

2021 Regular Session

HOUSE BILL NO. 473

BY REPRESENTATIVE MINCEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TOBACCO/TOBACCO PRODUCTS: Provides relative to the age limitations to purchase vapor products

1 AN ACT

2 To amend and reenact R.S. 14:91.6(A) and 91.8(C), (D), (E), and (F)(1) and (2)(introductory
3 paragraph), R.S. 26:793(C)(1), 910, 910.1(A), 911(A)(1), 917(A)(introductory
4 paragraph), and R.S. 47:851(C)(2), and to enact R.S. 26:901.1, relative to tobacco
5 products; to provide relative to alternative nicotine products and vapor products; to
6 provide relative to the unlawful distribution, sale, and possession; to raise the
7 minimum age of persons for sale, purchase, and possession; to provide for legislative
8 facts and findings; to require unannounced compliance checks; to require
9 identification under certain circumstances; to provide relative to vending machines
10 and self-service displays; to provide for violations; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 14:91.6(A) and 91.8(C), (D), (E), and (F)(1) and (2)(introductory
13 paragraph) are hereby amended and reenacted to read as follows:

14 §91.6. Unlawful distribution of sample tobacco products, alternative nicotine
15 products, or vapor products to persons under age ~~eighteen~~ twenty-one;
16 penalty

17 A. No person shall distribute or cause to be distributed to persons under
18 ~~eighteen~~ twenty-one years of age a promotional sample of any tobacco product,
19 alternative nicotine product, or vapor product.

20 * * *

1 §91.8. Unlawful sale, purchase, or possession of tobacco, alternative nicotine
2 ~~product products~~, or vapor ~~product products~~; signs required; penalties

3 * * *

4 C. It is unlawful for any manufacturer, distributor, retailer, or other person
5 ~~knowingly~~ to sell or distribute any tobacco product, alternative nicotine product, or
6 vapor product to a person under the age of ~~eighteen~~ twenty-one. However, it shall
7 not be unlawful for a person under the age of ~~eighteen~~ twenty-one to accept receipt
8 of a tobacco product, alternative nicotine product, or vapor product from an
9 employer when required in the performance of such person's duties. At the point of
10 ~~purchase sale~~, a sign, in not less than 30-point type, shall be displayed in a manner
11 conspicuous to both employees and consumers, within any location where tobacco
12 products, alterative nicotine products, vapor products, or vapor paraphernalia and
13 devices are available for purchase, that reads "LOUISIANA LAW PROHIBITS THE
14 SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR
15 VAPOR PRODUCTS, OR VAPOR PARAPHERNALIA AND DEVICES TO
16 PERSONS UNDER AGE ~~18~~ 21". The sign shall also include a notice that displays
17 the telephone number for the Louisiana Tobacco Quitline (1-800-QUIT-NOW) and
18 the website for the Louisiana Tobacco Quitline (www.quitwithusla.org), as
19 determined by the ~~state department of health~~ Louisiana Department of Health.

20 D. It is unlawful for a vending machine operator to place in use a vending
21 machine to vend any tobacco product, alternative nicotine product, or vapor product
22 automatically, unless the machine displays a sign or sticker in not less than 22-point
23 type on the front of the machine stating, "LOUISIANA LAW PROHIBITS THE
24 SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR
25 VAPOR PRODUCTS TO PERSONS UNDER AGE ~~18~~ 21". The sign shall also
26 include a notice that displays the telephone number for the Louisiana Tobacco
27 Quitline (1-800-QUIT-NOW) and the website for the Louisiana Tobacco Quitline
28 (www.quitwithusla.org), as determined by the ~~state department of health~~ Louisiana
29 Department of Health.

1 E. It is unlawful for any person under the age of ~~eighteen~~ twenty-one to ~~buy~~
2 be sold any tobacco product, alternative nicotine product, or vapor product.

3 F.(1) It is unlawful for any person under the age of ~~eighteen~~ twenty-one to
4 possess any tobacco product, alternative nicotine product, or vapor product.

