

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

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§28-11-2.

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

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

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

1 "The term "electronic cigarette" does not include
2 any of the following:

3 "1. A cigarette or other tobacco product as defined
4 in this section.

5 "2. A product that is a drug under 21 U.S.C.
6 §321(q) (1).

7 "3. A product that is a device under 21 U.S.C.
8 §321(h).

9 "4. A combination product that is a device under 21
10 U.S.C. §353(q).

11 ~~"b. Alternative nicotine products. The term includes~~
12 ~~products other than electronic cigarettes that consists of or~~
13 ~~contains nicotine that can be ingested into the body by~~
14 ~~chewing, smoking, absorbing, dissolving, inhaling, or by any~~
15 ~~other means.~~

16 "The term "alternative nicotine products" does not
17 include the following:

18 "1. A cigarette or other tobacco product as defined
19 in this section.

20 "2. A product that is a drug under 21 U.S.C.
21 §321q) (1).

22 "3. A product that is a device under 21 U.S.C.
23 §321(h).

24 "4. A combination product described in 21 U.S.C.
25 §353(q).

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

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

6 "~~(3)~~(4) MINOR. Any person under the age of 19 years.

7 "~~(4)~~(5) PERSON. Any natural person, firm,
8 partnership, association, company, corporation, or other
9 entity. Person does not include a manufacturer or wholesaler
10 of tobacco or tobacco products nor does it include employees
11 of the permit holder.

12 "~~(5)~~(6) PROOF OF IDENTIFICATION. Any one or more of
13 the following documents used for purposes of determining the
14 age of a person purchasing, attempting to purchase, or
15 receiving tobacco or tobacco products:

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

18 "b. United States Uniform Service Identification.

19 "c. A valid passport.

20 "d. A valid identification card issued by any state
21 agency for the purpose of identification and bearing the
22 photograph and date of birth of the presenting individual.

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

1 "~~(6)~~(7) RESPONSIBLE VENDOR PROGRAM. A program
2 administered by the board to encourage and support vendors in
3 training employees in legal and responsible sales practices.

4 "~~(7)~~(8) SAMPLER. Any business or person who
5 distributes tobacco or tobacco products for promotional
6 purposes.

7 "~~(8)~~(9) SELF-SERVICE DISPLAY. A display that
8 contains tobacco or tobacco products and is located in an area
9 openly accessible to purchasers at retail and from which such
10 purchasers can readily access tobacco or tobacco products
11 without the assistance of the tobacco permit holder or an
12 employee of the permit holder. A display case that holds
13 tobacco or tobacco products behind locked doors does not
14 constitute a self-service display.

15 "~~(9)~~(10) TOBACCO or TOBACCO PRODUCTS. Tobacco or any
16 product containing tobacco, including, but not limited to, the
17 following:

- 18 "a. Cigarettes.
- 19 "b. Cigars.
- 20 "c. Chewing tobacco.
- 21 "d. Snuff.
- 22 "e. Pipe tobacco.
- 23 "f. Smokeless tobacco.

24 "~~(10)~~(11) TOBACCO PERMIT. A permit issued by the
25 board to allow the permit holder to engage in the distribution

1 of tobacco or tobacco products at the location identified in
 2 the permit.

3 "~~(11)~~(12) TOBACCO SPECIALTY STORE. A business that
 4 derives at least 75 percent of its revenue from tobacco or
 5 tobacco products.

6 "§28-11-13.

7 ~~Unlawful behavior of minors.~~ Unlawful for minors to
 8 purchase, use, possess, or transport tobacco, tobacco
 9 products, or alternative nicotine products.

10 "(a) It is unlawful for any minor to purchase, use,
 11 possess, or transport tobacco, ~~or~~ tobacco products, or
 12 alternative nicotine products within this state. It shall not
 13 be unlawful for a minor employee of a tobacco, tobacco
 14 product, or alternative nicotine product permit holder to
 15 handle, transport, or sell tobacco, ~~or~~ tobacco products, or
 16 alternative tobacco products if the minor employee is acting
 17 within the line and scope of employment and the permit holder,
 18 or an employee of the permit holder who is 21 years of age or
 19 older, is present.

20 "(b) It is unlawful for any minor to present or
 21 offer to another person proof of identification which is
 22 false, fraudulent, or not actually his or her own proof of
 23 identification in order to buy, receive, or otherwise obtain,
 24 or attempt to buy, receive, or otherwise obtain, any tobacco, ~~or~~
 25 tobacco products, or alternative nicotine products."

1 (c) If a minor is cited for any violation under this
2 section, the citing agency shall notify a parent, legal
3 guardian, or legal custodian of the minor unless the minor has
4 been emancipated by court order or operation of law.

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 04-APR-13.

Jeff Woodard
Clerk

Senate

20-MAY-13

Amended and Passed

House

20-MAY-13

Concurred in Sen-
ate Amendment