

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 133

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO TOBACCO PRODUCTS AND ELECTRONIC SMOKING DEVICES; AMENDING SEC-
2 TION 39-5502, IDAHO CODE, TO DEFINE TERMS AND TO REVISE A DEFINITION;
3 REPEALING SECTION 39-5508, IDAHO CODE, RELATING TO RULES AND REGULA-
4 TIONS; AMENDING CHAPTER 55, TITLE 39, IDAHO CODE, BY THE ADDITION OF
5 A NEW SECTION 39-5508, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING
6 POSTING OF SIGNS; AMENDING SECTION 39-5702, IDAHO CODE, TO DEFINE TERMS
7 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-5704, IDAHO
8 CODE, TO REVISE PROVISIONS REGARDING PERMITTING OF TOBACCO PRODUCTS OR
9 ELECTRONIC SMOKING DEVICE RETAILERS; AMENDING SECTION 39-5706, IDAHO
10 CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION;
11 AMENDING SECTION 39-5708, IDAHO CODE, TO REVISE PROVISIONS REGARDING
12 CIVIL PENALTIES FOR VIOLATIONS OF PERMIT; AMENDING SECTION 39-5710,
13 IDAHO CODE, TO REVISE PROVISIONS REGARDING CONDUCT OF ENFORCEMENT
14 ACTIONS; REPEALING SECTION 39-5712, IDAHO CODE, RELATING TO SEVERABIL-
15 ITY; AMENDING SECTION 39-5717, IDAHO CODE, TO PROVIDE A CORRECT CODE
16 REFERENCE; AMENDING SECTION 39-8421, IDAHO CODE, TO PROVIDE A CORRECT
17 CODE REFERENCE; AMENDING SECTION 56-227F, IDAHO CODE, TO PROVIDE A
18 CORRECT CODE REFERENCE; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES
19 CONTAINED IN IDAPA 16.07.25 SHALL BE NULL, VOID, AND OF NO FORCE AND
20 EFFECT; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN IDAPA
21 16.02.23 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT; AND DECLARING
22 AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
23

24 Be It Enacted by the Legislature of the State of Idaho:

25 SECTION 1. That Section 39-5502, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 39-5502. DEFINITIONS. As used in this chapter:

28 (1) "Auditorium" means a public building where an audience sits and any
29 corridors, hallways or lobbies adjacent thereto.

30 (2) "Bar" means any indoor area open to the public operated primarily
31 for the sale and service of alcoholic beverages for on-premises consumption
32 and where: (a) the service of food is incidental to the consumption of such
33 beverages, or (b) no person under the age of twenty-one (21) years is permit-
34 ted except as provided in section 23-943, Idaho Code, as it pertains to em-
35 ployees, musicians and singers, and all public entrances are clearly posted
36 with signs warning patrons that it is a smoking facility and that persons un-
37 der twenty-one (21) years of age are not permitted. "Bar" does not include
38 any area within a restaurant.

39 (3) "Bar within a restaurant" means a bar that:

40 (a) Is physically isolated from all parts of the restaurant by solid
41 floor to ceiling walls;

1 (b) Has a separate outside public entrance that is not shared with the
2 restaurant;

3 (c) Does not have any windows that can be opened or doorways connecting
4 it to the restaurant, either directly or through any public place, in-
5 cluding lobbies, hallways, or passageways that the public uses. The bar
6 may be connected through means not available for public use; and

7 (d) Does not require restaurant patrons to pass through the bar or any
8 indoor public place connected to the bar to access restrooms or other
9 facilities or accommodations of the restaurant.

10 (4) "Bowling alley" means a place of business with at least two (2)
11 bowling lanes on its premises that is operated for public entertainment.

12 (5) "Educational facility" means any room, hall, or building that
13 is used for instruction or is supportive of instruction, including class-
14 rooms, libraries, auditoriums, gymnasiums, lounges, study areas, re-
15 strooms, halls, registration areas, and bookstores of any private or public
16 preschool, kindergarten, elementary school, junior high or intermediate
17 school, high school, vocational school, college, or university.

