

SENATE BILL No. 375

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-46-1-10; IC 35-46-1-11.

Synopsis: Culpability for youth tobacco sales. Provides that the person who owns or has control over an establishment selling tobacco at retail in which a person sells or distributes tobacco to an individual who is less than 18 years of age commits a Class C infraction. (Current law provides that only the person who sells or distributes tobacco to an individual who is less than 18 years of age commits a Class C infraction.) Provides that if more than two violations occur within a period of two years, the person who owns or has control over an establishment selling tobacco at retail in which a subsequent violation occurs commits a Class B infraction. Requires an establishment selling tobacco at retail to post and maintain at each cash register a sign that
(Continued next page)

Effective: July 1, 1999.

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January 11, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.

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Digest Continued

is clearly visible to both the individual selling the tobacco and to the customer indicating that the customer must be at least 18 years of age in order to purchase tobacco products. Provides that a person who owns or has control over an establishment selling tobacco at retail and who fails to post and maintain the required signs commits a Class C infraction.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 375



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-46-1-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) A person who
3 knowingly sells or distributes tobacco to a person less than eighteen
4 (18) years of age commits a Class C infraction.

5 (b) **A person who owns or has control over an establishment
6 selling tobacco at retail in which a violation of subsection (a) occurs
7 commits a Class C infraction.**

8 (c) **A person who:**
9 (1) **owns or has control over an establishment selling tobacco**
10 **at retail in which a violation of subsection (a) occurs; and**
11 **(2) has had at least two (2) previous violations of subsection**
12 **(a) in the last two (2) years;**
13 **commits a Class B infraction.**

14 ~~(b)~~ (d) It is not a defense that the person to whom the tobacco was
15 sold or distributed did not smoke, chew, or otherwise consume the



1 tobacco.

2 ~~(e)~~ (e) It is a defense that the accused person reasonably believed
3 that the buyer or taker was at least eighteen (18) years of age.

4 ~~(f)~~ (f) It is a defense that the accused person sold or delivered the
5 tobacco to a person who acted in the ordinary course of employment or
6 a business concerning tobacco:

- 7 (1) agriculture;
8 (2) processing;
9 (3) transporting;
10 (4) wholesaling; or
11 (5) retailing.

12 ~~(g)~~ (g) As used in this section, "distribute" means to give tobacco to
13 another person as a means of promoting, advertising, or marketing the
14 tobacco to the general public.

15 SECTION 2. IC 35-46-1-11 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) A tobacco
17 vending machine that is located in a public place must bear a
18 conspicuous notice reading as follows, with the capitalization
19 indicated: "If you are under 18 years of age, YOU ARE FORBIDDEN
20 by Indiana law to buy tobacco from this machine."

21 (b) A person who owns or has control over a tobacco vending
22 machine in a public place and who:

- 23 (1) fails to post the notice required by subsection (a) on his
24 vending machine; or
25 (2) fails to replace the notice within one (1) month after it is
26 removed or defaced;

27 commits a Class C infraction.

28 (c) An establishment selling tobacco at retail shall post and maintain
29 in a conspicuous place a sign, printed in letters at least one-half (1/2)
30 inch high, reading as follows: "The sale of tobacco to persons under 18
31 years of age is forbidden by Indiana law."

32 (d) A person who:

- 33 (1) owns or has control over an establishment selling tobacco at
34 retail; and

35 (2) fails to post and maintain the sign required by subsection (c);
36 commits a Class C infraction.

37 (e) **In addition to the sign required under subsection (c), an**
38 **establishment selling tobacco at retail shall post and maintain at**
39 **each cash register a sign clearly visible to both the individual**
40 **selling the tobacco and to the customer that reads as follows:**
41 **"YOU MUST BE BORN BEFORE [Retailer: Insert the date**
42 **eighteen (18) years before today's date] IN ORDER TO**



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1 **PURCHASE TOBACCO PRODUCTS."**
2 **(f) A person who:**
3 **(1) owns or has control over an establishment selling tobacco**
4 **at retail; and**
5 **(2) fails to post and maintain the signs required by subsection**
6 **(e);**
7 **commits a Class C infraction.**

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