5 (2) However, it shall not be unlawful for a person under the age of ~~eighteen~~
6 twenty-one to possess a tobacco product, alternative nicotine product, or vapor
7 product under any of the following circumstances:

8 * * *

9 Section 2. R.S. 26:793(C)(1), 910, 910.1(A), 911(A)(1), and 917(A)(introductory
10 paragraph) are hereby amended and reenacted and R.S. 26:901.1 is hereby enacted to read
11 as follows:

12 §793. Additional powers of the commissioner

13 * * *

14 C.(1) In order to ensure compliance with laws prohibiting the sale or service
15 of alcoholic beverages, tobacco, alternative nicotine, or vapor products to underage
16 persons, the commissioner shall at least once annually conduct random, unannounced
17 inspections at locations where alcoholic beverages, tobacco, or alternative nicotine,
18 or vapor products are sold, served, or distributed. Persons ~~under~~ over the age of
19 ~~eighteen~~ or sixteen and under the age of twenty-one ~~may~~ shall be enlisted by
20 employees of the office of alcohol and tobacco control to test compliance, but such
21 persons may be used only if the testing is conducted under the direct supervision of
22 such employees and written parental consent has been provided if the person is under
23 the age of eighteen. Any person under the age of eighteen or twenty-one shall either
24 carry the person's own identification showing the person's correct date of birth or
25 shall carry no identification. A person under the age of ~~eighteen~~ or twenty-one who
26 carries identification shall, on request, present it to any seller or server of alcoholic
27 beverages, tobacco, or alternative nicotine or vapor products. In addition, any person
28 under the age of ~~eighteen~~ or twenty-one enlisted under this Subsection shall
29 truthfully answer any questions about the person's age. Except where expressly

1 authorized in writing by the commissioner in furtherance of the objectives of this
2 Section, any other use of persons under the age of ~~eighteen~~ or twenty-one to test
3 compliance with the provisions of this Section or any other prohibition of like or
4 similar import shall be unlawful and the person or persons responsible for such use
5 shall be subject to the penalties prescribed in this Title or R.S. 14:91.6, 91.8(H), 92,
6 or 93.11. Unannounced follow-up compliance checks of all noncompliant retailers
7 are required within three months of any violation of this Chapter.

8 * * *

9 §901.1. Facts and findings

10 A. The federal Further Consolidated Appropriations Act of 2020 (P.L. 116-
11 94) raised the federal minimum age for sale of tobacco products from eighteen years
12 old to twenty-one years old. The Section of that Act providing for this change
13 became known as "Tobacco 21" or "T21". The new federal minimum age of sale of
14 tobacco and tobacco products was effective immediately and applies to all retail
15 establishments and persons with no exceptions.

16 B.(1) Federal enforcement of the federal change in age is through the federal
17 block grant program for mental health and substance abuse. In 1992, Congress
18 enacted the Alcohol, Drug Abuse, and Mental Health Administration Reorganization
19 Act (P.L. 102-321), which included an amendment (Section 1926 known as the
20 Synar Amendment) aimed at decreasing youth access to tobacco. This amendment
21 requires states to enact and enforce laws regarding tobacco and tobacco product sales
22 in compliance with federal law in order to receive their full Substance Abuse
23 Prevention and Treatment Block Grant (SABG) award.

24 (2) T21 contained a transition period of three years from the date of
25 enactment before dollars may be withheld from a SABG award to a state for
26 noncompliance. The Act requires states to document and report to the secretary of
27 the federal Department of Health and Human Services efforts made to come into
28 compliance with federal law.

1 (1) The machine is located in an establishment to which persons under the
2 age of ~~eighteen~~ twenty-one are denied access.

3 (2) The machine is located in facilities where the dealer ensures that no
4 person younger than ~~eighteen~~ twenty-one years of age is present or permitted to enter
5 at any time and the machine is located within the unobstructed line of sight of a
6 dealer or a dealer's agent or employee who is responsible for preventing persons
7 younger than ~~eighteen~~ twenty-one years of age from purchasing tobacco products,
8 alternative nicotine products, or vapor products through that machine.

9 §910.1. Self-service displays

10 A. In order to prevent persons under ~~eighteen~~ twenty-one years of age from
11 purchasing or receiving tobacco products, alternative nicotine products, or vapor
12 products from self-service displays, the sale or delivery of such products through a
13 self-service display is prohibited unless the machine is a vending machine as defined
14 in R.S. 26:910 that complies with the terms and provisions of that Section.

15 * * *

16 §911. Acts prohibited

17 A. No person, agent, associate, employee, representative, or servant of any
18 person shall permit any of the following acts to be done on or about any premises
19 which sells or offers for sale tobacco products, alternative nicotine products, or vapor
20 products:

21 (1) Sell or serve tobacco products, alternative nicotine products, or vapor
22 products over-the-counter in a retail establishment to any person under the age of
23 ~~eighteen unless such person submits~~ twenty-one. All persons engaging in the retail
24 sale of tobacco products, alternative nicotine products, or vapor products shall check
25 the identification of tobacco purchasers to establish the age of the purchaser. A
26 person shall verify age by submitting a driver's license, selective service card, or
27 other lawful identification which on its face establishes the age of the person as

1 ~~eighteen~~ twenty-one years or older and there is no reason to doubt the authenticity
2 or correctness of the identification.