18 ~~(3)~~ (6) "Employer" means any person, partnership, limited liability
19 company, association, corporation or nonprofit entity that employs one (1)
20 or more persons, including the legislative, executive and judicial branches
21 of state government; any county, city, or any other political subdivision of
22 the state; or any other separate unit of state or local government.

23 (7) "Enclosed" means the space between a floor and ceiling being sur-
24 rounded on all sides at any time by solid walls, windows, or similar struc-
25 tures, not including doors, that extend from the floor to the ceiling.

26 (8) "Incidental service of food" means only serving food that is low-
27 risk and non-potentially hazardous food.

28 ~~(4)~~ (9) "Indoor shopping mall" means an indoor facility located at
29 least fifty (50) feet from any public street or highway and housing no less
30 than ten (10) retail establishments.

31 (10) "Person in charge" or "proprietor" means any person, or agent of
32 such person, who ultimately controls, governs, or directs the activities
33 within a public place. The term does not mean the owner of the property
34 unless such owner ultimately governs, controls, or directs the activities
35 within the public place.

36 ~~(5)~~ (11) "Public meeting" means all meetings open to the public.

37 ~~(6)~~ (12) "Public place" means any enclosed indoor place of business,
38 commerce, banking, financial service or other service-related activity,
39 whether publicly or privately owned and whether operated for profit or not,
40 to which persons not employed at the public place have general and regular
41 access or which the public uses including:

42 (a) Buildings, offices, shops or restrooms;

43 (b) Waiting rooms for means of transportation or common carriers;

44 (c) Restaurants;

45 (d) Theaters, auditoriums, museums or art galleries;

46 (e) Hospitals, libraries, indoor shopping malls, indoor sports arenas,
47 concert halls, or airport passenger terminals, and within twenty (20)
48 feet of public entrances and exits to such facilities;

1 (f) Public or private elementary or secondary school buildings and ed-
 2 ucational facilities and within twenty (20) feet of entrances and exits
 3 of such buildings or facilities;

4 (g) Retail stores, grocery stores or arcades;

5 (h) Barbershops, hair salons or laundromats;

6 (i) Sports or fitness facilities;

7 (j) Common areas of nursing homes, resorts, hotels, motels, bed and
 8 breakfast lodging facilities and other similar lodging facilities, in-
 9 cluding lobbies, hallways, restaurants and other designated dining ar-
 10 eas and restrooms of any of these;

11 (k) Any child care facility subject to licensure under the laws of
 12 Idaho, including those operated in private homes, when any child cared
 13 for under that license is present;

14 (l) Public means of mass transportation, including vans, trains,
 15 taxicabs, airplanes, buses, boats, and limousines when passengers are
 16 present. The term does not include private noncommercial vehicles; and

17 (m) Any public place not exempted by section 39-5503, Idaho Code.

18 ~~(7)~~ (13) "Publicly-owned building or office" means any enclosed indoor
 19 place or portion of a place owned, leased or rented by any state, county or
 20 municipal government, or by any agency supported by appropriation of, or
 21 by contracts or grants from, funds derived from the collection of federal,
 22 state, municipal or county taxes.

23 ~~(8)~~ (14) "Restaurant" means an eating establishment including, but not
 24 limited to, coffee shops, cafes, cafeterias, and private and public school
 25 cafeterias, which gives or offers for sale food to the public, guests, or em-
 26 ployees, as well as kitchens and catering facilities in which food is pre-
 27 pared on the premises for serving elsewhere. The term "restaurant" shall in-
 28 clude a bar area within a restaurant.

29 ~~(9)~~ (15) "Smoking" includes the possession of any lighted tobacco prod-
 30 uct in any form.

31 ~~(10)~~ (16) "Smoking area" means a designated area in which smoking is
 32 permitted.

