

SECOND REGULAR SESSION

HOUSE BILL NO. 2168

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GRILL (Sponsor), McCLANAHAN, OXFORD, MOORE,
SCHIEFFER AND MEINERS (Co-sponsors).

Read 1st time February 14, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4402L.01I

AN ACT

To repeal section 407.931, RSMo, and to enact in lieu thereof one new section relating to prohibiting the sale of tobacco to minors, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 407.931, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.931, to read as follows:

407.931. 1. It shall be unlawful for any person to sell, provide or distribute tobacco products to persons under eighteen years of age.

2. By January 1, 2002, all vending machines that dispense tobacco products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than eighteen years of age from purchasing any tobacco product from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than eighteen years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this subsection shall be subject to the penalties contained in subsection 5 of this section. A determination of noncompliance may be made by a local law enforcement agency or the division of liquor control. Nothing in this section shall apply to a

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 vending machine if located in a factory, private club or other location not generally accessible
16 to the general public.

17 3. No person or entity shall sell, provide or distribute any tobacco product or rolling
18 papers to any minor, or sell any individual cigarettes to any person in this state. This subsection
19 shall not apply to the distribution by family members on property that is not open to the public.

20 4. **The authorized punishment for** any person including, but not limited to, a sales
21 clerk, owner or operator who violates subsection 1, 2 or 3 of this section or section 407.927 shall
22 be penalized as follows:

23 (1) For the first offense, [twenty-five] **two hundred fifty** dollars;

24 (2) For the second offense, [one] **five** hundred dollars;

25 (3) For a third and subsequent offense, [two hundred fifty] **one thousand** dollars.

26 5. Any owner of the establishment where tobacco products are available for sale who
27 violates subsection 3 of this section, in addition to the penalties established in subsection 4 of
28 this section, shall be penalized in the following manner:

29 (1) For the first violation per location within two years, a reprimand shall be issued by
30 the division of liquor control;

31 (2) For the second violation per location within two years, the division of liquor control
32 shall issue a citation prohibiting the outlet from selling tobacco products for a [twenty-four-hour]
33 **forty-eight-hour** period;

34 (3) For the third violation per location within two years, the division of liquor control
35 shall issue a citation prohibiting the outlet from selling tobacco products for a [forty-eight-hour]
36 **seventy-two-hour** period;

37 (4) For the fourth and any subsequent violations per location within two years, the
38 division of liquor control shall issue a citation prohibiting the outlet from selling tobacco
39 products for a [five-day] **ten-day** period.

40 6. Any owner of the establishment where tobacco products are available for sale who
41 violates subsection 3 of this section shall not be penalized pursuant to this section if such person
42 documents the following:

43 (1) An in-house or other tobacco compliance employee training program was in place
44 to provide the employee with information on the state and federal regulations regarding tobacco
45 sales to minors. Such training program must be attended by all employees who sell tobacco
46 products to the general public;

47 (2) A signed statement by the employee stating that the employee has been trained and
48 understands the state laws and federal regulations regarding the sale of tobacco to minors; and

49 (3) Such in-house or other tobacco compliance training meets the minimum training
50 criteria, which shall not exceed a total of ninety minutes in length, established by the division
51 of liquor control.

52 7. The exemption in subsection 6 of this section shall not apply to any person who is
53 considered the general owner or operator of the outlet where tobacco products are available for
54 sale if:

55 (1) Four or more violations per location of subsection 3 of this section occur within a
56 one-year period; or

57 (2) Such person knowingly violates or knowingly allows his or her employees to violate
58 subsection 3 of this section.

59 8. If a sale is made by an employee of the owner of an establishment in violation of
60 sections 407.925 to 407.934, the employee shall be guilty of an offense established in
61 subsections 1, 2 and 3 of this section. If a vending machine is in violation of section 407.927,
62 the owner of the establishment shall be guilty of an offense established in subsections 3 and 4
63 of this section. If a sample is distributed by an employee of a company conducting the sampling,
64 such employee shall be guilty of an offense established in subsections 3 and 4 of this section.

65 9. A person cited for selling, providing or distributing any tobacco product to any
66 individual less than eighteen years of age in violation of subsection 1, 2 or 3 of this section shall
67 conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient,
68 and such person shall not be found guilty of such violation if such person raises and proves as
69 an affirmative defense that such individual presented a driver's license or other
70 government-issued photo identification purporting to establish that such individual was eighteen
71 years of age or older.

72 10. Any person adversely affected by this section may file an appeal with the
73 administrative hearing commission which shall be adjudicated pursuant to the procedures
74 established in chapter 621, RSMo.

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