

Filed for intro on 02/09/95  
Senate Bill \_\_\_\_\_  
By  
\_\_\_\_\_

House No. HB0906  
By Brooks

AN ACT to enact the "Prevention of Youth Access to Electronic Pagers Act of 1995".

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

SECTION 1. This part shall be known and may be cited as the "Prevention of Youth Access to Electronic Pagers Act of 1995".

SECTION 2. The purpose of this part is to reduce the access of persons under eighteen (18) years of age to electronic pagers by creating prohibitions against the sale and distribution of electronic pagers to such persons, prohibiting the purchase or receipt of electronic pagers by such persons, restricting the distribution and sale of electronic pagers other than in conformity with this act, requiring minors to obtain permits to carry electronic pagers, and ensuring uniform regulations with respect to electronic pagers within this state. It is the intent of the general assembly that this part be equitably enforced so as to ensure the equal application of this act across this state for the welfare of its youth.

SECTION 3. Definitions. As used in this part, unless the context otherwise requires:

(1) "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association;

(2) "Proof of age" means a driver license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid.

#### SECTION 4. Sales to minors - Penalty.

(a) It is unlawful for any person to sell or distribute any electronic pager to another person who has not attained eighteen (18) years of age or to purchase an electronic pager on behalf of any such person.

(b) It is unlawful for any person to persuade, entice, send or assist a person who has not attained eighteen (18) years of age to purchase, acquire, receive or attempt to purchase, acquire or receive an electronic pager. A violation of this section shall be a Class A misdemeanor, punishable by a fine of two thousand five hundred dollars (\$2,500). This section shall not be deemed to preclude law enforcement efforts involving the use of individuals under eighteen (18) years of age if a parent of the individual has consented to this action.

(c) A person engaged in the sale or distribution of electronic pagers shall demand proof of age from a prospective purchaser or recipient.

(d) A person who violates this section commits a Class A misdemeanor punishable only by a fine not to exceed two thousand five hundred dollars (\$2,500). Any person who is convicted of violating this section on three (3) separate occasions is prohibited from selling electronic pagers and from possession of such products for resale for a period of five (5) years from the date of the last conviction. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section.

(e) If the sale is made by an employee of the owner of a store at which electronic pagers are sold at retail, the employee shall be deemed guilty of the violation and be subject to the fine.

(f) For purposes of determining the liability of a person controlling franchises or business operations in multiple locations for a second or subsequent violation of this section, each individual franchise or business location shall be deemed a separate entity.

(g) The owner or proprietor of a store at which electronic pagers are sold at retail shall also be deemed guilty of a violation of this section if such owner or proprietor knowingly permits an employee to violate the provisions of this section.

#### SECTION 5. Prohibited purchases by minors - Penalties.

(a) It is unlawful for a person who has not attained eighteen (18) years of age to purchase or accept receipt of an electronic pager, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually that person's own for the purpose of purchasing or receiving an electronic pager.

(b) A person who violates this shall be prohibited from qualifying for a Tennessee drivers license for one (1) year, or in the alternative, have their driving privileges revoked for the same period of time and, fifty (50) hours of community service work for each subsequent offense within a one (1) year period.

#### SECTION 6.

(a) It is unlawful for any person under eighteen (18) years of age to carry an electronic pager. A minor wishing to carry an electronic pager shall apply to any local law enforcement agency for a permit. The agency shall issue such a permit to persons eligible. A person under eighteen (18) years of age shall be eligible to carry a electronic pager after the local authorities have secured a signed parental consent form from the individual's natural parents or legal guardian(s). A copy of the permit shall be retained as a portion of the records of the particular law enforcement agency who shall issue the permit. The permit holder shall have the permit in the holder's immediate possession at all times when carrying an electronic pager and shall display the permit on demand of a law enforcement officer.

(b) It is a Class A misdemeanor, punishable by a fine of twenty-five hundred dollars (\$2,500), for any person to provide false information of a material nature to the law enforcement agency on either the parental or guardianship status of the person filling out the application or in any other disclosure required to be made to the agency.

(c) Any lease or service contract for the operation or maintenance of an electronic pager which requires renewal after the effective date of this act shall require written parental consent if the person seeking to renew their contract is under eighteen (18) years of age.

#### SECTION 7. Required postings.

(a) On and after July 1, 1995, every person who sells electronic pagers at retail shall post conspicuously, near the point of sale, and keep so posted at the place of business a sign, no smaller than ninety-three and one-half ( 93 1/2) square inches, to ensure that it is likely to be read at each point of sale, stating the following:

STATE LAW STRICTLY PROHIBITS THE SALE OR LEASE OF  
ELECTRONIC PAGERS TO PERSONS UNDER THE AGE OF EIGHTEEN (18)  
YEARS. PROOF OF AGE REQUIRED

(b) A person who violates this section commits a Class A misdemeanor punishable only by a fine of twenty-five hundred dollars (\$2,500) for the first offense and, notwithstanding Section 40-35-111, thirty-five hundred dollars (\$3,500) for each succeeding offense within a two (2) year period. No notice regarding electronic pager products, other than the notice required by this section shall be posted or maintained in any store that sells electronic pagers at retail.

SECTION 8. This act shall take effect July 1, 1995, the public welfare requiring it.