

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Hoofman**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO REGULATE AND CONTROL THE SALE OF TOBACCO
9 PRODUCTS TO MINORS; TO REQUIRE THE POSTING OF WARNING
10 SIGNS BY EACH RETAILER OF TOBACCO PRODUCTS AND GENERAL
11 TOBACCO PRODUCTS VENDOR IN ARKANSAS; TO PROVIDE FOR
12 PENALTIES FOR VIOLATIONS OF THE ACT; TO AMEND ARKANSAS
13 §26-57-216 TO PLACE A MORATORIUM ON THE ISSUANCE OF
14 LICENSES FOR THE SALE OF CIGARETTES AND TOBACCO PRODUCTS
15 BY VENDING MACHINES; TO AMEND ARKANSAS CODE §26-57-219 TO
16 INCREASE THE ANNUAL PRIVILEGE TAX OR FEE FOR CERTAIN
17 RETAIL OUTLETS AND VENDING MACHINES WHERE TOBACCO PRODUCTS
18 ARE SOLD; AND FOR OTHER PURPOSES."

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. This Act may be known and cited as the "Sale of Tobacco
23 Products to Minors Control Act" and shall be supplemental and in addition to
24 all other laws regulating the sale of tobacco products and the taxing of
25 vending machines.

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27 SECTION 2. The General Assembly finds that:

28 (1) approximately 390,000 Americans die each year from diseases caused
29 by cigarette smoking,

30 (2) the Surgeon General of the Public Health Service has determined
31 that smoking is the leading cause of preventable death in this country,

32 (3) nicotine in tobacco has been found by the 1988 report of the
33 Surgeon General to be a powerfully addictive drug, and it is therefore
34 important to prevent young people from using nicotine until they are mature
35 and capable of making an informed and rational decision,

1 (4) most adults who smoke wish to quit, a majority of current adult
2 smokers have tried to quit without success, and one-half of all teenagers who
3 have been smoking for five years or more have made at least one serious but
4 unsuccessful attempt to quit,

5 (5) every day more than 3,000 minors begin smoking,

6 (6) one-half of smokers begin before the age of 18, and 90 percent
7 begin before the age of 21, and

8 (7) minors spend more than one billion dollars on cigarettes and other
9 tobacco products every year.

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11 SECTION 3. (a) On and after the effective date of this act, in
12 addition to the requirements of Subchapter 2 of Chapter 57 of Title 26 of the
13 Arkansas Code of 1987, Annotated;

14 (1) it shall be unlawful for any person that holds a license
15 issued under the Arkansas Tobacco Products Tax Act of 1977, Arkansas Code
16 §§26-57-201 et seq., or an employee or agent of that person, to sell or
17 distribute a tobacco product:

18 (A) to any individual that the license holder, employee, or
19 agent knows is under eighteen (18) years of age;

20 (B) to any individual, other than an individual who appears
21 without reasonable doubt to be over eighteen (18) years of age, who does not
22 present a driver's license or other generally accepted means of identification
23 that describes the individual as eighteen (18) years of age or older, contains
24 a likeness of the individual, and appears on its face to be valid;

25 (C) through a vending machine to any individual who is
26 under eighteen (18) years of age; or

27 (D) in any form other than an original factory-wrapped
28 package.

29 (2) No person shall be liable under subdivision (a)(1) of this
30 section for more than one violation on any one day.

31 (b)(1) it shall be unlawful for any person that holds a license to sell
32 or distribute a tobacco product issued under the Arkansas Tobacco Products Tax
33 Act of 1977, Arkansas Code §§26-57-201 et seq., or an employee or agent of
34 that person to distribute free samples of any tobacco product.

35 (2) Subsection (b) of this section shall not apply to

1 distribution by an individual to family members or acquaintances on private
2 property that is not open to the public.

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4 SECTION 4. (a) On and after the effective date of this act, in addition
5 to the requirements of Subchapter 2 of Chapter 57 of Title 26 of the Arkansas
6 Code of 1987, Annotated, every retailer of cigarettes and tobacco products and
7 every general tobacco products vendor who holds a license issued under the
8 Arkansas Tobacco Products Tax Act of 1977, Arkansas Code §§26-57-201 et seq.,
9 or an employee or agent of that person shall be required to post at every
10 retail location and on every vending machine where tobacco products are sold a
11 warning sign to individuals under eighteen (18) years of age that it is
12 unlawful for them to purchase cigarettes and tobacco products.

13 (b) Signs required in subsection (a) of this section shall be provided
14 without charge by the Department of Finance and Administration to licensee
15 retailers or vendors.

16 (c) Signs shall contain in red lettering at least one-half (1/2) inch
17 high on a white background and state "IT IS A VIOLATION OF THE LAW FOR
18 CIGARETTES OR OTHER TOBACCO PRODUCTS TO BE SOLD TO ANY PERSON UNDER THE AGE OF
19 18".

20 (d) Signs shall include a depiction of a pack of cigarettes at least
21 two (2) inches high defaced by a red diagonal diameter of a surrounding red
22 circle.

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24 SECTION 5. Any person who holds a license to sell or distribute a
25 tobacco product issued under the Arkansas Tobacco Products Tax Act of 1977,
26 Arkansas Code §§26-57-201 et seq., or who is an employee or agent of that
27 person, and who pleads guilty, nolo contendere, or is found guilty of
28 violating the provisions of Sections 3 or 4 of this act shall be guilty of a
29 Class C misdemeanor for the first offense and a Class B misdemeanor for each
30 additional offense.

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32 SECTION 6. Arkansas Code §26-57-216 is hereby amended to read as
33 follows:

34 "26-57-216. Permits and licenses - Number and location.

35 (a) The director is empowered to determine in his reasonable

1 discretion, and in accordance with the provisions of this subchapter, the
2 number of licenses to be granted in the state, the locations thereof, and the
3 persons to whom they are to be granted.

4 (b) Provided, however, no tobacco products vending machine licenses
5 shall be issued for any vending machine that did not have on January 1, 1991
6 an unexpired and valid cigarette vending machine permit issued by the State of
7 Arkansas Department of Finance and Administration."

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9 SECTION 7. Arkansas Code §26-57-219 is hereby amended to read as
10 follows:

11 "26-57-219. Permits and licenses - Annual privilege tax.

12 The annual privilege tax or fee for each permit or license authorized by
13 §26-57-215 is established as follows:

- 14 (1) Wholesale Cigarette Permit\$ 50.00
- 15 (2) Wholesale Tobacco Permit..... 25.00
- 16 (3) General Tobacco Products Vending Permit 300.00
- 17 (4) Restricted Tobacco Products Vending Permit (1-2
18 machines) 150.00
- 19 (5) Tobacco Products Vending Machine License, per machine
20 50.00
- 21 (6) Retail Cigarette Permit 50.00
- 22 (7) Retail Tobacco Permit 5.00
- 23 (8) Salesman's License 10.00
- 24 (9) Dealer's License 25.00"

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26 SECTION 8. All provisions of this act of a general and permanent nature
27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
28 Revision Commission shall incorporate the same in the Code.

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30 SECTION 9. If any provision of this act or the application thereof to
31 any person or circumstance is held invalid, such invalidity shall not affect
32 other provisions or applications of the act which can be given effect without
33 the invalid provision or application, and to this end the provisions of this
34 act are declared to be severable.

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1 SECTION 10. All laws and parts of laws in conflict with this act are
2 hereby repealed.

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