A BILL TO BE ENTITLED
AN ACT GRADUALLY RAISING THE MINIMUM AGE FOR PERSONS NOT SERVING ON ACTIVE DUTY IN THE UNITED STATES ARMED FORCES FROM EIGHTEEN TO TWENTY-ONE FOR THE PURCHASE OR RECEIPT OF TOBACCO PRODUCTS, TOBACCO-DERIVED PRODUCTS, VAPOR PRODUCTS, AND CIGARETTE WRAPPING PAPERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 14-313 reads as rewritten:

"§ 14-313. Youth access to tobacco products, tobacco-derived products, vapor products, and cigarette wrapping papers.

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

(1) Active duty. – Full-time duty in the active military service of the United States, including service by members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include service by members of the reserve component (National Guard and Reserve) who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

(1a) Armed Forces. – Includes all components of the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(1b) 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 driver's license or other photographic identification that includes the bearer's date of birth that purports to establish that the person is 18 years of age or older.

..."
to a person born on or after January 1, 2000, who is serving on active duty in the Armed Forces. Retail distributors of tobacco products shall prominently display near the point of sale a sign in letters at least five-eighths of an inch high which states the following:

FOR THE PERIOD BEGINNING JANUARY 1, 2018,
N.C. LAW STRICTLY PROHIBITS
THE PURCHASE OF TOBACCO PRODUCTS, TOBACCO-DERIVED PRODUCTS, VAPOR PRODUCTS, AND CIGARETTE WRAPPING PAPERS BY PERSONS UNDER THE AGE OF 18 BORN ON OR AFTER JANUARY 1, 2000.

PROOF OF AGE REQUIRED.

Failure to post the required sign shall be an infraction punishable by a fine of twenty-five dollars ($25.00) for the first offense and seventy-five dollars ($75.00) for each succeeding offense.

A person engaged in the sale of tobacco products or cigarette wrapping papers shall demand proof of age or proof of active duty in the Armed Forces from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age, was born on or after January 1, 2000. Failure to demand proof of age or proof of active duty in the Armed Forces as required by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18 years of age, was born on or after January 1, 2000, and is not serving on active duty in the Armed Forces. Retail distributors of tobacco products or cigarette wrapping papers shall train their sales employees in the requirements of this law. Proof of any of the following shall be a defense to any action brought under this subsection:

(1) The defendant demanded, was shown, and reasonably relied upon proof of age or proof of active duty in the Armed Forces in the case of a retailer, or any other documentary or written evidence of age or active duty in the Armed Forces in the case of a nonretailer.

(2) The defendant relied on the electronic system established and operated by the Division of Motor Vehicles pursuant to G.S. 20-37.02.

(3) The defendant relied on a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a driver's license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport showing the purchaser's date of birth and bearing a physical description of the person named on the card.

(b1) Distribution of tobacco products.—Tobacco products shall not be distributed in vending machines; provided, however, vending machines distributing tobacco products are permitted (i) in any establishment which is open only to persons 18 years of age and older; (ii) in any establishment which is open only to persons serving on active duty in the Armed Forces; or (iii) in any establishment if the vending machine is under the continuous control of the owner or licensee of the premises or an employee thereof and can be operated only upon activation by the owner, licensee, or employee prior to each purchase and the vending machine is not accessible to the public when the establishment is closed. The owner, licensee, or employee shall demand proof of age or proof of active duty in the Armed Forces from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age, was born on or after January 1, 2000. Failure to demand proof of age or proof of active duty in the Armed Forces as required by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18 years of age, was born on or after January 1, 2000, and is not serving on active duty in the Armed Forces. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age or proof of active duty in the Armed Forces shall be a defense to any action brought under this subsection.

Vending machines distributing tobacco products in establishments not meeting the above
conditions shall be removed prior to December 1, 1997. Vending machines distributing tobacco-derived products, vapor products, or components of vapor products in establishments not meeting the above conditions shall be removed prior to August 1, 2013. Any person distributing tobacco products through vending machines in violation of this subsection shall be guilty of a Class 2 misdemeanor.

(b2) Internet distribution of tobacco products. – A person engaged in the distribution of tobacco products through the Internet or other remote sales methods shall perform an age or active duty verification through an independent, third-party age-verification service that compares information available from public records to the personal information entered by the individual during the ordering process to establish that the individual ordering the tobacco products is 18 years of age or older, or is serving on active duty in the Armed Forces.