33 (17) "Tobacco products" means any substance that contains tobacco, in-
 34 cluding cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco paper,
 35 or smokeless tobacco. It is presumed that a lighted cigarette, cigar, or
 36 pipe contains tobacco.

37 SECTION 2. That Section 39-5508, Idaho Code, be, and the same is hereby
 38 repealed.

39 SECTION 3. That Chapter 55, Title 39, Idaho Code, be, and the same is
 40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 41 ignated as Section 39-5508, Idaho Code, and to read as follows:

42 39-5508. POSTING OF SIGNS. Signs shall be appropriately sized, con-
 43 spicuous, legible with letters at least one (1) inch in height, unobscured,
 44 and placed at a height and location easily seen and read by persons entering
 45 or within the posted area. Signs may contain information such as the inter-
 46 national smoking and no smoking symbols and references to this chapter.

1 SECTION 4. That Section 39-5702, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 39-5702. DEFINITIONS. The terms used in this chapter are defined as
4 follows:

5 (1) "Business" means any company, partnership, firm, sole proprietor-
6 ship, association, corporation, organization, or other legal entity, or a
7 representative of the foregoing entities.

8 (2) "Delivery sale" means to distribute tobacco products or electronic
9 smoking devices to a consumer in a state where either:

10 (a) The individual submits the order for such sale by means of a
11 telephonic or other method of voice transmission, data transfer via
12 computer networks, including the internet and other online services, or
13 facsimile, or the mails; or

14 (b) The tobacco products or electronic smoking devices are delivered by
15 use of the mails or a delivery service.

16 (3) "Delivery service" means any person who is engaged in the commer-
17 cial delivery of letters, packages or other containers.

18 (4) "Department" means the state department of health and welfare or
19 its duly authorized representative.

20 (5) "Distribute" means to give, deliver, sell, offer to give, offer to
21 deliver, offer to sell or cause any person to do the same or hire any person to
22 do the same.

23 (6) "Location" means the street address where tobacco or electronic
24 smoking device products are sold or the uniform resource locator for re-
25 tailers who sell tobacco or electronic smoking products exclusively via the
26 internet.

27 ~~(6)~~ (7) "Minor" means a person under twenty-one (21) years of age.

28 ~~(7)~~ (8) "Minor-exempt permit" means a permittee location whose rev-
29 enues from the sale of alcoholic beverages for on-site consumption comprises
30 at least fifty-five percent (55%) of total revenues, or whose products and
31 services are primarily obscene, pornographic, profane, or sexually ori-
32 ented, is exempt from inspections assisted by a minor, if minors are not
33 allowed in the location and such prohibition is posted clearly on all en-
34 trance doors.

35 ~~(8)~~ (9) "Permit" means a permit issued by the department for the sale or
36 distribution of tobacco products or electronic smoking devices.

37 (10) "Permit endorsement" means a sale or delivery method used by the
38 permittee to sell tobacco or electronic smoking device products, including
39 delivery sales, delivery service, and direct sales.

40 ~~(9)~~ (11) "Permittee" means the holder of a valid permit for the sale or
41 distribution of tobacco products or electronic smoking devices.

42 ~~(10)~~ (12) "Photographic identification" means state, district, terri-
43 torial, possession, provincial, national or other equivalent government
44 driver's license, identification card or military card, in all cases bearing
45 a photograph and a date of birth, or a valid passport.

46 ~~(11)~~ (13) "Random, unannounced inspection" means an inspection of re-
47 tail outlets by a law enforcement agency or by the department, with or with-
48 out the assistance of a minor, to monitor compliance of this chapter.

1 ~~(12)~~ (14) "Seller" means the person who physically sells or distributes
2 tobacco products or electronic smoking devices.

