
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1823 Session of
2019

INTRODUCED BY ROTHMAN, DAWKINS, KINSEY, McNEILL, STAATS,
SCHLOSSBERG, COMITTA, RYAN, STEPHENS, A. DAVIS, CEPHAS,
ECKER, SANKEY, DeLUCA, JOZWIAK, WHEELAND, TOBASH, MARSHALL,
HERSHEY, GROVE, SCHMITT, SHUSTERMAN, MOUL, HILL-EVANS,
THOMAS, McCLINTON, BURGOS, RIGBY, EVERETT, PASHINSKI,
FITZGERALD, WARREN, DiGIROLAMO, B. MILLER, KAIL, JAMES,
SCHWEYER, MULLINS, BRIGGS, ROEBUCK, HOHENSTEIN, FRANKEL, KIM,
FLYNN, GREGORY, HELM, DOWLING, TURZAI AND DELOZIER,
SEPTEMBER 17, 2019

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 17, 2019

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in minors, further providing for sale
3 of tobacco and for use of tobacco in schools prohibited; and
4 making a related repeal.

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

7 Section 1. Section 6305(a.1), (f)(1)(i)(D) and (k) of Title
8 18 of the Pennsylvania Consolidated Statutes are amended to
9 read:

10 § 6305. Sale of tobacco.

11 * * *

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

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

15 or

1 (2) knowingly falsely represents himself to be at least
2 [18] 21 years of age unless the minor is a member of the
3 active or reserve components of any branch or unit of the
4 armed forces of the United States or a veteran who received
5 an honorable discharge from any branch or unit of the active
6 or reserve components of the armed forces of the United
7 States, at least 18 years of age to a person for the purpose
8 of purchasing or receiving a tobacco product.

9 * * *

10 (f) Exceptions.--

11 (1) The following affirmative defense is available:

12 (i) It is an affirmative defense for a retailer to
13 an offense under subsection (a) (1) and (2) that, prior to
14 the date of the alleged violation, the retailer has
15 complied with all of the following:

16 * * *

17 (D) trained all employees selling tobacco
18 products to verify that the purchaser is at least
19 [18] 21 years of age or if the minor is a member of
20 the active or reserve components of any branch or
21 unit of the armed forces of the United States or a
22 veteran who received an honorable discharge from any
23 branch or unit of the active or reserve components of
24 the armed forces of the United States, at least 18
25 years of age before selling tobacco products;

26 * * *

27 (k) Definitions.--As used in this section, the following
28 words and phrases shall have the meanings given to them in this
29 subsection:

30 "Alternative nicotine product." A product, not consisting of

1 or containing tobacco, that provides for the ingestion into the
2 body of nicotine, whether by chewing, absorbing, dissolving,
3 inhaling, snorting or sniffing or by any other means. The term
4 does not include a product regulated as a drug or device by the
5 United States Food and Drug Administration under Chapter V of
6 the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21
7 U.S.C. § 301 et seq.).

8 "Cigarette." A roll for smoking made wholly or in part of
9 tobacco, irrespective of size or shape and whether or not the
10 tobacco is flavored, adulterated or mixed with any other
11 ingredient, the wrapper or cover of which is made of paper or
12 other substance or material except tobacco. The term does not
13 include a cigar.

14 "Cigarette license." A license issued under section 203-A or
15 213-A of the act of April 9, 1929 (P.L.343, No.176), known as
16 The Fiscal Code.

17 "Department." The Department of Revenue of the Commonwealth.

18 "Minor." [An] As follows:

19 (1) Except as provided under paragraph (2), an
20 individual under [18] 21 years of age.

21 (2) A member of the active or reserve components of any
22 branch or unit of the armed forces of the United States under
23 18 years of age or a veteran who received an honorable
24 discharge from any branch or unit of the active or reserve
25 components of the armed forces of the United States under 18
26 years of age.

27 "Pack of cigarettes." As defined in section 1201 of the act
28 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
29 1971.

30 "Pipe tobacco." Any product containing tobacco made

1 primarily for individual consumption that is intended to be
2 smoked using tobacco paraphernalia.

3 "Retailer." A person licensed to sell cigarettes under
4 section 203-A or 213-A of the act of April 9, 1929 (P.L.343,
5 No.176), known as The Fiscal Code, or a lawful retailer of other
6 tobacco products.

7 "Smokeless tobacco." Any product containing finely cut,
8 ground, powdered, blended or leaf tobacco made primarily for
9 individual consumption that is intended to be placed in the oral
10 or nasal cavity and not intended to be smoked. The term
11 includes, but is not limited to, chewing tobacco, dipping
12 tobacco and snuff.

13 "Tobacco product." A cigarette, cigar, pipe tobacco or other
14 smoking tobacco product or smokeless tobacco in any form,
15 manufactured for the purpose of consumption by a purchaser, an
16 alternative nicotine product, a vapor product and any cigarette
17 paper or product used for smoking tobacco. The term does not
18 include a product regulated as a drug or device by the United
19 States Food and Drug Administration under Chapter V of the
20 Federal Food, Drug, and Cosmetic Act.

