

HOUSE BILL No. 1225

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3-15.5; IC 7.1-6-2-4; IC 24-3-5; IC 35-43-5-3.5; IC 35-46-1.

Synopsis: Sale of electronic cigarettes to minors. Prohibits the sale or delivery of electronic cigarettes to individuals less than 18 years of age. Makes it a Class C infraction for an individual less than 18 years of age to purchase, accept for personal use, or possess an electronic cigarette. Regulates display and use of electronic cigarettes in vending machines. Makes other changes concerning the use of electronic cigarettes.

Effective: July 1, 2013.

Lehman

January 14, 2013, read first time and referred to Committee on Public Policy.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1225



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 7.1-1-3-15.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: **Sec. 15.5. "Electronic cigarette" has**
4 **the meaning set forth in IC 35-46-1-1.5.**

5 SECTION 2. IC 7.1-6-2-4 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) An enforcement
7 officer vested with full police powers and duties may engage a person
8 less than eighteen (18) years of age as part of an enforcement action
9 under this article if the initial or contemporaneous receipt or purchase
10 of a tobacco product **or electronic cigarette** by a person less than
11 eighteen (18) years of age occurs under the direction of an enforcement
12 officer vested with full police powers and duties and is part of the
13 enforcement action.

14 (b) An enforcement officer vested with full police powers and duties
15 shall not:

16 (1) recruit or attempt to recruit a person less than eighteen (18)
17 years of age to participate in an enforcement action under



1 subsection (a) at the scene of a violation of section 2 of this
2 chapter; or

3 (2) allow a person less than eighteen (18) years of age to purchase
4 or receive a tobacco product **or electronic cigarette** as part of an
5 enforcement action under subsection (a) without the written
6 permission of the person's parents or legal guardians.

7 SECTION 3. IC 24-3-5-1.7 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2013]: **Sec. 1.7. As used in this chapter, "electronic cigarette" has
10 the meaning set forth in IC 35-46-1-1.5.**

11 SECTION 4. IC 24-3-5-4, AS AMENDED BY P.L.160-2005,
12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2013]: Sec. 4. Subject to section 4.5 of this chapter, a
14 merchant may not mail or ship cigarettes **or electronic cigarettes** as
15 part of a delivery sale unless, before mailing or shipping the cigarettes,
16 the merchant:

17 (1) obtains from the prospective customer a written statement
18 signed by the prospective customer under penalty of perjury:

19 (A) providing the prospective customer's address and date of
20 birth;

21 (B) advising the prospective customer that:

22 (i) signing another person's name to the statement required
23 under this subdivision may subject the person to a civil
24 monetary penalty of not more than one thousand dollars
25 (\$1,000); and

26 (ii) purchasing **of cigarettes or electronic cigarettes** by a
27 person less than eighteen (18) years of age is a Class C
28 infraction under IC 35-46-1-10.5;

29 (C) confirming that the cigarette **or electronic cigarette** order
30 was placed by the prospective customer;

31 (D) providing a warning under 15 U.S.C. 1333(a)(1); and

32 (E) stating the sale of cigarettes by delivery sale is a taxable
33 event for purposes of IC 6-7-1;

34 (2) makes a good faith effort to verify the information in the
35 written statement obtained under subdivision (1) by using a
36 federal or commercially available data base; and

37 (3) receives payment for the delivery sale by a credit or debit card
38 issued in the name of the prospective purchaser.

39 SECTION 5. IC 24-3-5-5, AS AMENDED BY P.L.160-2005,
40 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2013]: Sec. 5. (a) A merchant who mails or ships cigarettes **or
42 electronic cigarettes** as part of a delivery sale shall:

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1 (1) use a mailing or shipping service that requires the customer or
2 a person at least eighteen (18) years of age who is designated by
3 the customer to:

4 (A) sign to accept delivery of the cigarettes **or electronic**
5 **cigarettes; and**

6 (B) present a valid operator's license issued under IC 9-24-3 or
7 an identification card issued under IC 9-24-16 if the customer
8 or the customer's designee, in the opinion of the delivery agent
9 or employee of the mailing or shipping service, appears to be
10 less than twenty-seven (27) years of age;

