

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1183

Introduced by

Representative DeKrey

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 sale of tobacco to individuals under nineteen years of age and the purchase,
3 possession, and use of tobacco by individuals under nineteen years of age; to provide a
4 penalty; and to provide for application.

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

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

8 **12.1-31-03. Sale of tobacco to ~~minors~~ individuals under nineteen years of age**
9 **and use by ~~minors~~ individuals under nineteen years of age prohibited.**

- 10 1. It is an infraction for any person to sell or furnish to ~~a minor~~ an individual under
11 nineteen years of age, or procure for ~~a minor~~ an individual under nineteen years of
12 age, cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in
13 which it may be utilized for smoking or chewing. As used in this subsection, "sell"
14 includes dispensing from a vending machine under the control of the actor.
- 15 2. It is a noncriminal offense for ~~a minor~~ an individual under nineteen years of age to
16 purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, or
17 tobacco in any other form in which it may be utilized for smoking or chewing.
18 However, an individual under nineteen years of age may purchase and possess
19 and an individual under eighteen years of age may purchase and possess tobacco
20 as part of a compliance survey program when acting with the permission of the
21 individual's parent or guardian, if the individual is under eighteen years of age, and
22 while acting under the supervision of any law enforcement authority. A state
23 agency, city, county, board of health, tobacco retailer, or association of tobacco

- 1 retailers may also conduct compliance surveys, after coordination with the
2 appropriate local law enforcement authority.
- 3 3. A city or county may adopt an ordinance or resolution regarding the sale of
4 tobacco to ~~minors~~ individuals under nineteen years of age and use of tobacco by
5 ~~minors~~ individuals under nineteen years of age which includes prohibitions in
6 addition to those in subsection 1 or 2. Any ordinance or resolution adopted must
7 include provisions deeming a violation of subsection 2 a noncriminal violation and
8 must provide for a fee of not less than twenty-five dollars for a minor fourteen
9 years of age or older who has been charged with an offense under subsection 2
10 and a fee of not less than twenty-five dollars for an individual under nineteen years
11 of age who has been charged with an offense under subsection 2. The failure to
12 post a required bond or pay an assessed fee by an individual found to have
13 violated the ordinance or resolution is punishable as a contempt of court, except a
14 minor may not be imprisoned for the contempt.
- 15 4. A minor fourteen years of age or older found to have violated subsection 2 must
16 pay a fee of twenty-five dollars. An individual under nineteen years of age found to
17 have violated subsection 2 must pay a fee of twenty-five dollars.
- 18 a. Any individual who has been cited for a violation of subsection 2 may appear
19 before a court of competent jurisdiction and pay the fee by the time scheduled
20 for a hearing, or if bond has been posted, may forfeit the bond by not
21 appearing at the scheduled time. An individual appearing at the time
22 scheduled in the citation may make a statement in explanation of that
23 individual's action and the judge may waive, reduce, or suspend the fee or
24 bond, or both. If the individual cited follows the procedures of this
25 subdivision, that individual has admitted the violation and has waived the right
26 to a hearing on the issue of commission of the violation. The bond required to
27 secure appearance before the court must be identical to the fee. This
28 subdivision does not allow a citing officer to receive the fee or bond.
- 29 b. If an individual cited for a violation of subsection 2 does not choose to follow
30 the procedures provided under subdivision a, that individual may request a
31 hearing on the issue of the commission of the violation cited. The hearing

1 must be held at the time scheduled in the citation or at some future time, not
2 to exceed ninety days later, set at that first appearance. At the time of a
3 request for a hearing on the issue on commission of the violation, the
4 individual cited shall deposit with the court an appearance bond equal to the
5 fee for the violation cited.

6 c. The failure to post bond or to pay an assessed fee is punishable as a
7 contempt of court, except a minor may not be imprisoned for the contempt.

8 5. The prosecution must prove the commission of a cited violation under subsection 2
9 by a preponderance of the evidence.

10 6. A law enforcement officer that cites a minor for violation of this section shall mail a
11 notice of the violation to the parent or legal guardian of the minor within ten days of
12 the citation.

13 7. A person adjudged guilty of contempt for failure to pay a fee or fine may be
14 sentenced by the court to a sanction or order designed to ensure compliance with
15 the payment of the fee or fine or to an alternative sentence or sanction including
16 community service.

17 **SECTION 2. APPLICATION.** The minimum age requirement for purchasing tobacco
18 products under subsection 2 of section 12.1-31-03 does not apply to an individual who could
19 legally purchase those products on the day before the effective date of this Act. The minimum
20 age requirement for which a person may sell tobacco products to an individual under
21 subsection 1 of section 12.1-31-03 does not apply to the sale to an individual who could legally
22 purchase those products on the day before the effective date of this Act.