(c) Purchase by persons under the age of 18 years born on or after January 1, 2000. – If any person under the age of 18 years born on or after January 1, 2000, 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 or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided, however, that it shall not be unlawful for (i) an employee to purchase or accept receipt of tobacco products or cigarette wrapping papers when required in the performance of the employee's duties; or (ii) a person serving on active duty in the Armed Forces to purchase or accept receipt of tobacco products or cigarette wrapping papers.

(d) Sending or assisting a person [less than] 18 years born on or after January 1, 2000, to purchase or receive tobacco products or cigarette wrapping papers. – If any person shall send a person less than 18 years of age born on or after January 1, 2000, to purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or cigarette wrapping papers, or if any person shall aid or abet a person who is less than 18 years of age was born on or after January 1, 2000, in purchasing, acquiring, or receiving or attempting 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 born on or after January 1, 2000, 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 further, that the Department of Health and Human Services shall have the authority, pursuant to a written plan prepared by the Secretary of Health and Human Services, to use persons under 18 years of age born on or after January 1, 2000, 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 born on or after January 1, 2000, and preparing any report to the extent required by section 1926 of the federal Public Health Service Act (42 USC § 300x-26).

…"

SECTION 1.(b) Subsection (a) of this section becomes effective January 1, 2018, and expires on December 31, 2020.

SECTION 2.(a) G.S. 14-313, as amended by subsection (a) of Section 1 of this act, reads as rewritten:

"§ 14-313. Youth access to tobacco products, tobacco-derived products, vapor products, and cigarette wrapping papers.

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

(1) Active duty. – Full-time duty in the active military service of the United States, including service by members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or..."
full-time training. The term does not include service by members of the reserve component (National Guard and Reserve) who are performing active
duty or active duty for training under military calls or orders specifying
periods of less than 31 calendar days.

(1a) Armed Forces. – Includes all components of the United States Army, Navy,
Air Force, Marine Corps, and Coast Guard.

(1b) 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 driver's license or other photographic identification that includes the bearer's date of birth that purports to establish that the person is
18 years of age or older.

(b) Sale or distribution to persons under the age of 18-21 years. – If any person shall
distribute, or aid, assist, or abet any other person in distributing tobacco products or cigarette
wrapping papers to any person born on or after January 1, 2000, under the age of 21, or if any
person shall purchase tobacco products or cigarette wrapping papers on behalf of a person born
on or after January 1, 2000, under the age of 21, the person shall be guilty of a Class 2
misdemeanor; provided, however, that it shall not be unlawful to (i) distribute tobacco products
or cigarette wrapping papers to an employee when required in the performance of the
employee's duties or (ii) sell or distribute tobacco products or cigarette wrapping papers to a
person born on or after January 1, 2000, under the age of 21 who is serving on active duty in the
Armed Forces. Retail distributors of tobacco products shall prominently display near the point
of sale a sign in letters at least five-eighths of an inch high which states the following:

FOR THE PERIOD BEGINNING JANUARY 1, 2018,
AND ENDING DECEMBER 31, 2020,
EFFECTIVE JANUARY 1, 2021,
N.C. LAW STRICTLY PROHIBITS
THE PURCHASE OF TOBACCO PRODUCTS, TOBACCO-DERIVED PRODUCTS,
VAPOR PRODUCTS, AND CIGARETTE WRAPPING PAPERS
BY PERSONS BORN ON OR AFTER JANUARY 1, 2000, UNDER 21 YEARS OF AGE.
PROOF OF AGE REQUIRED.

Failure to post the required sign shall be an infraction punishable by a fine of twenty-five
dollars ($25.00) for the first offense and seventy-five dollars ($75.00) for each succeeding
offense.

A person engaged in the sale of tobacco products or cigarette wrapping papers shall demand
proof of age or proof of active duty in the Armed Forces from a prospective purchaser if the
person has reasonable grounds to believe that the prospective purchaser was born on or after
January 1, 2000, is under 21 years of age. Failure to demand proof of age or proof of active duty
in the Armed Forces as required by this subsection is a Class 2 misdemeanor if in fact the
prospective purchaser was born on or after January 1, 2000, is under 21 years of age and is not
serving on active duty in the Armed Forces. Retail distributors of tobacco products or cigarette
wrapping papers shall train their sales employees in the requirements of this law. Proof of any
of the following shall be a defense to any action brought under this subsection:

(1) The defendant demanded, was shown, and reasonably relied upon proof of
age or proof of active duty in the Armed Forces in the case of a retailer, or
any other documentary or written evidence of age or active duty in the
Armed Forces in the case of a nonretailer.

