

SENATE BILL 280

By Kurita

AN ACT to amend Tennessee Code Annotated, Title 1, Chapter 3; Title 39; Title 47, Chapter 18, Part 20 and Title 68, relative to tobacco and vapor-related products.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 1-3-113(a), is amended by deleting the language "except as provided in subsection (b)" and substituting instead the language "except as to tobacco and vapor-related products and as provided in subsection (b)".

SECTION 2. Tennessee Code Annotated, Section 39-15-407, is amended by adding the following as a new subdivision:

"Vapor product" has the same meaning as in § 39-17-1503;

SECTION 3. Tennessee Code Annotated, Section 39-15-408, is amended by deleting the language "a minor" wherever it appears and substituting instead the language "a person under twenty-one (21) years of age".

SECTION 4. Tennessee Code Annotated, Section 39-15-409, is amended by deleting the section and substituting instead the following:

(a) A person under twenty-one (21) years of age shall not, directly or indirectly, purchase or acquire smoking paraphernalia.

(b)

(1) A violation of this section by a minor is a delinquent act.

(2) A violation of this section by a person under twenty-one (21) years of age but at least eighteen (18) years of age is a Class C misdemeanor.

SECTION 5. Tennessee Code Annotated, Section 39-15-410, is amended by deleting the section and substituting instead the following:

(a)

(1) A person contemplating the dissemination of smoking paraphernalia to an individual whom the person believes, or has reason to believe, may be under twenty-one (21) years of age shall demand identification containing proof of age from the individual.

(2) A violation of subdivision (a)(1) is a Class C misdemeanor.

(b) It is a delinquent act for a minor to use, or attempt to use, false identification to obtain smoking paraphernalia.

SECTION 6. Tennessee Code Annotated, Section 39-15-411(a), is amended by deleting the language ", either the sign required pursuant to § 39-17-1506(a) or the sign required by this section prior to April 22, 1994" and substituting instead the language "the sign required pursuant to § 39-17-1506(a)".

SECTION 7. Tennessee Code Annotated, Section 39-15-413(a), is amended by deleting the subsection and substituting the following:

(a)

(1) It is not a violation of § 39-15-404, §§ 39-15-408 - 39-15-410, §§ 39-17-401 - 39-17-427, § 39-17-602, § 39-17-603, §§ 39-17-901 - 39-17-908, § 39-17-911, § 39-17-914, § 39-17-918, §§ 39-17-1003 - 39-17-1005, §§ 39-17-1501 - 39-17-1513, or any other offense providing a prohibition for use of or sales to a minor or a person under twenty-one (21) years of age, for a law enforcement officer to:

(A) Use or send a minor to purchase any smoking material, smoking paraphernalia, smokeless tobacco product, alcoholic beverage, beer, illegal drugs, state lottery ticket or share, vapor product, or any other prohibited material for the purpose of aiding in the enforcement of laws prohibiting sales to or use of minors so long as the law enforcement

officer has obtained the prior written approval of the minor's parent or legal guardian; or

(B) Use or send a person under twenty-one (21) years of age to purchase any smoking material, smoking paraphernalia, smokeless tobacco product, alcoholic beverage, beer, vapor product, or any other prohibited material for the purpose of aiding in the enforcement of laws prohibiting sales to or use of persons under twenty-one (21) years of age. Parental consent is not required where the person is eighteen (18) years of age or older.

(2) It is not a violation of § 39-15-404, §§39-15-408 - 39-15-410, § 39-17-602, § 39-17-603, §§ 39-17-1501 - 39-17-1513, or any other statute prohibiting the use, possession or sales of alcoholic beverages, beer, lottery tickets, tobacco products, smokeless tobacco, smoking material, smoking paraphernalia, or vapor products to a minor or a person under twenty-one (21) years of age, for a merchant in the business of selling alcoholic beverages, beer, lottery tickets, tobacco products, smokeless tobacco, smoking material, smoking paraphernalia, or vapor products, to:

(A) Use or send a minor to purchase alcoholic beverages, beer, lottery tickets, tobacco products, smokeless tobacco, smoking material, smoking paraphernalia, or vapor products for the purpose of aiding in the enforcement of laws and policies prohibiting sales by the merchant at the merchant's place of business and preventing sales of such products to or use by minors from occurring; or

(B) In the case of alcoholic beverages, beer, tobacco products, smokeless tobacco, smoking material, smoking paraphernalia, or vapor

products, use or send a person under twenty-one (21) years of age, to purchase any such product for the purpose of aiding in the enforcement of laws and policies prohibiting sales by the merchant at the merchant's place of business and preventing sales of such products to or use by persons under twenty-one (21) years of age from occurring.

