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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 1822** Session of  
1997

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INTRODUCED BY HANNA, WOJNAROSKI, M. COHEN, RUBLEY, CURRY,  
L. I. COHEN, LESCOVITZ, DALEY, MELIO, ORIE, BOSCOLA,  
C. WILLIAMS, BELARDI, WOGAN, LEDERER, DONATUCCI, CORRIGAN,  
YOUNGBLOOD, STEELMAN AND BATTISTO, SEPTEMBER 30, 1997

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REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,  
SEPTEMBER 30, 1997

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AN ACT

1 Providing for restriction of tobacco access to children;  
2 imposing powers and duties on the Department of Health;  
3 providing for covert investigations; and making an  
4 appropriation.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Tobacco  
9 Access to Children Act.

10 Section 2. Declaration of policy.

11 The General Assembly finds and declares as follows:

12 (1) The availability of tobacco products to children  
13 should be restricted.

14 (2) The goal of paragraph (1) requires the cooperation  
15 of retail sellers and enforcement by the Department of  
16 Health.

17 Section 3. Definitions.

1 The following words and phrases when used in this act shall  
2 have the meanings given to them in this section unless the  
3 context clearly indicates otherwise:

4 "Child." A minor under the age of 18.

5 "Department." The Department of Health of the Commonwealth.

6 "Retail seller." A sole proprietorship, partnership,  
7 unincorporated association or corporation that sells tobacco  
8 products to the public at retail.

9 Section 4. Department.

10 The department has the following powers and duties:

11 (1) To administer this act.

12 (2) To promulgate regulations to implement section 5.

13 (3) To assist Commonwealth and local law enforcement  
14 officers with the investigatory and prosecutorial enforcement  
15 of 18 Pa.C.S. §§ 6305 (relating to sale of tobacco) and 6306  
16 (relating to furnishing cigarettes or cigarette papers).

17 Section 5. Program.

18 (a) Cooperation.--A retail seller shall cooperate with the  
19 department in enforcing 18 Pa.C.S. §§ 6305 (relating to sale of  
20 tobacco) and 6306 (relating to furnishing cigarettes or  
21 cigarette papers).

22 (b) Age verification.--If a retail seller, or an agent or  
23 employee of a retail seller, has reason to believe that a  
24 prospective purchaser of a tobacco product is a child, the  
25 retail seller, agent or employee shall require proof of age of  
26 the prospective purchaser before making the sale.

27 (c) Notice.--A retail seller shall post conspicuously on the  
28 premises a notice stating all of the following:

29 (1) It is illegal to sell a tobacco product to an  
30 individual under the age of 18.

1           (2) A person selling a tobacco product is required to  
2       check the age of an individual who reasonably appears to be  
3       under the age of 18.

4           (3) False representation of age in order to purchase a  
5       tobacco product is illegal.

6       (d) Administrative penalty.--For violation of this section,  
7       the department may assess an administrative penalty of \$500  
8       against the retail seller. This subsection is subject to 2  
9       Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of  
10      Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial  
11      review of Commonwealth agency action).

12      Section 6. Use of children in covert investigations.

13      (a) Department.--The department may contract for the  
14      services of children to perform covert investigations of  
15      violations of:

16           (1) 18 Pa.C.S. §§ 6305 (relating to sale of tobacco) and  
17      6306 (relating to furnishing cigarettes or cigarette papers).

18           (2) Section 5.

19      (b) Law enforcement.--Commonwealth and local law enforcement  
20      agencies may contract for the services of children to perform  
21      covert investigations of violations of 18 Pa.C.S. §§ 6305 and  
22      6306.

23      (c) Immunity.--A child who performs contracted services  
24      under this section is immune from prosecution for a violation of  
25      18 Pa.C.S. § 6305(a)(3) arising out of the performance of the  
26      contracted services.

27      Section 7. Appropriation.

28      The sum of \$000,000, or as much thereof as may be necessary,  
29      is hereby appropriated to the Department of Health for the  
30      fiscal year July 1, 1997, to June 30, 1998, to carry out the

- 1 provisions of this act.
- 2 Section 8. Effective date.
- 3 This act shall take effect in 60 days.