(2) The defendant relied on the electronic system established and operated by
the Division of Motor Vehicles pursuant to G.S. 20-37.02.
The defendant relied on a biometric identification system that demonstrated
(i) the purchaser’s age to be at least the required age for the purchase and (ii)
the purchaser had previously registered with the seller or seller’s agent a
drivers license, a special identification card issued under G.S. 20-37.7, a
military identification card, or a passport showing the purchaser’s date of
birth and bearing a physical description of the person named on the card.

(b1) Distribution of tobacco products. – Tobacco products shall not be distributed in
vending machines; provided, however, vending machines distributing tobacco products are
permitted (i) in any establishment which is open only to persons 18-21 years of age and older;
(ii) in any establishment which is open only to persons serving on active duty in the Armed
Forces; or (iii) in any establishment if the vending machine is under the continuous control of
the owner or licensee of the premises or an employee thereof and can be operated only upon
activation by the owner, licensee, or employee prior to each purchase and the vending machine
is not accessible to the public when the establishment is closed. The owner, licensee, or
employee shall demand proof of age or proof of active duty in the Armed Forces from a
prospective purchaser if the person has reasonable grounds to believe that the prospective
purchaser was born on or after January 1, 2000 is under 21 years of age. Failure to demand
proof of age or proof of active duty in the Armed Forces as required by this subsection is a
Class 2 misdemeanor if in fact the prospective purchaser was born on or after January 1,
2000 is under 21 years of age, and is not serving on active duty in the Armed Forces. Proof that
the defendant demanded, was shown, and reasonably relied upon proof of age or proof of active
duty in the Armed Forces shall be a defense to any action brought under this subsection.
Vending machines distributing tobacco products in establishments not meeting the above
conditions shall be removed prior to December 1, 1997. Vending machines distributing
tobacco-derived products, vapor products, or components of vapor products in establishments
not meeting the above conditions shall be removed prior to August 1, 2013. Any person
distributing tobacco products through vending machines in violation of this subsection shall be
guilty of a Class 2 misdemeanor.

(b2) Internet distribution of tobacco products. – A person engaged in the distribution of
tobacco products through the Internet or other remote sales methods shall perform an age or
active duty verification through an independent, third-party verification service that compares
information available from public records to the personal information entered by the individual
during the ordering process to establish that the individual ordering the tobacco products is 18
21 years of age or older, or is serving on active duty in the Armed Forces.

c) Purchase by persons born on or after January 1, 2000 under 21 years of age. – If any
person born on or after January 1, 2000 under 21 years of age 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 or
cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided,
however, that it shall not be unlawful for (i) an employee to purchase or accept receipt of
tobacco products or cigarette wrapping papers when required in the performance of the
employee's duties or (ii) a person serving on active duty in the Armed Forces to purchase or
accept receipt of tobacco products or cigarette wrapping papers.

d) Sending or assisting a person born on or after January 1, 2000 under 21 years of age
to purchase or receive tobacco products or cigarette wrapping papers. – If any person shall send
a person born on or after January 1, 2000 under 21 years of age to purchase, acquire, receive, or
attempt to purchase, acquire, or receive tobacco products or cigarette wrapping papers, or if any
person shall aid or abet a person who was born on or after January 1, 2000 under 21 years of
age in purchasing, acquiring, or receiving or attempting to purchase, acquire, or receive tobacco
products or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor;
provided, however, persons born on or after January 1, 2000, under 21 years of age 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 Health and Human Services shall have the authority,
pursuant to a written plan prepared by the Secretary of Health and Human Services, to use
persons born on or after January 1, 2000, under 21 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 born on or after January 1, 2000, under
21 years of age and preparing any report to the extent required by section 1926 of the federal
Public Health Service Act (42 USC § 300x-26).

"...

SECTION 2.(b) Subsection (a) of this section becomes effective January 1, 2021.

SECTION 3. Except as otherwise provided, this act is effective when it becomes
law.