3 * * *

4 §917. Violations by employee; employer liability

5 A. Sale of tobacco products, alternative nicotine products, or vapor products
6 to a ~~minor~~ person under twenty-one years of age by a retail dealer's agent, associate,
7 employee, representative, or servant shall be considered an act of the retail dealer for
8 purposes of suspension, revocation, or assessment of civil penalties unless all of the
9 following conditions exist:

10 * * *

11 Section 3. R.S. 47:851(C)(2) is hereby amended and reenacted to read as follows:

12 §851. Monthly reports required; dealers receiving unstamped cigarettes, cigars, and
13 smoking tobaccos; dealers receiving certain items for which taxes are not paid;
14 vending machine restrictions

15 * * *

16 C. Vending machine operators.

17 * * *

18 (2) In accordance with R.S. 14:91.8(D), vending machine operators shall
19 affix a sign or sticker in not less than 22-point type on the front of each machine
20 stating, "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS,
21 ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS TO
22 PERSONS UNDER AGE ~~18~~ 21".

23 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 473 Engrossed

2021 Regular Session

Mincey

Abstract: Raises the minimum age for the prohibition of the distribution or sale of tobacco, alternative nicotine products, or vapor products from persons under the age of 18 to those under the age of 21.

Present law prohibits the distribution of promotional samples of any tobacco product, alternative nicotine product, or vapor product to persons under the age of 18.

Proposed law raises the minimum age from 18 to 21 years.

Present law prohibits manufacturers, distributors, retailers, or other persons from selling or distributing any tobacco product, alternative nicotine product, or vapor product to persons under the age of 18.

Proposed law raises the minimum age from 18 to 21 years and removes the requirement for knowledge in the sale or distribution of any tobacco product, alternative nicotine product, or vapor product to persons under the age of 21.

Proposed law provides for legislative facts and findings.

Present law further requires signs at points of sale and on vending machines for tobacco products.

Proposed law requires signs at the point of sale to be placed in a manner conspicuous to both employees and consumers, within any location where tobacco products, alternative nicotine products, or vapor products are available for purchase.

Present law prohibits any person under the age of 18 from buying any tobacco product, alternative nicotine product, or vapor product.

Proposed law changes present law by prohibiting the sale of any tobacco product, alternative nicotine product, or vapor product to persons under the age of 21.

Present law prohibits any person under the age of 18 from possessing any tobacco product, alternative nicotine product, or vapor product, unless accompanied by a parent, spouse, or legal guardian who is over 21 years old, or in a private residence, or when the product is handled in the course and scope of employment and required in the performance of such person's duties.

Proposed law changes the age to 21.

Present law requires the commissioner of alcohol and tobacco control to annually conduct random, unannounced inspections at locations where tobacco products are sold and distributed. The office of alcohol and tobacco control may enlist persons under the age of 18 to test compliance if the testing is under the direct supervision of employees of the office of alcohol and tobacco control and written parental consent has been provided.

Proposed law changes present law allowing persons between the age of 16 and 21 to be enlisted to test compliance. Further requires unannounced follow-up compliance checks of all noncompliant retailers within three months of any violation of proposed law.

Present law allows for the purchase of tobacco products from vending machines and self-service displays by persons 18 years of age or older.

Proposed law changes present law by raising the minimum age from 18 to 21 years of age.

Present law prohibits the sale of tobacco products to anyone under the age of 18.

Proposed law amends present law by raising the minimum age from 18 to 21 years of age for persons who may be sold tobacco products. Proposed law adds to present law by requiring that all persons engaging in the sale of tobacco products check the identification of any person attempting to purchase such product.

Present law requires that signs at points of sale and on vending machines for tobacco products reflect "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE 18".

Proposed law updates the wording on signs required to be posted to reflect the minimum age change from 18 to 21.

(Amends R.S. 14:91.6(A) and 91.8(C), (D), (E), and (F)(1) and (2)(intro. para.), R.S. 26:793(C)(1), 910, 910.1(A), 911(A)(1), 917(A)(intro. para.), and R.S. 47:851(C)(2); Adds R.S. 26:901.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Change the term "compliance checks" to "inspections".
2. Delete the requirement that all compliance checks be made publicly available.
3. Remove the requirement for identification checks of persons who appear to be under 30 years of age and require checks for all persons.