3 ~~(13)~~ (15) (a) "Tobacco product or electronic smoking device" means:

4 (i) Any substance containing, made of, or derived from tobacco
5 or nicotine that is intended for human consumption or is likely to
6 be consumed, whether inhaled, absorbed, or ingested by any other
7 means, including but not limited to cigarettes, cigars, pipes,
8 snuff, smoking or chewing tobacco, snus, tobacco papers, or smoke-
9 less tobacco;

10 (ii) Any electronic smoking device that may be used to deliver an
11 aerosolized or a vaporized substance to the person inhaling from
12 the device, including but not limited to an electronic cigarette,
13 an electronic cigar, an electronic pipe, a vape pen, or an elec-
14 tronic hookah, or any component, part, or accessory of such a
15 device, or any substance intended to be aerosolized or vaporized
16 during use of the device, whether or not the substance contains
17 nicotine, or any heated or lighted device intended to be used for
18 inhalation; or

19 (iii) Any components, parts, or accessories of a tobacco product
20 or an electronic smoking device, whether or not they contain to-
21 bacco or nicotine, including but not limited to filters, rolling
22 papers, blunt or hemp wraps, and pipes, whether manufactured,
23 distributed, marketed, or sold as an electronic cigarette, elec-
24 tronic cigar, electronic hookah, or vape pen, or under any other
25 product name or descriptor.

26 (b) The term "tobacco product or electronic smoking device" does not
27 include drugs, devices, or combinations of products authorized for sale
28 by the United States food and drug administration as those terms are de-
29 fined in the federal food, drug, and cosmetic act.

30 ~~(14)~~ (16) "Vending machine" means any mechanical, electronic, or other
31 similar device ~~which that~~, upon the insertion of tokens, money or any other
32 form of payment, dispenses tobacco products or electronic smoking devices.

33 ~~(15)~~ (17) "Vendor-assisted sales" means any sale or distribution in
34 which the customer has no access to the product except through the assistance
35 of the seller.

36 ~~(16)~~ (18) "Without a permit" means a business that has failed to obtain a
37 permit or a business whose permit is suspended or revoked.

38 SECTION 5. That Section 39-5704, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 39-5704. PERMITTING OF TOBACCO PRODUCTS OR ELECTRONIC SMOKING DEVICES
41 RETAILERS. (1) It shall be unlawful to sell or distribute or offer tobacco
42 products or electronic smoking devices for sale or distribution at retail
43 or to possess tobacco products or electronic smoking devices with the in-
44 tention of selling at retail without having first obtained a tobacco product
45 or electronic smoking device permit from the department, which shall be the
46 only retail tobacco product or electronic smoking device permit or license
47 required. Provided however, this section shall not be deemed to require a
48 wholesaler or manufacturer's representative or employees who, in the course

1 of their employment, stock shelves and replenish tobacco products or elec-
2 tronic smoking devices at a permittee's place of business to obtain a permit.

3 (2) The department shall administer the permitting of tobacco product
4 or electronic smoking device retailers and shall be authorized to ensure
5 compliance with this chapter. ~~The department may promulgate rules in com-
6 pliance with chapter 52, title 67, Idaho Code, regarding permitting of
7 tobacco product or electronic smoking device retailers, inspections, and
8 compliance checks, effective training, and employment practices under this
9 chapter.~~

10 (3) Permits shall be issued annually for each permanent business loca-
11 tion to ensure compliance with the requirements of this chapter. A copy of
12 ~~this chapter, rules adopted by the department, appropriate~~ signage required
13 by this chapter, and any other materials deemed necessary shall be provided
14 with each permit issued.

15 (4) A separate permit must be obtained for each place of business and is
16 nontransferable to another person, business, or location.

17 (5) ~~Permittees may display the permit in a prominent location. The ap-
18 plicant shall select one (1) or more permit endorsements and make the permit
19 available upon request.~~

20 (6) A permittee may display a sign in each location within a place of
21 business where tobacco products or electronic smoking devices are sold or
22 distributed. A sign may be clearly visible to the customer and the seller and
23 shall state: "STATE LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS OR ELECTRONIC
24 SMOKING DEVICES TO PERSONS UNDER THE AGE OF TWENTY-ONE (21) YEARS. PROOF OF
25 AGE REQUIRED. ANYONE WHO SELLS OR DISTRIBUTES TOBACCO PRODUCTS OR ELECTRONIC
26 SMOKING DEVICES TO A PERSON UNDER THE AGE OF TWENTY-ONE (21) YEARS IS SUBJECT
27 TO STRICT FINES AND PENALTIES. PERSONS UNDER THE AGE OF TWENTY-ONE (21) YEARS
28 ARE SUBJECT TO FINES AND PENALTIES."

