

SENATE BILL 738

By Kyle

AN ACT to amend Tennessee Code Annotated, Section 1-3-113; Title 39 and Title 67, Chapter 4, Part 10, relative to tobacco and vapor products.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 1-3-113, is amended by deleting the section and substituting instead the following:

(a) Notwithstanding any laws to the contrary, any person who is eighteen (18) years of age or older is entitled to the same rights, duties, and responsibilities as a person who is twenty-one (21) years of age, except as provided in subsection (b) relative to the rights to purchase, possess, transport, and consume any tobacco or vapor product as those terms are defined in title 39 or alcoholic beverages, wine, or beer as those terms are defined in title 57.

(b) Notwithstanding subsection (a), it is unlawful for any person under twenty-one (21) years of age to purchase, possess, transport, or consume tobacco or vapor products, alcoholic beverages, wine, or beer, with the following exceptions:

(1) Any person eighteen (18) years of age or older may transport, possess, sell, or dispense tobacco or vapor products, alcoholic beverages, wine, or beer in the course of such person's employment; and

(2) Section 39-17-705(1) is not affected by any provision of this subsection (b), it being the intent of the general assembly that § 39-17-705(1) remain lawful and in full force and effect. Any such priest or minister may utilize and administer alcohol or wine at a communion service, bat mitzvah, bar

mitzvah, or other similar religious service or ceremony, in accordance with the practices of such denomination or sect.

SECTION 2. Tennessee Code Annotated, Section 39-17-1502(a), is amended by deleting the language "eighteen (18) years of age" and substituting instead the language "the age of legal responsibility as defined in § 1-3-113".

SECTION 3. Tennessee Code Annotated, Section 39-17-1502(b), is amended by deleting the language "eighteen (18) years of age" and substituting instead the language "the age of legal responsibility as defined in § 1-3-113".

SECTION 4. Tennessee Code Annotated, Section 39-17-1503(5), is amended by deleting the subsection and substituting instead the following:

(5) "Proof of age" means a driver license or other generally accepted means of identification that describes the individual as having reached the age of legal responsibility as defined in § 1-3-113, contains a photograph or other likeness of the individual, and appears on its face to be valid. Except in the case of distribution by mail, the distributor shall obtain a statement from the addressee that the addressee has reached the age of legal responsibility as defined in § 1-3-113;

SECTION 5. Tennessee Code Annotated, Section 39-17-1504(a), is amended by deleting the subsection and substituting instead the following:

(a) It is an offense for any person to sell or distribute any tobacco or vapor product to another person who has not attained the age of legal responsibility as defined in § 1-3-113, or to purchase a tobacco or vapor product on behalf of such person under the age of legal responsibility as defined in § 1-3-113.

SECTION 6. Tennessee Code Annotated, Section 39-17-1504(b), is amended by deleting the language "eighteen (18) years of age" wherever it appears and substituting instead the language "the age of legal responsibility as defined in § 1-3-113".

SECTION 7. Tennessee Code Annotated, Section 39-17-1504(d), is amended by deleting the subsection and substituting instead the following:

(d) A person engaged in the sale or distribution of tobacco or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under thirty (30) years of age. In the case of distribution by mail, the distributor of tobacco or vapor products shall obtain from the addressee an affirmative statement that the person has reached the age of legal responsibility as defined in § 1-3-113, and shall inform the recipient that the person is strictly prohibited from distributing any tobacco or vapor product, as defined by this part, to any person under the age of legal responsibility as defined in § 1-3-113.

SECTION 8. Tennessee Code Annotated, Section 39-17-1504, is amended by adding the following language as a new subsection (e):

(e)

(1) For the purposes of this section, "characterizing flavor" means an electronic cigarette with a distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by an electronic cigarette. Characterizing flavors include, but are not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. An electronic cigarette is not to be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both.

(2) It is an offense for any person to sell or distribute any flavored electronic cigarette.

(3) There is a rebuttable presumption that an electronic cigarette is flavored if a manufacturer or any of the manufacturer's agents or employees, in

the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the electronic cigarette has or produces a characterizing flavor, including, but not limited to, text, color, or images on the product's labeling or packaging that are used to explicitly or implicitly communicate that the electronic cigarette has a characterizing flavor.

SECTION 9. Tennessee Code Annotated, Section 39-17-1505, is amended by deleting the language "eighteen (18) years of age" in subsections (a), (f), and (g), and substituting instead the language "the age of legal responsibility as defined in § 1-3-113".

SECTION 10. Tennessee Code Annotated, Section 39-17-1506, is amended by deleting the language "AGE OF EIGHTEEN (18) YEARS" and substituting instead the language "AGE OF LEGAL RESPONSIBILITY AS DEFINED BY T.C.A. § 1-3-113".

SECTION 11. Tennessee Code Annotated, Section 39-17-1507, is amended by deleting the language "eighteen (18) years of age" and substituting instead the language "the age of legal responsibility as defined in § 1-3-113".

SECTION 12. Tennessee Code Annotated, Section 39-17-1507, is amended by deleting the language "twenty-seven (27)" and substituting instead the language "thirty (30)".

SECTION 13. Tennessee Code Annotated, Section 39-17-1509, is amended by deleting the language "eighteen (18) years of age" wherever it appears and substituting instead the language "the age of legal responsibility as defined in § 1-3-113".

SECTION 14. Tennessee Code Annotated, Section 39-17-1509, is amended by deleting the language "twenty-six (26)" and substituting instead the language "thirty (30)".

SECTION 15. Tennessee Code Annotated, Section 67-4-1004, is amended by adding the following as a new subsection (e):

(e)

(1) In addition to the tax provided in subsections (a) and (d), there is levied an additional one and one-quarter cent (1.25¢) on each cigarette.

(2) Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on July 1, 2019, shall not be required to pay the additional cigarette tax on the stamps resulting from the increase in the tax rate of one and one-quarter cent (1.25¢) on cigarettes bearing the stamps.

SECTION 16. This act shall take effect July 1, 2019, the public welfare requiring it.