11 (2) provide to the mailing or shipping service used under
12 subdivision (1) proof of compliance with section 6(a) of this
13 chapter; and

14 (3) include the following statement in bold type or capital letters
15 on an invoice or shipping document:

16 INDIANA LAW PROHIBITS THE MAILING OR SHIPPING
17 OF CIGARETTES **OR ELECTRONIC CIGARETTES TO**
18 **A PERSON LESS THAN EIGHTEEN (18) YEARS OF AGE**
19 **AND REQUIRES PAYMENT OF ALL APPLICABLE**
20 **TAXES.**

21 (b) The commission may impose a civil penalty of not more than
22 one thousand dollars (\$1,000) if a mailing or shipping service:

23 (1) delivers cigarettes **or electronic cigarettes** as part of a
24 delivery sale without first receiving proof from the merchant of
25 compliance with section 6(a) of this chapter; or

26 (2) fails to obtain a signature and proof of identification of the
27 customer or the customer's designee under subsection (a)(1).

28 The commission shall deposit amounts collected under this subsection
29 into the youth tobacco education and enforcement fund established by
30 IC 7.1-6-2-6.

31 (c) The following apply to a merchant that mails or ships cigarettes
32 **or electronic cigarettes** as part of a delivery sale without using a third
33 party service as required by subsection (a)(1):

34 (1) The merchant shall require the customer or a person at least
35 eighteen (18) years of age who is designated by the customer to:

36 (A) sign to accept delivery of the cigarettes **or electronic**
37 **cigarettes; and**

38 (B) present a valid operator's license issued under IC 9-24-3 or
39 identification card issued under IC 9-24-16 if the customer or
40 the customer's designee, in the opinion of the merchant or the
41 merchant's employee making the delivery, appears to be less
42 than twenty-seven (27) years of age.

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1 (2) The commission may impose a civil penalty of not more than
2 one thousand dollars (\$1,000) if the merchant:

3 (A) delivers the cigarettes **or electronic cigarettes** without
4 first complying with section 6(a) of this chapter; or

5 (B) fails to obtain a signature and proof of identification of the
6 customer or the customer's designee under subdivision (1).

7 The commission shall deposit amounts collected under this
8 subdivision into the youth tobacco education and enforcement
9 fund established by IC 7.1-6-2-6.

10 SECTION 6. IC 24-3-5-6, AS AMENDED BY P.L.160-2005,
11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2013]: Sec. 6. (a) A merchant shall, before mailing or
13 shipping cigarettes **or electronic cigarettes** as part of a delivery sale,
14 provide the department of state revenue with a written statement
15 containing the merchant's name, address, principal place of business,
16 and each place of business in Indiana.

17 (b) A merchant who mails or ships cigarettes **or electronic**
18 **cigarettes** as part of a delivery sale shall, not later than the tenth day
19 of the calendar month immediately following the month in which the
20 delivery sale occurred, file with the department of state revenue a copy
21 of the invoice for each delivery sale to a customer in Indiana. The
22 invoice must include the following information:

23 (1) The name and address of the customer to whom the cigarettes
24 **or electronic cigarettes** were delivered.

25 (2) The brand name of the cigarettes **or electronic cigarettes** that
26 were delivered to the customer.

27 (3) The quantity of cigarettes **or electronic cigarettes** that were
28 delivered to the customer.

29 (c) A merchant who complies with 15 U.S.C. 376 for the delivery
30 sale of cigarettes is considered to satisfy the requirements of this
31 section.

32 SECTION 7. IC 24-3-5-8, AS AMENDED BY P.L.160-2005,
33 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2013]: Sec. 8. The commission may impose a civil penalty of
35 not more one thousand dollars (\$1,000) on a:

36 (1) customer who signs another person's name to a statement
37 required under section 4(1) of this chapter; or

38 (2) merchant who sells cigarettes **or electronic cigarettes** by
39 delivery sale to a person less than eighteen (18) years of age.

