

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1183

Introduced by

Representative DeKrey

1 A BILL for an Act to amend and reenact section 12.1-31-03 of the North Dakota Century Code,  
2 relating to the sale of tobacco to individuals under nineteen years of age and the purchase,  
3 possession, and use of tobacco by individuals under nineteen years of age; to provide a  
4 penalty; and to provide for application.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 12.1-31-03 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **12.1-31-03. Sale of tobacco to ~~minors~~ individuals under nineteen years of age**  
9 **and use by ~~minors~~ individuals under nineteen years of age prohibited.**

- 10 1. It is an infraction for any person to sell or furnish to ~~a minor~~ an individual under  
11 nineteen years of age, or procure for ~~a minor~~ an individual under nineteen years of  
12 age, cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in  
13 which it may be utilized for smoking or chewing. As used in this subsection, "sell"  
14 includes dispensing from a vending machine under the control of the actor.
- 15 2. It is a noncriminal offense for ~~a minor~~ an individual under nineteen years of age to  
16 purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, or  
17 tobacco in any other form in which it may be utilized for smoking or chewing.  
18 However, an individual under nineteen years of age may purchase and possess  
19 and an individual under eighteen years of age may purchase and possess tobacco  
20 as part of a compliance survey program when acting with the permission of the  
21 individual's parent or guardian, if the individual is under eighteen years of age, and  
22 while acting under the supervision of any law enforcement authority. A state  
23 agency, city, county, board of health, tobacco retailer, or association of tobacco

1           retailers may also conduct compliance surveys, after coordination with the  
2           appropriate local law enforcement authority.

- 3           3. A city or county may adopt an ordinance or resolution regarding the sale of  
4           tobacco to ~~minors~~ individuals under nineteen years of age and use of tobacco by  
5           ~~minors~~ individuals under nineteen years of age which includes prohibitions in  
6           addition to those in subsection 1 or 2. Any ordinance or resolution adopted must  
7           include provisions deeming a violation of subsection 2 a noncriminal violation and  
8           must provide for a fee of not less than twenty-five dollars for a minor fourteen  
9           years of age or older who has been charged with an offense under subsection 2  
10          and a fee of not less than twenty-five dollars for an individual under nineteen years  
11          of age who has been charged with an offense under subsection 2. The failure to  
12          post a required bond or pay an assessed fee by an individual found to have  
13          violated the ordinance or resolution is punishable as a contempt of court, except a  
14          minor may not be imprisoned for the contempt.

- 15          4. A minor fourteen years of age or older found to have violated subsection 2 must  
16          pay a fee of twenty-five dollars. An individual under nineteen years of age found to  
17          have violated subsection 2 must pay a fee of twenty-five dollars.

- 18          a. Any individual who has been cited for a violation of subsection 2 may appear  
19          before a court of competent jurisdiction and pay the fee by the time scheduled  
20          for a hearing, or if bond has been posted, may forfeit the bond by not  
21          appearing at the scheduled time. An individual appearing at the time  
22          scheduled in the citation may make a statement in explanation of that  
23          individual's action and the judge may waive, reduce, or suspend the fee or  
24          bond, or both. If the individual cited follows the procedures of this  
25          subdivision, that individual has admitted the violation and has waived the right  
26          to a hearing on the issue of commission of the violation. The bond required to  
27          secure appearance before the court must be identical to the fee. This  
28          subdivision does not allow a citing officer to receive the fee or bond.
- 29          b. If an individual cited for a violation of subsection 2 does not choose to follow  
30          the procedures provided under subdivision a, that individual may request a  
31          hearing on the issue of the commission of the violation cited. The hearing

1 must be held at the time scheduled in the citation or at some future time, not  
2 to exceed ninety days later, set at that first appearance. At the time of a  
3 request for a hearing on the issue on commission of the violation, the  
4 individual cited shall deposit with the court an appearance bond equal to the  
5 fee for the violation cited.

6 c. The failure to post bond or to pay an assessed fee is punishable as a  
7 contempt of court, except a minor may not be imprisoned for the contempt.

8 5. The prosecution must prove the commission of a cited violation under subsection 2  
9 by a preponderance of the evidence.

10 6. A law enforcement officer that cites a minor for violation of this section shall mail a  
11 notice of the violation to the parent or legal guardian of the minor within ten days of  
12 the citation.

13 7. A person adjudged guilty of contempt for failure to pay a fee or fine may be  
14 sentenced by the court to a sanction or order designed to ensure compliance with  
15 the payment of the fee or fine or to an alternative sentence or sanction including  
16 community service.

17 **SECTION 2. APPLICATION.** The minimum age requirement for purchasing tobacco  
18 products under subsection 2 of section 12.1-31-03 does not apply to an individual who could  
19 legally purchase those products on the day before the effective date of this Act. The minimum  
20 age requirement for which a person may sell tobacco products to an individual under  
21 subsection 1 of section 12.1-31-03 does not apply to the sale to an individual who could legally  
22 purchase those products on the day before the effective date of this Act.