HB286

147846-4

By Representative Jones

RFD: Judiciary

First Read: 14-FEB-13
ENROLLED. An Act,

To amend Sections 28-11-2 and 28-11-13, Code of Alabama 1975, relating to the prohibition of the sale, use, possession, and transportation of tobacco and tobacco products by a minor; to prohibit the sale, use, possession, and transportation of alternative nicotine products by a minor

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 28-11-2 and 28-11-13, Code of Alabama 1975, are amended to read as follows:

"§28-11-2.

"For purposes of this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

"(1) ALTERNATIVE NICOTINE PRODUCT. The term alternative nicotine product includes electronic cigarettes, and alternative nicotine products as follows:

"a. Electronic cigarettes. An electronic cigarette is an electronic product or device that produces a vapor that delivers nicotine or other substances to the person inhaling from the device to simulate smoking, and is likely to be offered to, or purchased by, consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe."
"The term "electronic cigarette" does not include any of the following:

1. A cigarette or other tobacco product as defined in this section.


3. A product that is a device under 21 U.S.C. §321(h).


b. Alternative nicotine products. The term includes products other than electronic cigarettes that consists of or contains nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any other means.

"The term "alternative nicotine products" does not include the following:

1. A cigarette or other tobacco product as defined in this section.


3. A product that is a device under 21 U.S.C. §321(h).

"**(1)** BOARD. The Alabama Alcoholic Beverage Control Board.

"**(2)** DISTRIBUTION. To sell, barter, exchange, or give tobacco or tobacco products for promotional purposes or for gratis.

"**(3)** MINOR. Any person under the age of 19 years.

"**(4)** PERSON. Any natural person, firm, partnership, association, company, corporation, or other entity. Person does not include a manufacturer or wholesaler of tobacco or tobacco products nor does it include employees of the permit holder.

"**(5)** PROOF OF IDENTIFICATION. Any one or more of the following documents used for purposes of determining the age of a person purchasing, attempting to purchase, or receiving tobacco or tobacco products:

"a. A valid driver's license issued by any state and bearing the photograph of the presenting person.

"b. United States Uniform Service Identification.

"c. A valid passport.

"d. A valid identification card issued by any state agency for the purpose of identification and bearing the photograph and date of birth of the presenting individual.

"e. For legal mail order purposes only a valid signed certification that will verify the individual is 19 years of age or older.
RESPONSIBLE VENDOR PROGRAM. A program administered by the board to encourage and support vendors in training employees in legal and responsible sales practice.

SAMPLER. Any business or person who distributes tobacco or tobacco products for promotional purposes.

SELF-SERVICE DISPLAY. A display that contains tobacco or tobacco products and is located in an area openly accessible to purchasers at retail and from which such purchasers can readily access tobacco or tobacco products without the assistance of the tobacco permit holder or an employee of the permit holder. A display case that holds tobacco or tobacco products behind locked doors does not constitute a self-service display.

TOBACCO or TOBACCO PRODUCTS. Tobacco or any product containing tobacco, including, but not limited to, the following:

a. Cigarettes.
b. Cigars.
c. Chewing tobacco.
d. Snuff.
e. Pipe tobacco.
f. Smokeless tobacco.

TOBACCO PERMIT. A permit issued by the board to allow the permit holder to engage in the distribution
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of tobacco or tobacco products at the location identified in
the permit.

"(11)(12) TOBACCO SPECIALTY STORE. A business that

 derives at least 75 percent of its revenue from tobacco or
tobacco products.


Unlawful behavior of minors. Unlawful for minors to

purchase, use, possess, or transport tobacco, tobacco
products, or alternative nicotine products.

"(a) It is unlawful for any minor to purchase, use,
possess, or transport tobacco or tobacco products, or
alternative nicotine products within this state. It shall not
be unlawful for a minor employee of a tobacco, tobacco
product, or alternative nicotine product permit holder to
handle, transport, or sell tobacco, or tobacco products, or:
alternative tobacco products if the minor employee is acting
within the line and scope of employment and the permit holder,
or an employee of the permit holder who is 21 years of age or
older, is present.

"(b) It is unlawful for any minor to present or
offer to another person proof of identification which is
false, fraudulent, or not actually his or her own proof of
identification in order to buy, receive, or otherwise obtain,
or attempt to buy, receive, or otherwise obtain, any tobacco,
or tobacco products, or alternative nicotine products."
(c) If a minor is cited for any violation under this section, the citing agency shall notify a parent, legal guardian, or legal custodian of the minor unless the minor has been emancipated by court order or operation of law.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.
Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives
I hereby certify that the within Act originated and was passed by the House 04-AFR-13.

Jeff Woodard
Clerk

Senate 20-MAY-13  Amended and Passed
House 20-MAY-13 Concurred in Senate Amendment