

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2448 Session of  
2004

INTRODUCED BY WANSACZ, CAWLEY, COSTA, DALEY, BEBKO-JONES,  
COLEMAN, BOYD, CREIGHTON, GERGELY, HORSEY, HARPER, SAYLOR,  
STURLA, SURRA, REED, MARKOSEK, SCAVELLO, WHEATLEY, CRUZ,  
KIRKLAND AND MUSTIO, MARCH 17, 2004

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 17, 2004

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for sale of tobacco.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Section 6305(a.1), (b) and (f)(3) of Title 18 of  
6 the Pennsylvania Consolidated Statutes are amended to read:

7 § 6305. Sale of tobacco.

8 \* \* \*

9 (a.1) Purchase.--A minor is guilty of a summary offense if  
10 the minor:

11 (1) purchases or attempts to purchase a tobacco product;

12 [or]

13 (1.1) possesses a tobacco product; or

14 (2) knowingly falsely represents himself to be at least  
15 18 years of age to a person for the purpose of purchasing or  
16 receiving a tobacco product.

17 (b) Penalty.--

1           (1) Except as set forth in paragraph (2), a person that  
2 violates subsection (a) shall be sentenced as follows:

3           (i) for a first offense, to pay a fine of not less  
4 than \$100 nor more than \$250;

5           (ii) for a second offense, to pay a fine of not less  
6 than \$250 nor more than \$500; or

7           (iii) for a third or subsequent offense, to pay a  
8 fine of not less than \$500 nor more than \$1,000.

9           (2) A retailer that violates subsection (a) shall be  
10 sentenced as follows:

11           (i) for a first offense, to pay a fine of not less  
12 than \$100 nor more than \$500;

13           (ii) for a second offense, to pay a fine of not less  
14 than \$500 nor more than \$1,000;

15           (iii) for a third offense, to pay a fine of not less  
16 than \$1,000 nor more than \$3,000; or

17           (iv) for a fourth or subsequent offense, to pay a  
18 fine of not less than \$3,000 nor more than \$5,000.

19           (3) A minor who violates subsection (a.1)(1) or (2)  
20 shall be sentenced to any or all of the following:

21           (i) not more than 75 hours of community service;

22           (ii) complete a tobacco use prevention and cessation  
23 program approved by the Department of Health;

24           (iii) a fine not to exceed \$200; or

25           (iv) a 30-day suspension of motor vehicle operating  
26 privileges.

27           (4) A minor who violates subsection (a.1)(1.1) shall:

28           (i) for a first offense, be issued a written warning  
29 by a police officer who shall file a copy of the warning  
30 with the appropriate issuing authority;

1           (ii) for a second offense, be sentenced to not more  
2           than 75 hours of community service;

3           (iii) for a third offense, be sentenced to complete  
4           a tobacco use prevention and cessation program approved  
5           by the Department of Health; or

6           (iv) for a fourth or subsequent offense, be  
7           sentenced to a 30-day suspension of motor vehicle  
8           operating privileges. A copy of the order of suspension  
9           shall be transmitted to the Department of Transportation.  
10          A minor under this subparagraph who does not have a  
11          driver's license shall be sentenced to pay a fine of not  
12          more than \$100.

13          \* \* \*

14          (f) Exceptions.--

15               \* \* \*

16           (3) It is not a violation of subsection (a.1)(1) or  
17           (1.1) for a minor to purchase [or], attempt to purchase or  
18           possess a tobacco product if all of the following apply:

19               (i) The minor is at least 14 years of age.

20               (ii) The minor is an employee, volunteer or an  
21           intern with:

22                       (A) a State or local law enforcement agency;

23                       (B) the Department of Health or a primary  
24           contractor pursuant to Chapter 7 of the act of June  
25           26, 2001 (P.L.755, No.77), known as the Tobacco  
26           Settlement Act;

27                       (C) a single county authority created pursuant  
28           to the act of April 14, 1972 (P.L.221, No.63), known  
29           as the Pennsylvania Drug and Alcohol Abuse Control  
30           Act;

1                   (D) a county or municipal health department; or  
2                   (E) a retailer.

3           (iii) The minor is acting within the scope of  
4 assigned duties as part of an authorized investigation,  
5 compliance check under subsection (g) or retailer-  
6 organized self-compliance check.

7           (iv) A minor shall not use or consume a tobacco  
8 product.

9           \* \* \*

10          Section 2. This act shall take effect in 60 days.