

1 HB286
2 147846-2
3 By Representative Jones
4 RFD: Judiciary
5 First Read: 14-FEB-13

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8 SYNOPSIS: Currently, the sale, possession, use, or
9 transportation of tobacco and tobacco products by a
10 minor is prohibited.

11 This bill would also prohibit the sale,
12 possession, use, or transportation of alternative
13 nicotine products by a minor.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To amend Sections 28-11-2 and 28-11-13, Code of
20 Alabama 1975, relating to the prohibition of the sale, use,
21 possession, and transportation of tobacco and tobacco products
22 by a minor; to prohibit the sale, use, possession, and
23 transportation of alternative nicotine products by a minor.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 28-11-2 and 28-11-13, Code of
26 Alabama 1975, are amended to read as follows:

27 "§28-11-2.

1 "For purposes of this chapter, the following terms
2 have the following meanings unless the context clearly
3 indicates otherwise:

4 "(1) ALTERNATIVE NICOTINE PRODUCT. The term
5 alternative nicotine product includes electronic cigarettes
6 and alternative nicotine products as follows:

7 "a. Electronic cigarettes. An electronic cigarette
8 is an electronic product or device that produces a vapor that
9 delivers nicotine or other substances to the person inhaling
10 from the device to simulate smoking, and is likely to be
11 offered to, or purchased by, consumers as an electronic
12 cigarette, electronic cigar, electronic cigarillo, or
13 electronic pipe.

14 "The term "electronic cigarette" does not include
15 any of the following:

16 "1. A cigarette or other tobacco product as defined
17 in this section.

18 "2. A product that is a drug under 21 U.S.C.
19 §321(g) (1).

20 "3. A product that is a device under 21 U.S.C.
21 §321(h).

22 "4. A combination product that is a device under 21
23 U.S.C. §353(g).

24 "b. Alternative nicotine products. The term includes
25 products other than electronic cigarettes that consists of or
26 contains nicotine that can be ingested into the body by

1 chewing, smoking, absorbing, dissolving, inhaling, or by any
2 other means.

3 "The term "alternative nicotine products" does not
4 include the following:

5 "1. A cigarette or other tobacco product as defined
6 in this section.

7 "2. A product that is a drug under 21 U.S.C.
8 §321g) (1).

9 "3. A product that is a device under 21 U.S.C.
10 §321(h).

11 "4. A combination product described in 21 U.S.C.
12 §353(g).

13 "~~(1)~~(2) BOARD. The Alabama Alcoholic Beverage
14 Control Board.

15 "~~(2)~~(3) DISTRIBUTION. To sell, barter, exchange, or
16 give tobacco or tobacco products for promotional purposes or
17 for gratis.

18 "~~(3)~~(4) MINOR. Any person under the age of 19 years.

19 "~~(4)~~(5) PERSON. Any natural person, firm,
20 partnership, association, company, corporation, or other
21 entity. Person does not include a manufacturer or wholesaler
22 of tobacco or tobacco products nor does it include employees
23 of the permit holder.

24 "~~(5)~~(6) PROOF OF IDENTIFICATION. Any one or more of
25 the following documents used for purposes of determining the
26 age of a person purchasing, attempting to purchase, or
27 receiving tobacco or tobacco products:

1 "a. A valid driver's license issued by any state and
2 bearing the photograph of the presenting person.

3 "b. United States Uniform Service Identification.

4 "c. A valid passport.

5 "d. A valid identification card issued by any state
6 agency for the purpose of identification and bearing the
7 photograph and date of birth of the presenting individual.

8 "e. For legal mail order purposes only a valid
9 signed certification that will verify the individual is 19
10 years of age or older.

11 "~~(6)~~ (7) RESPONSIBLE VENDOR PROGRAM. A program
12 administered by the board to encourage and support vendors in
13 training employees in legal and responsible sales practices.

14 "~~(7)~~ (8) SAMPLER. Any business or person who
15 distributes tobacco or tobacco products for promotional
16 purposes.

17 "~~(8)~~ (9) SELF-SERVICE DISPLAY. A display that
18 contains tobacco or tobacco products and is located in an area
19 openly accessible to purchasers at retail and from which such
20 purchasers can readily access tobacco or tobacco products
21 without the assistance of the tobacco permit holder or an
22 employee of the permit holder. A display case that holds
23 tobacco or tobacco products behind locked doors does not
24 constitute a self-service display.

25 "~~(9)~~ (10) TOBACCO or TOBACCO PRODUCTS. Tobacco or any
26 product containing tobacco, including, but not limited to, the
27 following:

- 1 "a. Cigarettes.
- 2 "b. Cigars.
- 3 "c. Chewing tobacco.
- 4 "d. Snuff.
- 5 "e. Pipe tobacco.
- 6 "f. Smokeless tobacco.

7 "~~(10)~~(11) TOBACCO PERMIT. A permit issued by the
8 board to allow the permit holder to engage in the distribution
9 of tobacco or tobacco products at the location identified in
10 the permit.

11 "~~(11)~~(12) TOBACCO SPECIALTY STORE. A business that
12 derives at least 75 percent of its revenue from tobacco or
13 tobacco products.

14 "\$28-11-13.

15 ~~Unlawful behavior of minors. Unlawful for minors to~~
16 ~~purchase, use, possess, or transport tobacco, tobacco~~
17 ~~products, or alternative nicotine products.~~

18 "(a) It is unlawful for any minor to purchase, use,
19 possess, or transport tobacco, or tobacco products, or
20 alternative nicotine products within this state. It shall not
21 be unlawful for a minor employee of a tobacco, tobacco
22 product, or alternative nicotine product permit holder to
23 handle, transport, or sell tobacco, ~~or~~ tobacco products, or
24 alternative tobacco products if the minor employee is acting
25 within the line and scope of employment and the permit holder,
26 or an employee of the permit holder who is 21 years of age or
27 older, is present.

1 "(b) It is unlawful for any minor to present or
2 offer to another person proof of identification which is
3 false, fraudulent, or not actually his or her own proof of
4 identification in order to buy, receive, or otherwise obtain,
5 or attempt to buy, receive, or otherwise obtain, any tobacco,
6 ~~or~~ tobacco products, or alternative nicotine products."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.