29 (7) Permittees are responsible to educate employees as to the require-
30 ments of this chapter and retain forms signed by each employee stating that
31 the employee understands such requirements.

32 (8) It shall be unlawful for the permittee to allow employees who are
33 minors to sell or distribute tobacco products or electronic smoking devices,
34 except as provided in this subsection. Employees who are minors may possess
35 but not sell or distribute tobacco products or electronic smoking devices
36 in the course of employment, for such duties as stocking shelves or carrying
37 purchases to customers' vehicles, and employees who are eighteen (18) years
38 to twenty (20) years of age may sell or distribute tobacco products or elec-
39 tronic smoking devices in the course and scope of their employment.

40 (9) A permit shall be closed when the permittee closes the business, no
41 longer sells tobacco or electronic smoking device products, moves to a dif-
42 ferent physical location, or sells the business.

43 (10) A permit shall be revoked when it is determined that a permit was
44 fraudulently obtained to avoid penalties on an existing permit.

45 (11) All permits expire annually at midnight on December 31 unless re-
46 newed. The department shall mail notice of renewal for permits at least
47 ninety (90) days prior to expiration.

48 SECTION 6. That Section 39-5706, Idaho Code, be, and the same is hereby
49 amended to read as follows:

1 39-5706. VENDOR-ASSISTED SALES. (1) It shall be unlawful to sell or
2 distribute tobacco products or electronic smoking devices by any means other
3 than vendor-assisted sales where the customer has no access to the product
4 except through the assistance of the seller.

5 (2) ~~On and after January 1, 2020, it~~ It shall be unlawful to sell or
6 distribute tobacco products or electronic smoking devices from vending ma-
7 chines or self-service displays.

8 (3) Stores with tobacco products or electronic smoking devices com-
9 prising at least seventy-five percent (75%) of total merchandise are exempt
10 from requiring vendor-assisted sales, if minors are not allowed in the store
11 and such prohibition is posted clearly on all entrance doors.

12 SECTION 7. That Section 39-5708, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 39-5708. CIVIL PENALTIES FOR VIOLATIONS OF PERMIT. (1) Any permittee
15 who fails to comply with any part of this chapter ~~or any current state or lo-~~
16 ~~eal law or rule or regulation~~ regarding the sale or distribution of tobacco
17 products or electronic smoking devices shall be subject to a civil penalty as
18 provided in this section or have their permit suspended, pursuant to compli-
19 ance with the contested case provisions of the Idaho administrative proce-
20 dure act, chapter 52, title 67, Idaho Code, or both.

21 (2) If a seller who is not a permittee violates section 39-5705, Idaho
22 Code, and sells or distributes tobacco products or electronic smoking de-
23 vices to a minor, then the seller shall be fined one hundred dollars (\$100).

24 (3) In the case of a first violation, the permittee shall be notified in
25 writing of penalties to be levied for further violations.

26 (4) In the case of a second violation, the permittee shall be fined two
27 hundred dollars (\$200) and shall be notified in writing of penalties to be
28 levied for further violations. For a violation of section 39-5705, Idaho
29 Code, the permittee shall not be fined if the permittee can show that a train-
30 ing program was in place for the employee and that the permittee has a form
31 signed by that employee on file stating that the employee understands the
32 tobacco product or electronic smoking device laws dealing with minors and
33 the unlawful purchase of tobacco products or electronic smoking devices, but
34 the permittee shall be notified in writing of penalties to be levied for any
35 further violations. If no such training is in place, the permittee shall be
36 fined two hundred dollars (\$200).

