

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 714 Session of
1991

INTRODUCED BY HARPER, CAWLEY, TRELLO, PISTELLA, JAMES, VEON,
JOSEPHS, BILLOW, FOX, RICHARDSON, COHEN, OLIVER, KUKOVICH,
ROBINSON, LAUGHLIN, MELIO, FREEMAN, VAN HORNE, MRKONIC,
HUGHES, COLE, CAPPABIANCA, MARKOSEK, MURPHY, JAROLIN,
PHILLIPS AND E. Z. TAYLOR, MARCH 13, 1991

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, MARCH 13, 1991

AN ACT

1 Regulating the sale of tobacco products to minors; providing for
2 the licensing of persons and outlets selling tobacco
3 products; providing additional duties of the Department of
4 Health; establishing the Tobacco Education Fund; and
5 providing penalties.

6 The General Assembly finds as follows:

7 (1) That approximately 390,000 Americans die each year
8 of diseases caused by cigarette smoking.

9 (2) That the Surgeon General of the Public Health
10 Service has determined that smoking is the leading cause of
11 preventable death in this country.

12 (3) That nicotine in tobacco has been found by the 1988
13 report of the Surgeon General, "The Health Consequences of
14 Smoking: Nicotine Addiction," to be a powerfully addictive
15 drug, and it is therefore important to prevent young people
16 from using nicotine until they are mature and capable of
17 making an informed and rational decision.

18 (4) That most adults who smoke wish to quit, a majority

1 of current adult smokers have tried to quit without success
2 and one-half of all teenagers who have been smoking for five
3 years or more have made at least one serious but unsuccessful
4 attempt to quit.

5 (5) That every day more than 3,000 minors begin smoking.

6 (6) That one-half of smokers begin before the age of 18
7 and 90% begin before the age of 21.

8 (7) That minors spend more than one billion dollars on
9 cigarettes and other tobacco products every year.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Short title.

13 This act shall be known and may be cited as the Sale of
14 Tobacco Products to Minors Control Act.

15 Section 2. Definitions.

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

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

20 Section 3. Duties of department.

21 The department shall:

22 (1) Issue licenses for the sale of tobacco products.

23 (2) Provide without charge, signs that meet the
24 requirements of section 5 to persons licensed to sell tobacco
25 products.

26 (3) Investigate, concurrently with other State and local
27 officials, violations of this act and initiate appropriate
28 criminal proceedings.

29 (4) Bring license suspension, revocation and nonrenewal
30 actions under section 9.

1 Section 4. Tobacco sales license.

2 (a) Issuance.--A license for the sale of tobacco products
3 shall be issued to a specific person for a specific outlet and
4 shall be valid for a period of one year.

5 (b) Fee.--The annual fee for a license is \$50 for an outlet
6 whose annual volume of tobacco sales is less than \$5,000 and
7 \$300 for an outlet whose annual volume of tobacco sales is
8 \$5,000 or more.

9 Section 5. Warning signs.

10 The signs to be provided under section 3(2) shall:

11 (1) Contain in red lettering at least one-half inch high
12 on a white background "It is a violation of the law for
13 cigarettes or other tobacco products to be sold to any person
14 under 19 years of age".

15 (2) Include a depiction of a pack of cigarettes at least
16 two inches high overprinted by a red diagonal extending to
17 the diameter of a surrounding red circle.

18 Section 6. Display of license and signs.

19 A person holding a license issued under this act shall:

20 (1) Display the license, or a copy thereof, prominently
21 at the outlet for which the license is issued.

22 (2) Display prominently at each place at that outlet at
23 which tobacco products are sold a sign that meets the
24 requirements of section 5.

25 Section 7. Prohibited activities.

26 (a) Unlicensed sales.--

27 (1) The unlicensed sale or distribution of tobacco
28 products by any person, or the agent or employee thereof, is
29 prohibited.

30 (2) Paragraph (1) shall not apply to:

1 (i) The distribution by an individual to family
2 members or acquaintances on private property that is not
3 open to the public.

4 (ii) The sale or distribution to a manufacturer of
5 tobacco products, to a wholesaler of tobacco products, or
6 to a person who holds a license issued under this act.

7 (b) Certain sales or distribution.--A person licensed under
8 this act, or an agent or employee thereof, shall not sell or
9 distribute a tobacco product:

10 (1) to any individual that the license holder, agent or
11 employee knows is 18 years of age or younger;

12 (2) to any individual (other than an individual who
13 appears without reasonable doubt to be 19 years of age or
14 older) who does not present a driver's license or other
15 generally accepted means of identification that describes the
16 individual as 19 years of age or older, contains a likeness
17 of the individual and appears on its face to be valid;

18 (3) in any form other than an original factory-wrapped
19 package; or

20 (4) other than at an outlet for which a license has been
21 issued under this act.

22 (c) Vending machines.--A person licensed under this act, or
23 an agent or employee thereof, shall not maintain at a licensed
24 outlet any device that automatically dispenses tobacco products.

25 Section 8. Penalties.

26 (a) First offense.--A first violation of section 6
27 constitutes a summary offense punishable by a fine of not more
28 than \$200.

29 (b) Second offense.--A second violation of section 6
30 constitutes a summary offense punishable by a fine of not more

1 than \$1,000.

2 (c) Subsequent offenses.--A third or subsequent violation of
3 section 6 constitutes a misdemeanor of the third degree.

4 Section 9. Suspension or revocation of license.

5 (a) First offense.--The department may suspend the license
6 of any outlet for up to 30 days upon conviction under section
7 8(a).

8 (b) Second offense.--The department may suspend the license
9 of any outlet for up to six months upon conviction under section
10 8(b).

11 (c) Subsequent offenses.--The department may revoke or not
12 renew all outlet licenses under common ownership, upon a
13 conviction under section 8(c) in connection to any one or more
14 of these related outlets.

15 Section 10. Disposition of fees and fines.

16 All licensing fees and fines collected for violations of this
17 act shall be deposited in a separate account in the State
18 Treasury to be known as the Tobacco Education Fund. All moneys
19 in this fund are hereby appropriated to the department on a
20 continuing basis for the purpose of funding educational programs
21 in relation to the health hazards of tobacco use.

22 Section 11. Effective date.

23 This act shall take effect in six months.