40 The commission shall deposit amounts collected under this section into
41 the youth tobacco education and enforcement fund established by
42 IC 7.1-6-2-6.

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1 SECTION 8. IC 35-43-5-3.5, AS AMENDED BY P.L.137-2009,
 2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 3.5. (a) Except as provided in subsection (c), a
 4 person who knowingly or intentionally obtains, possesses, transfers, or
 5 uses the identifying information of another person, including the
 6 identifying information of a person who is deceased:

7 (1) without the other person's consent; and

8 (2) with intent to:

9 (A) harm or defraud another person;

10 (B) assume another person's identity; or

11 (C) profess to be another person;

12 commits identity deception, a Class D felony.

13 (b) However, the offense defined in subsection (a) is a Class C
 14 felony if:

15 (1) a person obtains, possesses, transfers, or uses the identifying
 16 information of more than one hundred (100) persons;

17 (2) the fair market value of the fraud or harm caused by the
 18 offense is at least fifty thousand dollars (\$50,000); or

19 (3) a person obtains, possesses, transfers, or uses the identifying
 20 information of a person who is less than eighteen (18) years of
 21 age and is:

22 (A) the person's son or daughter;

23 (B) a dependent of the person;

24 (C) a ward of the person; or

25 (D) an individual for whom the person is a guardian.

26 (c) The conduct prohibited in subsections (a) and (b) does not apply
 27 to:

28 (1) a person less than twenty-one (21) years of age who uses the
 29 identifying information of another person to acquire an alcoholic
 30 beverage (as defined in IC 7.1-1-3-5);

31 (2) a minor (as defined in IC 35-49-1-4) who uses the identifying
 32 information of another person to acquire:

33 (A) a cigarette, **an electronic cigarette (as defined in**
 34 **IC 35-46-1-1.5)**, or **a tobacco product (as defined in**
 35 **IC 6-7-2-5)**;

36 (B) a periodical, a videotape, or other communication medium
 37 that contains or depicts nudity (as defined in IC 35-49-1-5);

38 (C) admittance to a performance (live or film) that prohibits
 39 the attendance of the minor based on age; or

40 (D) an item that is prohibited by law for use or consumption by
 41 a minor; or

42 (3) any person who uses the identifying information for a lawful

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1 purpose.

2 (d) It is not a defense in a prosecution under subsection (a) or (b)
3 that no person was harmed or defrauded.

4 SECTION 9. IC 35-46-1-1.5 IS ADDED TO THE INDIANA CODE
5 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
6 **1, 2013]: Sec. 1.5. As used in this chapter, "electronic cigarette"**
7 **means a device that is capable of providing an inhalable dose of**
8 **nicotine by delivering a vaporized solution. The term includes the**
9 **components, cartridges, and other chemical delivery systems for**
10 **use in the device.**

11 SECTION 10. IC 35-46-1-10 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. (a) A person who
13 knowingly:

14 (1) sells or distributes tobacco **or an electronic cigarette** to a
15 person less than eighteen (18) years of age; or

16 (2) purchases tobacco **or an electronic cigarette** for delivery to
17 another person who is less than eighteen (18) years of age;

18 commits a Class C infraction. For a sale to take place under this
19 section, the buyer must pay the seller for the tobacco product **or the**
20 **electronic cigarette.**

21 (b) It is not a defense that the person to whom the tobacco **or**
22 **electronic cigarette** was sold or distributed did not smoke, chew,
23 **inhale**, or otherwise consume the tobacco **or the electronic cigarette.**

24 (c) The following defenses are available to a person accused of
25 selling or distributing tobacco **or an electronic cigarette** to a person
26 who is less than eighteen (18) years of age:

27 (1) The buyer or recipient produced a driver's license bearing the
28 purchaser's or recipient's photograph, showing that the purchaser
29 or recipient was of legal age to make the purchase.

30 (2) The buyer or recipient produced a photographic identification
31 card issued under IC 9-24-16-1, or a similar card issued under the
32 laws of another state or the federal government, showing that the
33 purchaser or recipient was of legal age to make the purchase.