21 "Tobacco vending machine." A mechanical or electrical device
22 from which one or more tobacco products are dispensed for a
23 consideration.

24 "Vapor product." A noncombustible product containing
25 nicotine that employs a heating element, power source,
26 electronic circuit or other electronic, chemical or mechanical
27 means, regardless of shape or size, that can be used to produce
28 vapor from nicotine in a solution or other form. The term
29 includes an electronic cigarette, electronic cigar, electronic
30 cigarillo, electronic pipe or similar product or device and a

1 vapor cartridge or other container of nicotine in a solution or
2 other form that is intended to be used with or in an electronic
3 cigarette, electronic cigar, electronic cigarillo, electronic
4 pipe or similar product or device. The term does not include a
5 product regulated as a drug or device by the United States Food
6 and Drug Administration under Chapter V of the Federal Food,
7 Drug, and Cosmetic Act.

8 Section 2. Section 6306.1 heading, (a) and (d) of Title 18
9 are amended and the section is amended by adding subsections to
10 read:

11 § 6306.1. Use of tobacco products in schools prohibited.

12 (a) Offense defined.--A pupil [who] commits a summary
13 offense if the pupil possesses or uses a tobacco product:

14 (1) in a school building[,];

15 (2) on a school bus or other vehicle owned by, leased by
16 or under the control of a school district; or

17 (3) on school property owned by, leased by or under the
18 control of a school district [commits a summary offense].

19 (a.1) Additional offense defined.--

20 (1) Any person other than a pupil commits a summary
21 offense if the person uses a tobacco product:

22 (i) in a school building;

23 (ii) on a school bus or other vehicle owned by,
24 leased by or under the control of a school district; or

25 (iii) on school property owned by, leased by or
26 under the control of a school district.

27 (2) The board of school directors may designate certain
28 areas on property owned by, leased by or under the control of
29 the school district where tobacco product use by persons
30 other than pupils is permitted. The areas shall be no less

1 than 50 feet from school buildings, stadiums or bleachers.

2 (a.2) Policy.--

3 (1) The board of school directors shall establish policy
4 to enforce the prohibition of tobacco product use under this
5 section and may further establish policy relating to tobacco
6 product use at school-sponsored events which are held off
7 school premises.

8 (2) The board of school directors shall notify
9 employees, pupils and parents of the policy developed in
10 paragraph (1) by publishing the information in a student
11 handbook and parent newsletter and on posters or other
12 efficient means.

13 * * *

14 (c.1) Construction.--This section supersedes any municipal
15 ordinance or school board regulation to the contrary.

16 (d) Definitions.--As used in this section, the following
17 words and phrases shall have the meanings given to them in this
18 subsection:

19 "Alternative nicotine product." A product, not consisting of
20 or containing tobacco, that provides for the ingestion into the
21 body of nicotine, whether by chewing, absorbing, dissolving,
22 inhaling, snorting or sniffing or by any other means. The term
23 does not include a product regulated as a drug or device by the
24 United States Food and Drug Administration under Chapter V of
25 the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21
26 U.S.C. § 301 et seq.).

27 "Pupil." A person between the ages of 6 and 21 years who is
28 enrolled in school.

29 "School." A school operated by a joint board, board of
30 directors or school board where pupils are enrolled in

1 compliance with Article XIII of the act of March 10, 1949
2 (P.L.30, No.14), known as the Public School Code of 1949,
3 including area vocational schools and intermediate units.

4 "Tobacco product." A lighted or unlighted cigarette, cigar,
5 pipe or other lighted smoking product, alternative nicotine
6 product, vapor product and smokeless tobacco in any form. The
7 term does not include a product regulated as a drug or device by
8 the United States Food and Drug Administration under Chapter V
9 of the Federal Food, Drug, and Cosmetic Act.

10 "Vapor product." A noncombustible product containing
11 nicotine that employs a heating element, power source,
12 electronic circuit or other electronic, chemical or mechanical
13 means, regardless of shape or size, that can be used to produce
14 vapor from nicotine in a solution or other form. The term
15 includes an electronic cigarette, electronic cigar, electronic
16 cigarillo, electronic pipe or similar product or device and a
17 vapor cartridge or other container of nicotine in a solution or
18 other form that is intended to be used with or in an electronic
19 cigarette, electronic cigar, electronic cigarillo, electronic
20 pipe or similar product or device. The term does not include a
21 product regulated as a drug or device by the United States Food
22 and Drug Administration under Chapter V of the Federal Food,
23 Drug, and Cosmetic Act.

24 Section 3. Repeals are as follows:

25 (1) The General Assembly declares that the repeal under
26 paragraph (2) is necessary to effectuate the amendment or
27 addition of 18 Pa.C.S. § 6306.1(a), (a.1), (a.2) and (c.1).

28 (2) Section 3.5 of the act of April 27, 1927 (P.L.465,
29 No.299), referred to as the Fire and Panic Act, is repealed.

30 Section 4. This act shall take effect in 60 days.