

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senators Snyder and Ross**

A BILL ACT 543 OF 1991
SENATE BILL 184

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 5-27-227 TO STRENGTHEN THE
9 LAW PROHIBITING THE SALE OR DISTRIBUTION OF TOBACCO
10 PRODUCTS TO MINORS; AND FOR OTHER PURPOSES."

11
12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

13
14 SECTION 1. Arkansas Code 5-27-227 is hereby amended to read as follows:

15 "5-27-227. Providing minors with tobacco and cigarette papers.

16 (a) It shall be unlawful for any person, other than the parent or
17 guardian, to give, barter, or sell to a minor under eighteen (18) years of
18 age, tobacco in any form or cigarette papers.

19 (b) It shall be unlawful for any person who has been issued a permit or
20 a license under the Arkansas Tobacco Product Tax Act of 1977, as amended, to
21 fail to display prominently at each retail sales counter or each vending
22 machine, a sign that meets the following requirements:

23 (1) The sign shall contain in red lettering at least one-half
24 inch high on a white background 'IT IS A VIOLATION OF THE LAW FOR CIGARETTES
25 OR OTHER TOBACCO PRODUCTS TO BE SOLD TO A PERSON UNDER THE AGE OF 18', and

26 (2) The sign shall include a depiction of a pack of cigarettes at
27 least two inches high defaced by a red diagonal diameter of a surrounding red
28 circle.

29 (c) It shall be unlawful for any manufacturer whose tobacco products
30 are distributed in this state and any person who has been issued a permit or
31 license under the Arkansas Tobacco Tax Act of 1977, as amended, to distribute
32 free samples of any tobacco product or coupons that entitle the holder of the
33 coupon to any free sample of any tobacco product:

34
35 (1) *in or on any public street or sidewalk within five hundred*
36 *feet (500 ft.) of any playground, public school or other facility when such*

1 facility is being used primarily by persons under eighteen (18) years of age
2 for recreational, education or other purposes, or

3 (2) to any person under eighteen (18) years of age.

4 (d) (1) Except as provided in (2) below, it shall be unlawful for any
5 person who owns or leases tobacco vending machines to place a tobacco vending
6 machine in a public place. For purposes of this paragraph, 'public place'
7 means a publicly or privately owned place to which the public or substantial
8 numbers of people have access.

9 (2) Tobacco vending machines may be placed in restricted areas
10 within a factory, business, office or other structure to which members of the
11 general public are not given access; in permitted premises which have a permit
12 for the sale of dispensing of alcoholic beverages for on-premises consumption
13 which restrict entry to persons age twenty-one (21) or older; or places where
14 the vending machine is under the supervision of the owner or an employee of
15 the owner.

16 (e) Any person who violates any of the provisions in this section shall
17 be deemed guilty of a misdemeanor and subject to the following penalties:

18 (1) A fine of \$100 for the first violation;

19 (2) A fine of \$250 plus revocation and suspension of the permit
20 or license to distribute or sell tobacco products from the site and vending
21 machine for seven (7) days where the violation occurred for a violation
22 occurring within two years of the first violation;

23 (3) A fine of \$500 plus revocation and suspension of the permit
24 or license to distribute or sell tobacco products from the site and vending
25 machine for not less than one (1) month nor more than six (6) months for a
26 third violation occurring within two years of the first violation;

27 (4) A fine of \$1,000 plus revocation and suspension of the permit
28 or license to distribute or sell tobacco products from the site and vending
29 machine for not less than nine (9) months nor more than eighteen (18) months
30 for each additional violation occurring within two years of the first
31 violation;

32 Upon any revocation or suspension of a permit or license under the
33 provisions of this section, the person shall not be issued any new permit or
34 license to distribute or sell tobacco products during the period of suspension
35 or revocation.

1 (f) In addition to the penalties in (e) above, upon the fourth or
2 subsequent violation of subsection (a) within a two year period, all of that
3 person's licenses or permits to distribute or sell tobacco products at all
4 sites, locations and vending machines shall be suspended or revoked and shall
5 not be renewed for a period of not less than nine (9) nor more than eighteen
6 (18) months. Further, that person shall not be issued any new permit or
7 license for not less than nine (9) nor more than eighteen (18) months. It
8 shall be a defense to the penalty imposed under this subsection if the person
9 affirmatively demonstrates that the person has an effective system in place to
10 prevent violations of the prohibition in subsection (a).

11 (g) The person convicted of violating any provision of this Act whose
12 permit and/or license to distribute or sell tobacco products is suspended or
13 revoked shall, upon conviction, surrender to the court all such permits and/or
14 licenses and the court shall transmit those permits and licenses to the
15 Director of the Department of Finance and Administration and instruct the
16 Director of the Department of Finance and Administration to suspend or revoke,
17 and not renew the person's permit and/or license to distribute or sell tobacco
18 products and not to issue any new permit or license to that person for the
19 period of time determined by the court in accordance with this Act."

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21 SECTION 2. All provisions of this Act of a general and permanent nature
22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
23 Revision Commission shall incorporate the same in the Code.

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25 SECTION 3. If any provision of this Act or the application thereof to
26 any person or circumstance is held invalid, such invalidity shall not affect
27 other provisions or applications of the Act which can be given effect without
28 the invalid provision or application, and to this end the provisions of this
29 Act are declared to be severable.

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31 SECTION 4. All laws and parts of laws in conflict with this Act are
32 hereby repealed.

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34 /s/Snyder, et al
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APPROVED: 3-14-91

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