34 (3) The appearance of the purchaser or recipient was such that an
35 ordinary prudent person would believe that the purchaser or
36 recipient was not less than the age that complies with regulations
37 promulgated by the federal Food and Drug Administration.

38 (d) It is a defense that the accused person sold or delivered the
39 tobacco **or electronic cigarette** to a person who acted in the ordinary
40 course of employment or a business concerning tobacco **or electronic**
41 **cigarettes:**

42 (1) agriculture;

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- 1 (2) processing;
 2 (3) transporting;
 3 (4) wholesaling; or
 4 (5) retailing.
- 5 (e) As used in this section, "distribute" means to give tobacco **or an**
 6 **electronic cigarette** to another person as a means of promoting,
 7 advertising, or marketing the tobacco **or electronic cigarette** to the
 8 general public.
- 9 (f) Unless ~~a~~ **the** person buys or receives tobacco **or an electronic**
 10 **cigarette** under the direction of a law enforcement officer as part of an
 11 enforcement action, a person who sells or distributes tobacco **or an**
 12 **electronic cigarette** is not liable for a violation of this section unless
 13 the person less than eighteen (18) years of age who bought or received
 14 the tobacco **or electronic cigarette** is issued a citation or summons
 15 under section 10.5 of this chapter.
- 16 (g) Notwithstanding ~~IC 34-28-5-4(c)~~ **IC 34-28-5-5(c)**, civil penalties
 17 collected under this section must be deposited in the Richard D. Doyle
 18 youth tobacco education and enforcement fund (IC 7.1-6-2-6).
- 19 SECTION 11. IC 35-46-1-10.2, AS AMENDED BY P.L.94-2008,
 20 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2013]: Sec. 10.2. (a) A retail establishment that sells or
 22 distributes tobacco **or an electronic cigarette** to a person less than
 23 eighteen (18) years of age commits a Class C infraction. For a sale to
 24 take place under this section, the buyer must pay the retail
 25 establishment for the tobacco product **or electronic cigarette**.
 26 Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction
 27 committed under this section must be imposed as follows:
- 28 (1) If the retail establishment at that specific business location has
 29 not been issued a citation or summons for a violation of this
 30 section in the previous one hundred eighty (180) days, a civil
 31 penalty of up to two hundred dollars (\$200).
 32 (2) If the retail establishment at that specific business location has
 33 had one (1) citation or summons issued for a violation of this
 34 section in the previous one hundred eighty (180) days, a civil
 35 penalty of up to four hundred dollars (\$400).
 36 (3) If the retail establishment at that specific business location has
 37 had two (2) citations or summonses issued for a violation of this
 38 section in the previous one hundred eighty (180) days, a civil
 39 penalty of up to seven hundred dollars (\$700).
 40 (4) If the retail establishment at that specific business location has
 41 had three (3) or more citations or summonses issued for a
 42 violation of this section in the previous one hundred eighty (180)

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1 days, a civil penalty of up to one thousand dollars (\$1,000).
 2 A retail establishment may not be issued a citation or summons for a
 3 violation of this section more than once every twenty-four (24) hours
 4 for each specific business location.

5 (b) It is not a defense that the person to whom the tobacco **or**
 6 **electronic cigarette** was sold or distributed did not smoke, chew,
 7 **inhale**, or otherwise consume the tobacco **or electronic cigarette**.

8 (c) The following defenses are available to a retail establishment
 9 accused of selling or distributing tobacco **or an electronic cigarette** to
 10 a person who is less than eighteen (18) years of age:

11 (1) The buyer or recipient produced a driver's license bearing the
 12 purchaser's or recipient's photograph showing that the purchaser
 13 or recipient was of legal age to make the purchase.

14 (2) The buyer or recipient produced a photographic identification
 15 card issued under IC 9-24-16-1 or a similar card issued under the
 16 laws of another state or the federal government showing that the
 17 purchaser or recipient was of legal age to make the purchase.

18 (3) The appearance of the purchaser or recipient was such that an
 19 ordinary prudent person would believe that the purchaser or
 20 recipient was not less than the age that complies with regulations
 21 promulgated by the federal Food and Drug Administration.

