



H.B. 237

124th General Assembly
(As Introduced)

Reps. Patton, Key, Strahorn, Sykes, Barrett, Allen, Cirelli, Flannery, Oakar

BILL SUMMARY

- Increases the penalty for the illegal distribution of cigarettes or other tobacco products when the distribution is to a minor who had direct access to the cigarettes or other tobacco products from a self-service display.
- Requires the court to suspend the sentence for a first violation of illegal distribution of cigarettes or other tobacco products committed under such circumstances if the offender participates in a "tobacco retailer education program."

CONTENT AND OPERATION

Illegal distribution of cigarettes or other tobacco products

Existing law

R.C. 2927.02(B) prohibits any manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, its agent, employee, or representative, and any other person from: (1) giving, selling, or otherwise distributing cigarettes, other tobacco products, or papers used to roll cigarettes to any child, (2) giving away, selling, or distributing cigarettes, other tobacco products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, or papers used to roll cigarettes to a person under 18 years of age is prohibited by law, or (3) knowingly furnishing any false information regarding the name, age, or other identification of any child with purpose to obtain cigarettes, other tobacco products, or papers used to roll cigarettes for that child (R.C. 2927.02(B)).

Whoever violates the first two prohibitions is guilty of illegal distribution of cigarettes or other tobacco products, a misdemeanor of the fourth degree. Whoever violates the third prohibition is guilty of permitting children to use cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of one of the prohibitions, a subsequent offense is a misdemeanor of the third degree. (R.C. 2927.02(E).)

Operation of the bill

The bill increases the penalty for the illegal distribution of cigarettes or other tobacco products to a misdemeanor of the second degree when the offense includes giving, selling, or otherwise distributing cigarettes, other tobacco products, or papers used to roll cigarettes to any child who had direct access to the cigarettes, other tobacco products, or papers used to roll cigarettes from a "self-service display" (see "**Definitions**," below). For a first offense, the court is required to suspend the sentence and to place the offender on probation under R.C. 2951.02 conditioned upon the offender participating in a "tobacco retailer education program" (see "**Definitions**," below). If the offender previously has been convicted of illegal distribution of cigarettes or other tobacco products by giving, selling, or otherwise distributing cigarettes, other tobacco products, or papers used to roll cigarettes to any child who had direct access to the cigarettes, other tobacco products, or papers used to roll cigarettes from a self-service display, a subsequent offense committed under those circumstances is a misdemeanor of the first degree. (R.C. 2927.02(E)(1)(c).)

Definitions

"Self-service display" means a display of cigarettes, other tobacco products, or papers used to roll cigarettes that is located in an area within a store or other retail establishment in which the cigarettes, other tobacco products, or papers used to roll cigarettes in the display are directly accessible to the general public. "Self-service display" does not include a vending machine from which cigarettes or other tobacco products may be purchased (R.C. 2927.02(A)(5).)

"Tobacco retailer education program" means any public or private agency program, including, but not limited to, the national "We Card" program, that does both of the following with respect to stores or other retail establishments in which cigarettes, other tobacco products, or papers used to roll cigarettes are sold or distributed (R.C. 2927.02(A)(7)):

(a) Informs the owners, managers, agents, and employees of the stores or other retail establishments about the laws of this state or municipal ordinances in this state that prohibit giving, selling, or distributing cigarettes, other tobacco products, or papers used to roll cigarettes to children; permitting children to use

cigarettes, other tobacco products, or papers used to roll cigarettes; or other acts pertaining to the illegal distribution to children, or the unlawful use, possession, purchase, or receipt by children, of cigarettes, other tobacco products, or papers used to roll cigarettes;

(b) Provides educational and training sessions or materials to the owners, managers, agents, and employees of the stores or other retail establishments on ways to prevent violations of the laws or ordinances described above.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-01-01	p. 324

h0237-i.124/kl