37 (5) In the case of a third violation in a two (2) year period, the per-
38 mittee shall be fined two hundred dollars (\$200) and the permit may be sus-
39 pended for up to seven (7) days. If the violation is by an employee, at the
40 same location, who was involved in any previous citation for violation, the
41 permittee shall be fined four hundred dollars (\$400). Effective training
42 and employment practices by the permittee, as determined by the department,
43 shall be a mitigating factor in determining permit suspension. Evidence of
44 mitigating factors shall be submitted to the department within ten (10) days
45 of the date of violation. Tobacco product or electronic smoking device re-
46 tailers must remove all tobacco products or electronic smoking devices from
47 all areas accessible to or visible to the public while the permit is sus-
48 pended.

1 (6) In the case of four (4) or more violations within a two (2) year pe-
 2 riod, the permittee shall be fined four hundred dollars (\$400) and the permit
 3 shall be revoked until such time that the permittee demonstrates an effec-
 4 tive training plan to the department, but in no case shall the revocation be
 5 for less than thirty (30) days. Tobacco product or electronic smoking de-
 6 vice retailers must remove all tobacco products or electronic smoking de-
 7 vices from all areas accessible to or visible to the public while the permit
 8 is revoked.

9 (7) All moneys collected for violations pursuant to this section shall
 10 be remitted to the prevention of minors' access to tobacco products or elec-
 11 tronic smoking devices fund created in section 39-5711, Idaho Code.

12 (8) All fines shall be paid in full prior to renewal of a permit and
 13 within ten (10) days of the date of the violation.

14 SECTION 8. That Section 39-5710, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 39-5710. CONDUCT OF ENFORCEMENT ACTIONS. (1) It is the intent of the
 17 legislature that law enforcement agencies, the attorney general, and the de-
 18 partment shall enforce this chapter ~~and rules promulgated pursuant thereto~~
 19 in a manner that can reasonably be expected to significantly reduce the ex-
 20 tent to which tobacco products and electronic smoking devices are sold or
 21 distributed to minors.

22 (2) Law enforcement agencies may conduct random, unannounced inspec-
 23 tions at locations where tobacco products or electronic smoking devices are
 24 sold or distributed to ensure compliance with this chapter. A copy of all ci-
 25 tations issued under this chapter shall be submitted to the department.

26 (3) The department shall conduct at least one (1) random, unannounced
 27 inspection per year at all locations where tobacco products or electronic
 28 smoking devices are sold or distributed at retail to ensure compliance with
 29 this chapter. The department shall conduct inspections for minor-exempt
 30 permittees without the assistance of a minor. The department shall conduct
 31 inspections for all other permittees with the assistance of a minor. Each
 32 year, the department shall conduct random, unannounced inspections equal to
 33 the number of permittees on the last day of the calendar year multiplied by
 34 the violation percentage rate reported for the previous year multiplied by
 35 a factor of ten (10). In no instance will the number of inspections exceed
 36 twice the number of permittees. Local law enforcement agencies are encour-
 37 aged to contract with the department to perform these required inspections.

38 (4) Minors may assist with random, unannounced inspections, provided
 39 that minors under the age of eighteen (18) years must have the written con-
 40 sent of a parent or legal guardian. When assisting with these inspections,
 41 minors shall not provide false identification or make any false statement
 42 regarding their age.

43 (5) Citizens may file a written complaint of noncompliance of this
 44 chapter with the department, or with a law enforcement agency. Permit hold-
 45 ers under 26 U.S.C. 5712 may file written complaints relating to delivery
 46 sales to the department or the attorney general's offices. Complaints shall
 47 be investigated and the proper enforcement actions taken.

1 (6) Within a reasonable time, not later than two (2) business days after
2 an inspection has occurred, a representative of the business inspected shall
3 be informed in writing of the results of the inspection.

4 (7) The attorney general or his designee, or any person who holds a per-
5 mit under 26 U.S.C. 5712, may bring an action in district court in Idaho to
6 prevent or restrain violations of this chapter by any person or by any person
7 controlling such person.

