

**FIRST ENGROSSMENT
with Conference Committee Amendments****ENGROSSED SENATE BILL NO. 2125**

Introduced by

Senators Thane, Kilzer, Krebsbach

Representatives Jensen, Rose

(At the request of the State Department of Health)

1 A BILL for an Act to amend and reenact section 12.1-31-03 of the North Dakota Century Code,
2 relating to the purchase, possession, and use of tobacco by minors; to provide a penalty; and to
3 declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 12.1-31-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **12.1-31-03. Sale of tobacco to minors and use by minors prohibited.**

- 8 1. It is ~~a class B misdemeanor~~ an infraction for any person to sell or furnish to a
9 minor, or procure for a minor, cigarettes, cigarette papers, cigars, snuff, or tobacco
10 in any other form in which it may be utilized for smoking or chewing. As used in
11 this subsection, "sell" includes dispensing from a vending machine under the
12 control of the actor.
- 13 2. It is ~~a class B misdemeanor~~ an infraction for a minor to purchase, possess, smoke,
14 or use cigarettes, cigars, cigarette papers, snuff, or tobacco in any other form in
15 which it may be utilized for smoking or chewing. However, an individual under
16 eighteen years of age may purchase and possess tobacco as part of a compliance
17 survey program when acting with the permission of the individual's parent or
18 guardian and while acting under the supervision of any law enforcement authority.
19 A state agency, city, county, board of health, tobacco retailer, or association of
20 tobacco retailers may also conduct compliance surveys, after coordination with the
21 appropriate local law enforcement authority.
- 22 3. A city or county may adopt an ordinance or resolution regarding the sale of
23 tobacco to minors and use of tobacco by minors which is more stringent than this
24 section. Any ordinance or resolution adopted which deems a violation of

1 subsection 1 or 2 a noncriminal violation must provide for a fee of not less than
2 twenty-five dollars.

3 a. Any individual who has been cited for a violation that is designated a
4 noncriminal offense may appear before a court of competent jurisdiction and
5 pay the statutory fee by the time scheduled for a hearing, or if bond has been
6 posted, may forfeit the bond by not appearing at the scheduled time. An
7 individual appearing at the time scheduled in the citation may make a
8 statement in explanation of that individual's action and the judge may waive,
9 reduce, or suspend the statutory fee or bond, or both. If the individual cited
10 follows the procedures of this subdivision, that individual has admitted the
11 violation and has waived the right to a hearing on the issue of commission of
12 the violation. The bond required to secure appearance before the court must
13 be identical to the statutory fee. This subdivision does not allow a halting
14 officer to receive the statutory fee or bond.

15 b. If an individual cited for a violation that is designated a noncriminal offense
16 does not choose to follow any procedure provided under subdivision a, that
17 individual may request a hearing on the issue of the commission of the
18 violation charged. The hearing must be held at the time scheduled in the
19 citation or at some future time, not to exceed ninety days later, set at that first
20 appearance. At the time of a request for a hearing on the issue on
21 commission of the violation, the individual charged shall deposit with the court
22 an appearance bond equal to the statutory fee for the violation charged. The
23 state must prove the commission of a charged violation at the hearing under
24 this section by a preponderance of the evidence.

25 4. A law enforcement officer or juvenile court that cites a minor for violation of this
26 section shall mail a notice of the violation to the parent or legal guardian of the
27 minor within ten days of the citation.

28 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.