



1       (1) As used in this section:

2       (a) "Cigarette" means any product which contains nicotine, is intended to be burned under  
3 ordinary conditions of use, and consists of:

4       (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

5       (ii) any roll of tobacco wrapped in any substance containing tobacco which, because of  
6 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be  
7 offered to, or purchased by, consumers as a cigarette described in Subsection (a)(i).

8       (b) "Cigarette tobacco" means any product that consists of loose tobacco that contains or  
9 delivers nicotine and is intended for use by consumers in a cigarette. Unless otherwise stated, the  
10 requirements pertaining to cigarettes shall also apply to cigarette tobacco.

11       (c) "Retailer" means any person who sells cigarettes or smokeless tobacco to individuals  
12 for personal consumption or who operates a facility where vending machines or self-service  
13 displays are permitted under this section.

14       (d) "Smokeless tobacco" means any product that consists of cut, ground, powdered, or leaf  
15 tobacco that contains nicotine and that is intended to be placed in the oral cavity.

16       ~~[(1)]~~ (2) Except as provided in Subsection [(2)](3), [the gift or sale of cigarettes or tobacco  
17 in any form through vending machines or tobacco product machines is prohibited in this state.] a  
18 retailer may sell cigarettes and smokeless tobacco only in a direct, face-to-face exchange between  
19 the retailer and the consumer. Examples of methods that are not permitted include vending  
20 machines and self-service displays.

21       (3) The following sales are permitted as exceptions to Subsection (2):

22       (a) mail-order sales, excluding mail-order redemption of coupons and distribution of free  
23 samples through the mail; and

24       (b) vending machines, including vending machines that sell packaged, single cigarettes,  
25 and self-service displays that are located in facilities where the retailer ensures that no person  
26 younger than under 19 years of age is present, or permitted to enter, at any time.

27       ~~[(2) (a) A bar, or a privately owned and operated club or association that has a private club~~  
28 ~~liquor license under Title 32A, Chapter 5, or that requires membership and charges a membership~~  
29 ~~fee, may maintain cigarette or tobacco product vending machines on its premises.]~~

30       ~~[(b) A workplace may maintain cigarette or tobacco product vending machines for its adult~~  
31 ~~employees, in an area not available to the general public.]~~

- 1            [~~(3)~~] (4) Violation of this section is a:
- 2            (a) class C misdemeanor on the first offense[~~;~~a] with a minimum fine of \$100;
- 3            (b) class B misdemeanor on the second offense[~~;~~] with a minimum fine of \$200; and [a]
- 4            (c) class A misdemeanor on the third and all subsequent offenses with a minimum fine of
- 5            \$300.

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**Legislative Review Note**  
**as of 12-18-97 10:13 AM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**