SECTION 8. Tennessee Code Annotated, Section 39-15-413(c), is amended by deleting the language ", or in the case of alcohol or beer, a person under twenty-one (21) years of age," and substituting instead the language ", or a person under twenty-one (21) years of age in the case of alcoholic beverages, beer, smoking material, smoking paraphernalia, smokeless tobacco products, or vapor products,".

SECTION 9. Tennessee Code Annotated, Section 39-17-1502, is amended by deleting the language "eighteen (18) years of age" wherever it appears and substituting instead the language "twenty-one (21) years of age".

SECTION 10. Tennessee Code Annotated, Section 39-17-1503(5), is amended by deleting the language "eighteen (18) years of age" wherever it appears and substituting instead the language "twenty-one (21) years of age".

SECTION 11. Tennessee Code Annotated, Section 39-17-1504, is amended by deleting the language "eighteen (18) years of age" wherever it appears and substituting instead the language "twenty-one (21) years of age".

SECTION 12. Tennessee Code Annotated, Section 39-17-1504(b), is amended by deleting the language "if the minor's parent or legal guardian has consented to this action" and adding the following immediately after the period at the end of the subsection:

Prior to using a minor to perform illegal or delinquent acts for the purposes of aiding in the enforcement of the laws of this state as permitted by this subsection (b), the law enforcement officer shall obtain the written approval of the minor's parent or legal

guardian; provided, however, that the consent of the minor's parent or legal guardian is not required if the person used to make the purchase is eighteen (18) years of age or older.

SECTION 13. Tennessee Code Annotated, Section 39-17-1505, is amended by deleting the language "eighteen (18) years of age" wherever it appears and substituting instead the language "twenty-one (21) years of age".

SECTION 14. Tennessee Code Annotated, Section 39-17-1505, is amended by deleting subsections (b) and (c) and substituting instead the following:

(b)

(1) Any minor who violates this section shall be issued a citation by a law enforcement officer or school principal who has evidence of the violation. The citation shall require the minor to appear in the juvenile court for the county in which the violation is alleged to have occurred. At the time of issuance of the citation, the product shall be seized as contraband by the law enforcement officer or school principal.

(2) A violation of this section by a minor is a civil offense, the penalty for which is a civil penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). Upon its determination that the minor has violated this section, the juvenile court shall determine the amount of the civil penalty and shall order the destruction of the product. The juvenile court may, in its discretion, also impose community service work not to exceed fifty (50) hours or successful completion of a prescribed teen court program for a second or subsequent violation within a one-year period.

(c) A violation of this section by a person under twenty-one (21) years of age but at least eighteen (18) years of age is a Class C misdemeanor punishable only by a fine.

SECTION 15. Tennessee Code Annotated, Section 39-17-1505(d), is amended by deleting the word "minor" and substituting instead the language "person under twenty-one (21) years of age".

SECTION 16. Tennessee Code Annotated, Section 39-17-1506(a), is amended by deleting the language "EIGHTEEN (18) YEARS" and substituting instead the language "TWENTY-ONE (21) YEARS".

SECTION 17. Tennessee Code Annotated, Section 39-17-1507(a)(2), is amended by deleting the language "eighteen (18) years of age" and substituting instead the language "twenty-one (21) years of age".

SECTION 18. Tennessee Code Annotated, Section 39-17-1509, is amended by deleting the language "eighteen (18) years of age" wherever it appears and substituting instead the language "twenty-one (21) years of age".

SECTION 19. Tennessee Code Annotated, Section 39-17-1513, is amended by deleting the language "eighteen (18) years of age" and substituting instead the language "twenty-one (21) years of age".

SECTION 20. Tennessee Code Annotated, Section 47-18-2004(a), is amended by deleting the word "minors" and substituting instead the language "persons under twenty-one (21) years of age".

SECTION 21. This act shall take effect July 1, 2019, the public welfare requiring it.