

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1115 Session of
1999

INTRODUCED BY HANNA, CORRIGAN, STABACK, BELARDI, VAN HORNE,
WOGAN, MICHLOVIC, M. COHEN, BATTISTO, CURRY, YOUNGBLOOD,
GRUCELA, FREEMAN, SEYFERT, TRICH, DALEY AND RAMOS,
MARCH 29, 1999

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,
MARCH 29, 1999

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, 1999, to June 30, 2000, to carry out the

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