22 (d) It is a defense that the accused retail establishment sold or
 23 delivered the tobacco **or electronic cigarette** to a person who acted in
 24 the ordinary course of employment or a business concerning tobacco
 25 **or electronic cigarettes:**

- 26 (1) agriculture;
- 27 (2) processing;
- 28 (3) transporting;
- 29 (4) wholesaling; or
- 30 (5) retailing.

31 (e) As used in this section, "distribute" means to give tobacco **or an**
 32 **electronic cigarette** to another person as a means of promoting,
 33 advertising, or marketing the tobacco **or electronic cigarette** to the
 34 general public.

35 (f) Unless a person buys or receives tobacco **or an electronic**
 36 **cigarette** under the direction of a law enforcement officer as part of an
 37 enforcement action, a retail establishment that sells or distributes
 38 tobacco **or an electronic cigarette** is not liable for a violation of this
 39 section unless the person less than eighteen (18) years of age who
 40 bought or received the tobacco **or electronic cigarette** is issued a
 41 citation or summons under section 10.5 of this chapter.

42 (g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under

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1 this section must be deposited in the Richard D. Doyle youth tobacco
2 education and enforcement fund (IC 7.1-6-2-6).

3 (h) A person who violates subsection (a) at least six (6) times in any
4 one hundred eighty (180) day period commits habitual illegal sale of
5 tobacco, a Class B infraction.

6 SECTION 12. IC 35-46-1-10.5 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10.5. (a) A person less
8 than eighteen (18) years of age who:

9 (1) purchases tobacco **or an electronic cigarette**;

10 (2) accepts tobacco **or an electronic cigarette** for personal use;
11 or

12 (3) possesses tobacco **or an electronic cigarette** on his person;
13 commits a Class C infraction.

14 (b) It is a defense under subsection (a) that the accused person acted
15 in the ordinary course of employment in a business concerning tobacco
16 **or electronic cigarettes**:

17 (1) agriculture;

18 (2) processing;

19 (3) transporting;

20 (4) wholesaling; or

21 (5) retailing.

22 SECTION 13. IC 35-46-1-11, AS AMENDED BY P.L.94-2008,
23 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2013]: Sec. 11. (a) A tobacco **or electronic cigarette** vending
25 machine that is located in a public place must bear the following
26 conspicuous notices:

27 (1) A notice:

28 (A) that reads as follows, with the capitalization indicated: "If
29 you are under 18 years of age, YOU ARE FORBIDDEN by
30 Indiana law to buy tobacco **or electronic cigarettes** from this
31 machine."; or

32 (B) that:

33 (i) conveys a message substantially similar to the message
34 described in clause (A); and

35 (ii) is formatted with words and in a form authorized under
36 the rules adopted by the alcohol and tobacco commission.

37 (2) A notice that reads as follows, "Smoking by Pregnant Women
38 May Result in Fetal Injury, Premature Birth, and Low Birth
39 Weight."

40 (3) A notice printed in letters and numbers at least one-half (1/2)
41 inch high that displays a toll free phone number for assistance to
42 callers in quitting smoking, as determined by the state department