8 SECTION 9. That Section 39-5712, Idaho Code, be, and the same is hereby
9 repealed.

10 SECTION 10. That Section 39-5717, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 39-5717. SHIPPING REQUIREMENTS -- TOBACCO PRODUCTS OR ELECTRONIC
13 SMOKING DEVICES. Each permittee who mails or ships tobacco products or
14 electronic smoking devices in connection with a delivery sale order shall
15 include as part of the shipping documents a clear and conspicuous statement
16 providing as follows:

17 TOBACCO PRODUCTS OR ELECTRONIC SMOKING DEVICES: IDAHO LAW PRO-
18 HIBITS SHIPPING TO INDIVIDUALS UNDER THE AGE OF TWENTY-ONE (21)
19 YEARS AND REQUIRES THE PAYMENT OF TAXES PURSUANT TO CHAPTER 25, TI-
20 TLE 63, IDAHO CODE. PERSONS VIOLATING THIS LAW MAY BE CIVILLY AND
21 CRIMINALLY LIABLE.

22 Anyone who delivers any such container distributes tobacco products or
23 electronic smoking devices as defined in section 39-5702(5), Idaho Code, and
24 is subject to the terms and requirements of this chapter. If a permittee tak-
25 ing a delivery sale order also delivers the tobacco products or electronic
26 smoking devices without using a third-party delivery service, the permittee
27 shall comply with all the requirements of vendor-assisted sales as defined
28 in section ~~39-5702(15)~~ 39-5702(17), Idaho Code.

29 SECTION 11. That Section 39-8421, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 39-8421. DEFINITIONS. As used in sections 39-8420 through 39-8425,
32 Idaho Code:

33 (1) The definitions set forth in section 39-8402, Idaho Code, of the
34 Idaho tobacco master settlement agreement complementary act, and in this
35 section, apply to sections 39-8420 through 39-8425, Idaho Code.

36 (2) "Cigarette rolling machine" means any machine or device that has
37 the capability to produce at least one hundred fifty (150) cigarettes in less
38 than thirty (30) minutes.

39 (3) "Cigarette rolling machine operator" means any person who owns or
40 leases or otherwise has available for use a cigarette rolling machine and
41 makes such a machine available for use by another person in a commercial
42 setting in order to manufacture a cigarette. No person shall be deemed a
43 cigarette rolling machine operator based solely upon that person's manufac-
44 ture, sale, enabling, disabling, or repair of a cigarette rolling machine.

45 (4) "Minor" has the same meaning as that term is defined in section
46 ~~39-5702(6)~~ 39-5702(7), Idaho Code.

1 (5) "Person" means natural persons, corporations both foreign and do-
2 mestic, trusts, partnerships both limited and general, incorporated or un-
3 incorporated associations, companies, business entities, and any other le-
4 gal entity, or any other group associated in fact although not a legal en-
5 tity.

6 (6) "Tobacco products" means any substance that contains tobacco,
7 including but not limited to cigarettes, cigars, pipes, snuff, smoking to-
8 bacco, tobacco papers, or smokeless tobacco.

9 SECTION 12. That Section 56-227F, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 56-227F. PUBLIC ASSISTANCE BENEFIT CARDS -- PROHIBITED USES. (1) Any
12 recipient of public assistance is prohibited from using public assistance
13 benefit cards or cash obtained with public assistance benefit cards:

14 (a) For the purpose of participating in any of the activities described
15 under chapters 38 and 49, title 18, Idaho Code, or authorized pursuant
16 to any state-tribal gaming compact under section 67-429A, Idaho Code;

17 (b) For the purpose of pari-mutuel betting authorized under chapter 25,
18 title 54, Idaho Code;

19 (c) To purchase lottery tickets or shares authorized under chapter 74,
20 title 67, Idaho Code;

21 (d) For the purpose of participating in or purchasing tattoo, branding
22 or body piercing services as defined in section 18-1523, Idaho Code;

23 (e) To purchase cigarettes as defined in section 39-7802(d), Idaho
24 Code, or tobacco products or electronic smoking devices as defined in
25 section ~~39-5702(13)~~ 39-5702(15), Idaho Code;

26 (f) To purchase any items regulated under title 23, Idaho Code;

27 (g) For the purpose of adult entertainment at venues with performances
28 that contain sexually oriented material where minors under the age of
29 eighteen (18) years are prohibited; or

30 (h) For the purpose of purchasing or participating in any activities in
31 any location listed in subsection (2) of this section.

