

2225 (2) (a) Except as provided in Subsection (3), it is unlawful for a manufacturer,
 2226 wholesaler, and retailer to:

2227 (i) give or distribute without charge any smokeless tobacco, chewing tobacco, or
 2228 electronic cigarette product in this state[-];

2229 (ii) sell, offer for sale, or furnish any electronic cigarette product at less than the cost,
 2230 including the amount of any applicable tax, of the product to the manufacturer, wholesaler, or
 2231 retailer; or

2232 (iii) give, distribute, sell, offer for sale, or furnish any electronic cigarette product for
 2233 free or at a lower price because the recipient of the electronic cigarette product makes another
 2234 purchase.

2235 (b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection
 2236 (2)(a)(ii) does not include a discount for:

2237 (i) a physical manufacturer coupon:

2238 (A) that is surrendered to the wholesaler or retailer at the time of sale; and

2239 (B) for which the manufacturer will reimburse the wholesaler or the retailer for the full
 2240 amount of the discount described in the manufacturer coupon and provided to the purchaser;

2241 (ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for the
 2242 full amount of the rebate provided to the purchaser; or

2243 (iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the
 2244 retailer for the full amount of the promotional fund provided to the purchaser.

2245 (c) Any ~~[person]~~ individual who violates this section is guilty of:

2246 (i) a class C misdemeanor for the first offense~~[-, and is guilty of];~~ ~~H→~~ [or] and ~~←H~~

2247 (ii) a class B misdemeanor for any subsequent offense.

2248 (3) ~~[(a)]~~ Smokeless tobacco, chewing tobacco, or an electronic cigarette product may
 2249 be distributed to adults without charge at professional conventions where the general public is
 2250 excluded.

2251 ~~[(b) Subsection (2) does not apply to a retailer, manufacturer, or distributor who gives~~
 2252 ~~smokeless tobacco, chewing tobacco, or an electronic cigarette to a person of legal age upon~~
 2253 ~~the person's purchase of another tobacco product or electronic cigarette.]~~

2254 Section 48. Section 77-39-101 (Effective 07/01/20) is amended to read:

2255 **77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco, and**

2287 (d) If a citation or information is issued, it shall be issued within seven days of the
2288 purchase.

2289 ~~[(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:]~~

2290 ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old, and]~~

2291 ~~[(ii) beginning July 1, 2021, 21 years old.]~~

2292 (3) (a) If an individual under the age of 18 years old is requested to attempt a purchase,
2293 a written consent of that individual's parent or guardian shall be obtained prior to that
2294 individual participating in any attempted purchase.

2295 (b) An individual requested by the peace officer to attempt a purchase may:

2296 (i) be a trained volunteer; or

2297 (ii) receive payment, but may not be paid based on the number of successful purchases
2298 of alcohol, ~~Ĥ→ [a] ←Ĥ~~ tobacco ~~Ĥ→ [product] products ←Ĥ~~ , [or] ~~Ĥ→ [an] ←Ĥ~~ electronic
2298a cigarette ~~Ĥ→ [product] products ←Ĥ~~ , or ~~Ĥ→ [a] ←Ĥ~~ nicotine ~~Ĥ→ [product] products ←Ĥ~~ .

2299 (4) The individual requested by the peace officer to attempt a purchase and anyone
2300 accompanying the individual attempting a purchase may not during the attempted purchase
2301 misrepresent the age of the individual by false or misleading identification documentation in
2302 attempting the purchase.

2303 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
2304 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
2305 purchase of, or possession of alcohol, a ~~[cigar, a cigarette, tobacco in any form, or]~~ tobacco
2306 product, an electronic cigarette product, or a nicotine product if a peace officer directs,
2307 supervises, and monitors the individual.

2308 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
2309 shall be conducted ~~Ĥ→~~ within a 12-month period ~~←Ĥ~~ :

2310 (i) on a random basis at any one retail establishment location, not more often than four
2311 times for the attempted purchase of alcohol; and

2312 (ii) a minimum of two times at a retail establishment that sells tobacco products,
2313 electronic cigarette products, or nicotine products for the attempted purchase of a tobacco
2314 product, an electronic cigarette product, or a nicotine product.

2315 ~~[(i) on a random basis; and]~~

2316 ~~[(ii) within a 12-month period at any one retail establishment location not more often~~
2317 ~~than:]~~

2318 [~~(A) two times for the attempted purchase of:~~]

2319 [~~(I) a cigar;~~]

2320 [~~(II) a cigarette;~~]

2321 [~~(III) tobacco in any form; or~~]

2322 [~~(IV) an electronic cigarette; and~~]

2323 [~~(B) four times for the attempted purchase of alcohol.~~]

2324 (b) This section does not prohibit an investigation or an attempt to purchase ~~Ĥ~~→ [tobacco]

2324a alcohol, a tobacco product, an electronic cigarette product, or a nicotine product ←Ĥ

2325 under this section if:

2326 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a

2327 [~~cigar, a cigarette, tobacco in any form, or~~] tobacco product, an electronic cigarette product, or

2328 a nicotine product to an individual under the age established by Section 32B-4-403 or

2329 76-10-104; and

2330 (ii) the supervising peace officer makes a written record of the grounds for the

2331 reasonable suspicion.

2332 (7) (a) The peace officer exercising direction, supervision, and monitoring of the

2333 attempted purchase shall make a report of the attempted purchase, whether or not a purchase

2334 was made.

2335 (b) The report required by this Subsection (7) shall include:

2336 (i) the name of the supervising peace officer;

2337 (ii) the name of the individual attempting the purchase;

2338 (iii) a photograph of the individual attempting the purchase showing how that

2339 individual appeared at the time of the attempted purchase;

2340 (iv) the name and description of the cashier or proprietor from whom the individual

2341 attempted the purchase;

2342 (v) the name and address of the retail establishment; and

2343 (vi) the date and time of the attempted purchase.

2344 Section 49. **Effective date.**

2345 This bill takes effect on July 1, 2020.