

**FIRST ENGROSSMENT  
with Conference Committee Amendments**

Fifty-sixth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2125**

Introduced by

Senators Thane, Kilzer, Krebsbach

Representatives Jensen, Rose

(At the request of the State Department of Health)

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 purchase, possession, and use of tobacco by minors; to provide a penalty; and to  
3 declare an emergency.

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 and use by minors prohibited.**

- 8 1. It is ~~a class B misdemeanor~~ an infraction for any person to sell or furnish to a  
9 minor, or procure for a minor, cigarettes, cigarette papers, cigars, snuff, or tobacco  
10 in any other form in which it may be utilized for smoking or chewing. As used in  
11 this subsection, "sell" includes dispensing from a vending machine under the  
12 control of the actor.
- 13 2. It is ~~a class B misdemeanor~~ an infraction for a minor to purchase, possess, smoke,  
14 or use cigarettes, cigars, cigarette papers, snuff, or tobacco in any other form in  
15 which it may be utilized for smoking or chewing. However, an individual under  
16 eighteen years of age may purchase and possess tobacco as part of a compliance  
17 survey program when acting with the permission of the individual's parent or  
18 guardian and while acting under the supervision of any law enforcement authority.  
19 A state agency, city, county, board of health, tobacco retailer, or association of  
20 tobacco retailers may also conduct compliance surveys, after coordination with the  
21 appropriate local law enforcement authority.
- 22 3. A city or county may adopt an ordinance or resolution regarding the sale of  
23 tobacco to minors and use of tobacco by minors which is more stringent than this  
24 section. Any ordinance or resolution adopted which deems a violation of

1           subsection 1 or 2 a noncriminal violation must provide for a fee of not less than  
2           twenty-five dollars.

3           a. Any individual who has been cited for a violation that is designated a  
4           noncriminal offense may appear before a court of competent jurisdiction and  
5           pay the statutory fee by the time scheduled for a hearing, or if bond has been  
6           posted, may forfeit the bond by not appearing at the scheduled time. An  
7           individual appearing at the time scheduled in the citation may make a  
8           statement in explanation of that individual's action and the judge may waive,  
9           reduce, or suspend the statutory fee or bond, or both. If the individual cited  
10           follows the procedures of this subdivision, that individual has admitted the  
11           violation and has waived the right to a hearing on the issue of commission of  
12           the violation. The bond required to secure appearance before the court must  
13           be identical to the statutory fee. This subdivision does not allow a halting  
14           officer to receive the statutory fee or bond.

15           b. If an individual cited for a violation that is designated a noncriminal offense  
16           does not choose to follow any procedure provided under subdivision a, that  
17           individual may request a hearing on the issue of the commission of the  
18           violation charged. The hearing must be held at the time scheduled in the  
19           citation or at some future time, not to exceed ninety days later, set at that first  
20           appearance. At the time of a request for a hearing on the issue on  
21           commission of the violation, the individual charged shall deposit with the court  
22           an appearance bond equal to the statutory fee for the violation charged. The  
23           state must prove the commission of a charged violation at the hearing under  
24           this section by a preponderance of the evidence.

25           4. A law enforcement officer or juvenile court that cites a minor for violation of this  
26           section shall mail a notice of the violation to the parent or legal guardian of the  
27           minor within ten days of the citation.

28           **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.