



General Assembly

Amendment

January Session, 2005

LCO No. 6491

SB0044006491SR0

Offered by:

SEN. FASANO, 34th Dist.

SEN. MCKINNEY, 28th Dist.

To: Subst. Senate Bill No. 440

File No. 601

Cal. No. 437

"AN ACT CONCERNING THE PENALTIES FOR DISTRIBUTORS WHO VIOLATE PROVISIONS REGULATING THE SALE OF CIGARETTES."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 12-286a of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2005*):

5 (a) Each distributor and each dealer, as defined in section 12-285,
6 shall place and maintain in legible condition at each point of sale of
7 cigarettes to consumers, including the front of each vending machine,
8 and each restricted cigarette vending machine a notice which states (1)
9 that the sale, giving or delivering of tobacco products, including
10 cigarettes, to any person under [eighteen] nineteen years of age is
11 prohibited by section 53-344, (2) the purchase or misrepresentation of
12 age by a person under [eighteen] nineteen years of age to purchase
13 cigarettes or tobacco products is prohibited by said section 53-344, and

14 (3) the penalties and fines for violating said section 53-344 and section
15 12-295a.

16 (b) Any person who violates subsection (a) of this section shall be
17 fined not more than one hundred dollars.

18 Sec. 502. Section 12-295a of the general statutes is repealed and the
19 following is substituted in lieu thereof (*Effective July 1, 2005*):

20 (a) If the Commissioner of Revenue Services finds, after a hearing,
21 that a [minor] person under nineteen years of age has purchased
22 cigarettes or tobacco products, said commissioner shall assess such
23 [minor] person a civil penalty of not more than fifty dollars for the first
24 violation and not more than one hundred dollars for any second or
25 subsequent offense.

26 (b) If said commissioner finds, after a hearing, that any person
27 employed by a dealer or distributor, as defined in section 12-285, has
28 sold, given or delivered cigarettes or tobacco products to a [minor]
29 person under nineteen years of age other than a [minor] person under
30 nineteen years of age who is delivering or accepting delivery in his
31 capacity as an employee, said commissioner shall assess such person a
32 civil penalty of one hundred dollars for the first violation and one
33 hundred fifty dollars for a second or subsequent violation within
34 eighteen months.

35 (c) If said commissioner finds, after a hearing, that any dealer or
36 distributor has sold, given or delivered cigarettes or tobacco products
37 to a [minor] person under nineteen years of age other than a [minor]
38 person under nineteen years of age who is delivering or accepting
39 delivery in [his] such person's capacity as an employee, or such dealer
40 or distributor's employee has sold, given or delivered cigarettes or
41 tobacco products to such [minor] person under nineteen years of age,
42 said commissioner shall assess such dealer or distributor a civil
43 penalty of two hundred fifty dollars for the first violation and five
44 hundred dollars for a second violation within eighteen months. For a
45 third violation within eighteen months, such dealer or distributor shall

46 be assessed a civil penalty of five hundred dollars and any license held
47 by such dealer or distributor under this chapter shall be suspended for
48 not less than thirty days.

49 (d) If said commissioner finds, after a hearing, that any owner of an
50 establishment in which a cigarette vending machine or restricted
51 cigarette vending machine is located has sold, given or delivered
52 cigarettes or tobacco products from any such machine to a [minor]
53 person under nineteen years of age other than a [minor] person under
54 nineteen years of age who is delivering or accepting delivery in [his]
55 such person's capacity as an employee, or has allowed cigarettes or
56 tobacco products to be sold, given or delivered to such [minor] person
57 under nineteen years of age from any such machine, said
58 commissioner shall assess such dealer or distributor a civil penalty of
59 two hundred fifty dollars for the first violation and five hundred
60 dollars for a second violation within eighteen months. For a third
61 violation within eighteen months, such dealer or distributor shall be
62 assessed a civil penalty of five hundred dollars and any such machine
63 shall be immediately removed from such establishment and no such
64 machine may be placed in such establishment for a period of one year
65 following such removal.

66 (e) Any person aggrieved by any action of the commissioner
67 pursuant to this section may take any appeal of such action as
68 provided in sections 12-311 and 12-312.