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- 1 of health.
- 2 (b) A person who owns or has control over a tobacco **or electronic**
- 3 **cigarette** vending machine in a public place and who:
- 4 (1) fails to post a notice required by subsection (a) on the vending
- 5 machine; or
- 6 (2) fails to replace a notice within one (1) month after it is
- 7 removed or defaced;
- 8 commits a Class C infraction.
- 9 (c) An establishment selling tobacco **or electronic cigarettes** at
- 10 retail shall post and maintain in a conspicuous place, at the point of
- 11 sale, the following:
- 12 (1) Signs printed in letters at least one-half (1/2) inch high,
- 13 reading as follows:
- 14 (A) "The sale of tobacco **or electronic cigarettes** to persons
- 15 under 18 years of age is forbidden by Indiana law."
- 16 (B) "Smoking by Pregnant Women May Result in Fetal Injury,
- 17 Premature Birth, and Low Birth Weight."
- 18 (2) A sign printed in letters and numbers at least one-half (1/2)
- 19 inch high that displays a toll free phone number for assistance to
- 20 callers in quitting smoking, as determined by the state department
- 21 of health.
- 22 (d) A person who:
- 23 (1) owns or has control over an establishment selling tobacco **or**
- 24 **electronic cigarettes** at retail; and
- 25 (2) fails to post and maintain the sign required by subsection (c);
- 26 commits a Class C infraction.
- 27 SECTION 14. IC 35-46-1-11.5 IS AMENDED TO READ AS
- 28 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11.5. (a) Except for a
- 29 coin machine that is placed in or directly adjacent to an entranceway or
- 30 an exit, or placed in a hallway, a restroom, or another common area that
- 31 is accessible to persons who are less than eighteen (18) years of age,
- 32 this section does not apply to a coin machine that is located in the
- 33 following:
- 34 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)
- 35 where entry is limited to persons who are at least eighteen (18)
- 36 years of age.
- 37 (2) Private industrial or office locations that are customarily
- 38 accessible only to persons who are at least eighteen (18) years of
- 39 age.
- 40 (3) Private clubs if the membership is limited to persons who are
- 41 at least eighteen (18) years of age.
- 42 (4) Riverboats where entry is limited to persons who are at least

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1 twenty-one (21) years of age and on which lawful gambling is
2 authorized.

3 (b) As used in this section, "coin machine" has the meaning set forth
4 in IC 35-43-5-1.

5 (c) Except as provided in subsection (a), an owner of a retail
6 establishment may not:

7 (1) distribute or sell tobacco **or electronic cigarettes** by use of a
8 coin machine; or

9 (2) install or maintain a coin machine that is intended to be used
10 for the sale or distribution of tobacco **or electronic cigarettes**.

11 (d) An owner of a retail establishment who violates this section
12 commits a Class C infraction. A citation or summons issued under this
13 section must provide notice that the coin machine must be moved
14 within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil
15 judgment for an infraction committed under this section must be
16 imposed as follows:

17 (1) If the owner of the retail establishment has not been issued a
18 citation or summons for a violation of this section in the previous
19 ninety (90) days, a civil penalty of fifty dollars (\$50).

20 (2) If the owner of the retail establishment has had one (1) citation
21 or summons issued for a violation of this section in the previous
22 ninety (90) days, a civil penalty of two hundred fifty dollars
23 (\$250).

24 (3) If the owner of the retail establishment has had two (2)
25 citations or summonses issued for a violation of this section in the
26 previous ninety (90) days for the same machine, the coin machine
27 shall be removed or impounded by a law enforcement officer
28 having jurisdiction where the violation occurs.

29 An owner of a retail establishment may not be issued a citation or
30 summons for a violation of this section more than once every two (2)
31 business days for each business location.

32 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
33 this section must be deposited in the Richard D. Doyle youth tobacco
34 education and enforcement fund established under IC 7.1-6-2-6.

35 SECTION 15. IC 35-46-1-11.8, AS AMENDED BY P.L.10-2011,
36 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2013]: Sec. 11.8. (a) As used in this section, "self-service
38 display" means a display that contains tobacco **or electronic cigarettes**
39 in an area where a customer:

40 (1) is permitted; and
41 (2) has access to the tobacco **or electronic cigarettes** without
42 assistance from a sales person.

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1 (b) This section does not apply to a self-service display located in
2 a retail establishment that:
3 (1) has a primary purpose to sell tobacco **or electronic**
4 **cigarettes;** and
5 (2) prohibits entry by persons who are less than eighteen (18)
6 years of age.
7 (c) The owner of a retail establishment that sells or distributes
8 tobacco **or electronic cigarettes** through a self-service display, other
9 than a coin operated machine operated under IC 35-46-1-11 or
10 IC 35-46-1-11.5, commits a Class C infraction.
11 (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
12 this section must be deposited in the Richard D. Doyle youth tobacco
13 education and enforcement fund (IC 7.1-6-2-6).

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