32 (2) The following businesses are required to comply with the provisions
33 of this section:

34 (a) Any establishment or business licensed under chapter 9, title 23,
35 Idaho Code;

36 (b) State liquor stores defined under section 23-902, Idaho Code, with
37 the exception of special distributors as referenced in chapter 3, title
38 23, Idaho Code;

39 (c) Any business or agency that issues or underwrites bail bonds as de-
40 fined in section 41-1038(3), Idaho Code;

41 (d) Gambling establishments licensed under Idaho law;

42 (e) Any business or establishment that offers tattoo, body piercing or
43 branding services as defined in section 18-1523, Idaho Code;

44 (f) Adult entertainment venues with performances that contain sexually
45 oriented material where minors under the age of eighteen (18) years are
46 prohibited; and

47 (g) Any establishment where persons under the age of eighteen (18)
48 years are not permitted.

1 (3) The department shall notify any business determined to be in viola-
2 tion of the provisions of subsection (2) of this section and the licensing
3 authority of any such business, if applicable, that such business has con-
4 tinued to allow the use of a public assistance benefit card in violation of
5 subsection (2) of this section. The department may require the Idaho quest
6 electronic benefits transfer (EBT) card business identification number
7 (BIN) be disabled at any business found to be in violation of subsection (2)
8 of this section. Any business in violation of subsection (2) of this section
9 may also be required to deny all public assistance cash transactions made
10 with an Idaho quest EBT card at any automated teller machine (ATM) located
11 in their establishment. All costs associated with disabling the BIN and ATM
12 will be the responsibility of such business owner.

13 (4) Only the recipient, an eligible member of the recipient's house-
14 hold or the recipient's authorized representative may use a public assis-
15 tance benefit card or the benefit, and such use shall only be for the re-
16 spective benefit program purposes. The recipient shall not sell, attempt to
17 sell, exchange or donate a public assistance benefit card or any benefits to
18 any other person or entity.

19 (5) A violation of subsection (1) or (4) of this section by a recipient
20 constitutes a misdemeanor.

21 (a) The department shall notify all recipients of public assistance
22 benefit cards that any violation of subsection (1) or (4) of this sec-
23 tion could result in legal proceedings and forfeiture of all cash public
24 assistance.

25 (b) Whenever the department has confirmed that a person has violated
26 subsection (1) or (4) of this section, the department shall notify the
27 person in writing that the violation could result in legal proceedings
28 and forfeiture of all cash public assistance.

29 (6) As used in this section, "public assistance" or "public assistance
30 benefit" means benefits provided to a recipient pursuant to the temporary
31 assistance for families in Idaho (TAFI) program on an Idaho quest EBT card
32 account.

33 (7) This section shall be enforced by the director of the department of
34 health and welfare in cooperation with local law enforcement and prosecuting
35 agencies.

36 SECTION 13. The rules contained in IDAPA 16.07.25, Department of Health
37 and Welfare, relating to Prevention of Minors' Access to Tobacco or Elec-
38 tronic Smoking Device Products, shall be null, void, and of no force and ef-
39 fect on and after July 1, 2025.

40 SECTION 14. The rules contained in IDAPA 16.02.23, Department of Health
41 and Welfare, relating to Indoor Smoking, shall be null, void, and of no force
42 and effect on and after July 1, 2025.

43 SECTION 15. An emergency existing therefor, which emergency is hereby
44 declared to exist, this act shall be in full force and effect on and after
45 July 1, 2025.