

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 935 Session of  
2009

INTRODUCED BY WANSACZ, BRENNAN, BURNS, CREIGHTON, DONATUCCI,  
FRANKEL, GERGELY, GROVE, HUTCHINSON, JOHNSON, LONGIETTI,  
MANN, REED, SIPTROTH, STABACK, YUDICHAK, GINGRICH AND BOYD,  
MARCH 13, 2009

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, MARCH 13, 2009

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 pay a fine of not more than \$100.

8           \* \* \*

9           (f) Exceptions.--

10          \* \* \*

11          (3) It is not a violation of subsection (a.1)(1) or  
12          (1.1) for a minor to purchase [or], attempt to purchase or  
13          possess a tobacco product if all of the following apply:

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

15               (ii) The minor is an employee, volunteer or an  
16          intern with:

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

18                       (B) the Department of Health or a primary  
19          contractor pursuant to Chapter 7 of the act of June  
20          26, 2001 (P.L.755, No.77), known as the Tobacco  
21          Settlement Act;

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

26                       (D) a county or municipal health department; or

27                       (E) a retailer.

28               (iii) The minor is acting within the scope of  
29          assigned duties as part of an authorized investigation,  
30          compliance check under subsection (g) or retailer-

1           organized self-compliance check.

2           (iv) A minor shall not use or consume a tobacco  
3           product.

4           \* \* \*

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