69 Sec. 503. Section 53-344 of the general statutes is repealed and the
70 following is substituted in lieu thereof (*Effective July 1, 2005*):

71 (a) As used in this section:

72 (1) "Cardholder" means any person who presents a driver's license
73 or an identity card to a seller or seller's agent or employee, to purchase
74 or receive tobacco from such seller or seller's agent or employee;

75 (2) "Identity card" means an identification card issued in accordance
76 with the provisions of section 1-1h;

77 (3) "Transaction scan" means the process by which a seller or seller's
78 agent or employee checks, by means of a transaction scan device, the
79 validity of a driver's license or an identity card; and

80 (4) "Transaction scan device" means any commercial device or
81 combination of devices used at a point of sale that is capable of
82 deciphering in an electronically readable format the information
83 encoded on the magnetic strip or bar code of a driver's license or an
84 identity card.

85 (b) Any person who sells, gives or delivers to any [minor under
86 eighteen] person under nineteen years of age tobacco, unless the
87 [minor] person under nineteen years of age is delivering or accepting
88 delivery in such person's capacity as an employee, in any form shall be
89 fined not more than two hundred dollars for the first offense, not more
90 than three hundred fifty dollars for a second offense within an
91 eighteen-month period and not more than five hundred dollars for
92 each subsequent offense within an eighteen-month period.

93 (c) Any person under [eighteen] nineteen years of age who
94 purchases or misrepresents such person's age to purchase tobacco in
95 any form shall be fined not more than fifty dollars for the first offense
96 and not less than fifty dollars or more than one hundred dollars for
97 each subsequent offense.

98 (d) (1) A seller or seller's agent or employee may perform a
99 transaction scan to check the validity of a driver's license or identity
100 card presented by a cardholder as a condition for selling, giving away
101 or otherwise distributing tobacco to the cardholder.

102 (2) If the information deciphered by the transaction scan performed
103 under subdivision (1) of this subsection fails to match the information
104 printed on the driver's license or identity card presented by the
105 cardholder, or if the transaction scan indicates that the information so
106 printed is false or fraudulent, neither the seller nor any seller's agent or
107 employee shall sell, give away or otherwise distribute any tobacco to
108 the cardholder.

109 (3) Subdivision (1) of this subsection does not preclude a seller or
110 seller's agent or employee from using a transaction scan device to
111 check the validity of a document other than a driver's license or an
112 identity card, if the document includes a bar code or magnetic strip
113 that may be scanned by the device, as a condition for selling, giving
114 away or otherwise distributing tobacco to the person presenting the
115 document.

116 (e) (1) No seller or seller's agent or employee shall electronically or
117 mechanically record or maintain any information derived from a
118 transaction scan, except the following: (A) The name and date of birth
119 of the person listed on the driver's license or identity card presented by
120 a cardholder; (B) the expiration date and identification number of the
121 driver's license or identity card presented by a cardholder.

122 (2) No seller or seller's agent or employee shall use a transaction
123 scan device for a purpose other than the purposes specified in
124 subsection (d) of this section or subsection (c) of section 30-86.

125 (3) No seller or seller's agent or employee shall sell or otherwise
126 disseminate the information derived from a transaction scan to any
127 third party, including, but not limited to, selling or otherwise
128 disseminating that information for any marketing, advertising or
129 promotional activities, but a seller or seller's agent or employee may
130 release that information pursuant to a court order.

131 (4) Nothing in subsection (d) of this section or this subsection
132 relieves a seller or seller's agent or employee of any responsibility to
133 comply with any other applicable state or federal laws or rules
134 governing the sale, giving away or other distribution of tobacco.

135 (5) Any person who violates this subsection shall be subject to a civil
136 penalty of not more than one thousand dollars.

137 (f) (1) In any prosecution of a seller or seller's agent or employee for
138 a violation of subsection (b) of this section, it shall be an affirmative
139 defense that all of the following occurred: (A) A cardholder attempting

140 to purchase or receive tobacco presented a driver's license or an
141 identity card; (B) a transaction scan of the driver's license or identity
142 card that the cardholder presented indicated that the license or card
143 was valid; and (C) the tobacco was sold, given away or otherwise
144 distributed to the cardholder in reasonable reliance upon the
145 identification presented and the completed transaction scan.

146 (2) In determining whether a seller or seller's agent or employee has
147 proven the affirmative defense provided by subdivision (1) of this
148 section, the trier of fact in such prosecution shall consider that
149 reasonable reliance upon the identification presented and the
150 completed transaction scan may require a seller or seller's agent or
151 employee to exercise reasonable diligence and that the use of a
152 transaction scan device does not excuse a seller or seller's agent or
153 employee from exercising such reasonable diligence to determine the
154 following: (A) Whether a person to whom the seller or seller's agent or
155 employee sells, gives away or otherwise distributes tobacco is
156 [eighteen] nineteen years of age or older; and (B) whether the
157 description and picture appearing on the driver's license or identity
158 card presented by a cardholder is that of the cardholder."