5714;

20 (C) The United States Food and Drug Administration; or

21 (D) A licensee;

22 (iii) The person is acting within the scope of his or her assigned
23 duties as part of a law enforcement investigation, a compliance check
24 under subdivision (2)(b) of this section, or a licensee-organized self-
25 compliance check; and

26 (iv) The person does not use or consume a tobacco product as part of
27 such duties.

28 (b) A compliance check conducted by a private contractor for the
29 purpose of licensee education or assessing compliance with federal or
30 state law shall, at a minimum:

31 (i) Only be conducted in consultation with the law enforcement

1 agency providing primary police services to the political subdivision in
2 which the compliance check is being conducted;

3 (ii) Provide written notice of the compliance check and the outcome
4 of the compliance check to a licensee that is not in violation of
5 subsection (1) of this section during the compliance check. Such
6 notification may take the form of a notice in a newspaper qualified to
7 carry legal notices having general circulation in the area in which the
8 licensee is located.

9 (c) An employee, volunteer, or intern who meets the requirements of
10 this subsection, working with a tobacco prevention coalition that
11 receives grant funding under section 71-5714 shall not be involved in a
12 compliance check under subdivision (b) of this subsection more than once
13 every thirty days at any one licensee location. This subdivision does not
14 preclude any law enforcement agency from otherwise enforcing subsection
15 (1) of this section.

16 (d) Any person under the age of eighteen years acting in accordance
17 with and under the authority of this subsection shall not be in violation
18 of section 28-1427.

19 Sec. 2. Section 28-1427, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 28-1427 Except as provided in subsection (2) of section 28-1419,
22 any Any person under the age of eighteen years who shall obtain cigars,
23 tobacco, cigarettes, cigarette material, vapor products, or alternative
24 nicotine products from a licensee by representing that he or she is of
25 the age of eighteen years or over is guilty of a Class V misdemeanor.

26 Sec. 3. Original sections 28-1419 and 28-1427, Reissue Revised
27 Statutes of Nebraska, are repealed.