
HOUSE COMMITTEE AMENDMENTS

2019 Regular Session

Amendments proposed by House Committee on Health and Welfare to Original House Bill
No. 38 by Representative Hoffmann

1 AMENDMENT NO. 1**2** On page 1, delete lines 2 through 4 in their entirety and insert the following:**3** "To amend and reenact R.S. 14:91.6(A) and 91.8(C) through (E), R.S.
4 26:793(C)(1), 910, 910.1(A), 911(A)(1), and 917, and R.S. 47:851(C)(2) and
5 to repeal R.S. 14:91.8(F), relative to offenses affecting general morality; to
6 provide relative to the unlawful distribution or sale of tobacco, alternative"**7** AMENDMENT NO. 2**8** On page 1, delete line 6 in its entirety and insert in lieu thereof "distribution or sale of any
9 tobacco, alternative nicotine, or"**10** AMENDMENT NO. 3**11** On page 1, line 7, after "product;" and before "and" insert "to require unannounced
12 compliance checks; to increase the age of persons permitted to receive tobacco products
13 from vending machines; to increase the age of persons permitted to receive tobacco products
14 from self-serve displays; to require identification under certain circumstances;"**15** AMENDMENT NO. 4**16** On page 1, delete lines 9 and 10 in their entirety and insert in lieu thereof "Section 1. R.S.
17 14:91.6(A) and 91.8(C) through (E) are hereby amended and reenacted to read as follows:"**18** AMENDMENT NO. 5**19** On page 1, delete line 18 in its entirety and insert in lieu thereof "§91.8. Unlawful sale;
20 ~~purchase, or possession~~ of tobacco, alternative nicotine"**21** AMENDMENT NO. 6**22** On page 2, line 2, delete "knowingly"**23** AMENDMENT NO. 7**24** On page 2, line 7, delete "purchase" and insert "sale"**25** AMENDMENT NO. 8**26** On page 2, line 7, after "displayed" insert "in a manner conspicuous to both employees and
27 consumers, within six feet of each register and any other location where tobacco products,
28 alternative nicotine products, or vapor products are available for purchase,"**29** AMENDMENT NO. 9**30** On page 2, line 24, delete "buy" and insert "be sold"**31** AMENDMENT NO. 10**32** On page 2, delete lines 26 and 27 in their entirety

1 AMENDMENT NO. 11

2 On page 3, delete lines 1 through 5 in their entirety

3 AMENDMENT NO. 12

4 On page 3, after line 6, insert the following:

5 "Section 2. R.S. 26:793(C)(1), 910, 910.1(A), 911(A)(1), and 917 are hereby
6 amended and reenacted to read as follows:

7 §793. Violations by employee; employer liability

8 * * *

9 C.(1) In order to ensure compliance with laws prohibiting the sale or
10 service of alcoholic beverages, tobacco, alternative nicotine, or vapor
11 products to underage persons, the commissioner shall at least once annually
12 conduct random, unannounced inspections compliance checks at locations
13 where alcoholic beverages, tobacco, or alternative nicotine, or vapor products
14 are sold, served, or distributed. Persons under over the age of ~~eighteen or~~
15 twenty-one ~~may shall~~ be enlisted by employees of the office of alcohol and
16 tobacco control to test compliance, but such persons may be used only if the
17 testing is conducted under the direct supervision of such employees ~~and~~
18 ~~written parental consent has been provided if the person is under the age of~~
19 ~~eighteen~~. Any person under the age of eighteen or twenty-one shall either
20 carry the person's own identification showing the person's correct date of
21 birth or shall carry no identification. A person under the age of ~~eighteen or~~
22 twenty-one who carries identification shall, on request, present it to any seller
23 or server of alcoholic beverages, tobacco, or alternative nicotine or vapor
24 products. In addition, any person under the age of ~~eighteen or~~ twenty-one
25 enlisted under this Subsection shall truthfully answer any questions about the
26 person's age. Except where expressly authorized in writing by the
27 commissioner in furtherance of the objectives of this Section, any other use
28 of persons under the age of ~~eighteen or~~ twenty-one to test compliance with
29 the provisions of this Section or any other prohibition of like or similar
30 import shall be unlawful and the person or persons responsible for such use
31 shall be subject to the penalties prescribed in this Title or R.S. 14:91.6,
32 91.8(H), 92, or 93.11. Unannounced follow-up compliance checks of all
33 noncompliant retailers are required within three months of any violation of
34 this Chapter or the Prevention of Youth Access to Tobacco Law. The results
35 of all compliance checks shall be made publicly available.

36 * * *

37 §910. Vending machines

38 In order to prevent persons under ~~eighteen~~ twenty-one years of age
39 from purchasing or receiving tobacco products, alternative nicotine products,
40 or vapor products from vending machines, the sale or delivery of such
41 products through a vending machine is prohibited unless either of the
42 following apply:

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

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

1 §910.1. Self-service displays

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

8 * * *

9 §911. Acts prohibited

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

14 (1) Sell or serve tobacco products, alternative nicotine products, or
15 vapor products over-the-counter in a retail establishment to any person under
16 the age of ~~eighteen~~ twenty-one. All persons engaging in the retail sale of
17 tobacco products, alternative nicotine products, or vapor products shall check
18 the identification of tobacco purchasers to establish the age of the purchaser
19 if the person appears to be under the age of thirty. A person shall verify age
20 by submitting unless such person submits a driver's license, selective service
21 card, or other lawful identification which on its face establishes the age of the
22 person as ~~eighteen~~ twenty-one years or older and there is no reason to doubt
23 the authenticity or correctness of the identification.

24 * * *

25 §917. Violations by employee; employer liability

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

31 ~~(1) The employer requires employees to attend a commissioner-~~
32 ~~approved seller training program.~~

33 ~~(2) The employee actually attends the training program.~~

34 ~~(3) The employer does not directly or indirectly encourage the~~
35 ~~employee to violate the prohibited sales provisions of this Chapter.~~

36 B. ~~The commissioner shall establish by administrative rule the~~
37 ~~minimum requirements for an approved seller training program. Upon~~
38 ~~submission of an application which establishes the course curriculum the~~
39 ~~commissioner may approve seller training programs with the minimum~~
40 ~~requirements. Training courses may be approved which are offered through~~
41 ~~private seminars or by accredited colleges or universities. The commissioner~~
42 ~~may charge an application fee in such amount as is necessary to defray the~~
43 ~~expense of processing the application.~~

44 C. ~~The provisions of Subsection A of this Section shall not apply if~~
45 ~~a retail dealer, or lawful retailer of alternative nicotine products or vapor~~
46 ~~products, as applicable, within one hundred eighty days from the hiring of an~~
47 ~~agent, associate, employee, representative, or servant can prove that he has~~
48 ~~made application to have the employee attend a training program or the retail~~
49 ~~dealer or lawful retailer, as applicable, has received an extension of time in~~
50 ~~which to comply from the commissioner because of unavailability of a~~
51 ~~training program.~~

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

54 §851. Monthly reports required; dealers receiving unstamped
55 cigarettes, cigars, and smoking tobaccos; dealers receiving

1 certain items for which taxes are not paid; vending machine
2 restrictions

3 * * *

4 C. Vending machine operators.

5 * * *

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

11 * * *

12
13 Section 4. R.S. 14:91.8(F) is hereby repealed in its entirety."

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.