

**HOUSE BILL NO. 1171**

Introduced by

Representatives DeKrey, Haas

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 the age of twenty-one and the use of tobacco  
3 by minors; to provide a penalty; and to provide for application.

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

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

7 **12.1-31-03. Sale of tobacco to ~~minors~~ individuals under twenty-one years of age**  
8 **and use by minors prohibited.**

9 1. a. It is an infraction for any person to sell to an individual under twenty-one years  
10 of age cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form  
11 in which it may be utilized for smoking or chewing.

12 b. It is an infraction for any person to sell or furnish to a minor, or procure for a  
13 minor, cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form  
14 in which it may be utilized for smoking or chewing. As used in this subsection,  
15 "sell" includes dispensing from a vending machine under the control of the  
16 actor.

17 2. a. It is a noncriminal offense for an individual under twenty-one years of age to  
18 purchase cigarettes, cigars, cigarette papers, snuff, or tobacco in any form in  
19 which it may be utilized for smoking or chewing.

20 b. It is a noncriminal offense for a minor to purchase, possess, smoke, or use  
21 cigarettes, cigars, cigarette papers, snuff, or tobacco in any other form in  
22 which it may be utilized for smoking or chewing. However, an individual  
23 under twenty-one years of age may purchase and an individual under  
24 eighteen years of age may purchase and possess tobacco as part of a

1 compliance survey program when acting with the permission of the  
2 individual's parent or guardian, if the individual is under eighteen years of age,  
3 and while acting under the supervision of any law enforcement authority. A  
4 state agency, city, county, board of health, tobacco retailer, or association of  
5 tobacco retailers may also conduct compliance surveys, after coordination  
6 with the appropriate local law enforcement authority.

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

19 4. A minor fourteen years of age or older found to have violated subdivision b of  
20 subsection 2 must pay a fee of twenty-five dollars. An individual under twenty-one  
21 years of age found to have violated subdivision a of subsection 2 must pay a fee of  
22 twenty-five dollars.

23 a. Any individual who has been cited for a violation of subsection 2 may appear  
24 before a court of competent jurisdiction and pay the fee by the time scheduled  
25 for a hearing, or if bond has been posted, may forfeit the bond by not  
26 appearing at the scheduled time. An individual appearing at the time  
27 scheduled in the citation may make a statement in explanation of that  
28 individual's action and the judge may waive, reduce, or suspend the fee or  
29 bond, or both. If the individual cited follows the procedures of this subdivision,  
30 that individual has admitted the violation and has waived the right to a hearing  
31 on the issue of commission of the violation. The bond required to secure

- 1 appearance before the court must be identical to the fee. This subdivision  
2 does not allow a citing officer to receive the fee or bond.
- 3 b. If an individual cited for a violation of subsection 2 does not choose to follow  
4 the procedures provided under subdivision a, that individual may request a  
5 hearing on the issue of the commission of the violation cited. The hearing  
6 must be held at the time scheduled in the citation or at some future time, not  
7 to exceed ninety days later, set at that first appearance. At the time of a  
8 request for a hearing on the issue on commission of the violation, the  
9 individual cited shall deposit with the court an appearance bond equal to the  
10 fee for the violation cited.
- 11 c. The failure to post bond or to pay an assessed fee is punishable as a  
12 contempt of court, except a minor may not be imprisoned for the contempt.
- 13 5. The prosecution must prove the commission of a cited violation under subsection 2  
14 by a preponderance of the evidence.
- 15 6. A law enforcement officer that cites a minor for violation of this section shall mail a  
16 notice of the violation to the parent or legal guardian of the minor within ten days of  
17 the citation.
- 18 7. A person adjudged guilty of contempt for failure to pay a fee or fine may be  
19 sentenced by the court to a sanction or order designed to ensure compliance with  
20 the payment of the fee or fine or to an alternative sentence or sanction including  
21 community service.

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