

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 241
HOUSE BILL 766

AN ACT TO CLARIFY AND MAKE UNIFORM THE LAWS REGARDING THE
SALE AND DISTRIBUTION OF TOBACCO PRODUCTS TO PERSONS LESS
THAN EIGHTEEN YEARS OLD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-313 reads as rewritten:

"§ 14-313. ~~Selling cigarettes to minors.~~ Youth access to tobacco products.

(a) Definitions. – The following definitions apply in this section:

- (1) Distribute. – To sell, furnish, give, or provide tobacco products, including tobacco product samples, or cigarette wrapping papers to the ultimate consumer.
- (2) Proof of age. – A drivers license or other documentary or written evidence that purports to establish that the person is 18 years of age or older.
- (3) Sample. – A tobacco product distributed to members of the general public at no cost for the purpose of promoting the product.
- (4) Tobacco product. – Any product that contains tobacco and is intended for human consumption.

(b) Sale or distribution to persons under the age of 18 years. – If any person shall knowingly sell, give away or otherwise dispose of, directly or indirectly, cigarettes, or tobacco in the form of cigarettes, or cut tobacco in any form or shape which may be used or intended to be used as a substitute for cigarettes, distribute, or knowingly aid, assist, or abet any other person in distributing tobacco products or cigarette wrapping papers, or a smokeless tobacco product to any minor person under the age of 18 years, or if any person shall knowingly aid, assist or abet any other person in selling such articles purchase tobacco products or cigarette wrapping papers on behalf of such minor, a person, less than 18 years, he the person shall be guilty of a Class 2 misdemeanor. — misdemeanor; As used in this section, "smokeless tobacco product" means (i) loose tobacco or a flat compressed cake of tobacco that may be chewed or held in the mouth or (ii) shredded, powdered, or pulverized tobacco that may be inhaled through the nostrils, chewed, or held in the mouth or (ii) shredded, powdered, or pulverized tobacco that may be inhaled through the nostrils, chewed, or held in the mouth; provided, however, that it shall not be unlawful to distribute tobacco products or cigarette wrapping papers to an employee when required in the performance of the employee's duties.

A person engaged in the sale of tobacco products shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age. Failure to demand proof of age as required by this subsection is a Class 2 misdemeanor. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought under this subsection.

(c) Purchase by persons under the age of 18 years. – If any person under the age of 18 years purchases or accepts receipt, or attempts to purchase or accept receipt, of tobacco products or cigarette wrapping papers, or presents or offers to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product, the person shall be guilty of an infraction as provided in G.S. 14-3.1.

(d) Send or assist person less than 18 years to purchase or receive tobacco product. – If any person shall knowingly send or assist a person less than 18 years to purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided, however, persons under the age of 18 may be enlisted by police or local sheriffs' departments to test compliance if the testing is under the direct supervision of that law enforcement department and written parental consent is provided; provided further, that the Department of Human Resources shall have the authority, pursuant to a written plan prepared by the Secretary of Human Resources, to use persons under 18 years of age in annual, random, unannounced inspections, provided that prior written parental consent is given for the involvement of these persons and that the inspections are conducted for the sole purpose of preparing a scientifically and methodologically valid statistical study of the extent of success the State has achieved in reducing the availability of tobacco products to persons under the age of 18, and preparing any report to the extent required by section 1926 of the federal Public Health Service Act (42 USC § 300x-26).

(e) Statewide uniformity. – It is the intent of the General Assembly to prescribe this uniform system for the regulation of tobacco products to ensure the eligibility for and receipt of any federal funds or grants that the State now receives or may receive relating to the provisions of G.S. 14-313. To ensure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules or regulations concerning the sale, distribution, display or promotion of tobacco products or cigarette wrapping papers on or after September 1, 1995. This subsection does not apply to the regulation of vending machines, nor does it prohibit the Secretary of Revenue from adopting rules with respect to the administration of the tobacco products taxes levied under Article 2A of Chapter 105 of the General Statutes."

Sec. 2. This act becomes effective December 1, 1995, and applies to offenses committed on or after that date. Subsection (e) of G.S. 14-313 as enacted by this act does not affect local ordinances adopted before September 1, 1995.

In the General Assembly read three times and ratified this the 13th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives