



H.B. 302

124th General Assembly
(As Introduced)

Reps. **Key, Jones, Jerse, Cirelli, Sullivan, S. Smith, Ford, Allen, Beatty, Patton, Oakar, Fedor, Strahorn, Krupinski, Sykes, Britton, Otterman, Carano, Flannery, Rhine**

BILL SUMMARY

- Prohibits a child, unless accompanied by a parent, adult spouse, or legal guardian, from selling or offering to sell within the scope of the child's employment cigarettes, other tobacco products, or papers used to roll cigarettes, including selling or offering to sell these products by or from a vending machine.

CONTENT AND OPERATION

Existing law

Prohibitions

The current Juvenile Code prohibits a child, unless accompanied by a parent, adult spouse, or legal guardian, from using, consuming, possessing, purchasing, attempting to purchase, ordering, paying for, sharing the cost of, accepting, or receiving cigarettes, other tobacco products, or papers used to roll cigarettes. The Code also prohibits a child from knowingly furnishing false information concerning that child's name, age, or other identification to obtain cigarettes, other tobacco products, or papers used to roll cigarettes. (R.C. 2151.87(B) and (C).) (See **COMMENT 1.**)

Exception

It is not a violation of any prohibition described in the first sentence of the above paragraph if the child possesses, purchases or attempts to purchase, orders, pays for, shares the cost of, or accepts or receives cigarettes, other tobacco products, or papers used to roll cigarettes while participating in an inspection or compliance check conducted by a federal, state, local, or corporate entity at a

location at which cigarettes, other tobacco products, or papers used to roll cigarettes are sold or distributed (R.C. 2151.87(E)(2)).

Sanctions

If a juvenile court finds that a child violated any of the above prohibitions, the court may do either or both of the following: (1) require the child to attend a *youth smoking education program* (see **COMMENT 1**) or other smoking treatment program approved by the court, if one is available or (2) impose a fine of not more than \$100.

If a child disobeys a juvenile court order issued as described above, the court may do any or all of the following: (1) increase the fine imposed upon the child, (2) require the child to perform not more than 20 hours of community service, or (3) suspend for a period of 30 days the temporary instruction permit, probationary driver's license, or driver's license issued to the child.

A juvenile court cannot adjudicate a child a delinquent or unruly child for a violation of any of the above prohibitions. A child who is alleged or found to have violated any of the above prohibitions cannot be detained under any provision of the Juvenile Code or any other provision of the Revised Code. (R.C. 2151.87(D), (F), (G), and (H).)

Operation of the bill

The bill adds another prohibition regarding a child's selling of cigarettes, other tobacco products, or papers used to roll cigarettes and generally imposes similar sanctions as in existing law.

Prohibition and exception

The bill prohibits a child, unless accompanied by a parent, spouse who is 18 years of age or older, or legal guardian of the child, from selling or offering to sell within the scope of the child's employment cigarettes, other tobacco products, or papers used to roll cigarettes, including selling or offering to sell these products by or from a vending machine as provided in the Criminal Code (R.C. 2151.87(B)(4)). (See **COMMENT 2**.) The bill applies to this prohibition the same exception as described above under "**Existing law**" (R.C. 2151.87(E)(2)).

Sanctions

If a juvenile court finds that a child violated the above prohibition, the court may do either or both of the following: (1) require the child to attend a youth smoking education program or other smoking treatment program approved by the

court, if one is available or (2) impose a fine of not more than \$100 (R.C. 2151.87(F)).

If a child disobeys a juvenile court order issued as described above, the court may do only either or both of the following: (1) increase the fine imposed upon the child or (2) require the child to perform not more than 20 hours of community service. The court, for a violation of a juvenile court order issued or described above, cannot suspend for a period of 30 days the temporary instruction permit, probationary driver's license, or driver's license issued to the child. (R.C. 2151.87(G).)

A juvenile court cannot adjudicate a child a delinquent or unruly child for a violation of the prohibition. A child who is alleged or found to have violated the prohibition cannot be detained under any provision of the Juvenile Code or any other provision of the Revised Code. (R.C. 2151.87(D) and (H).)

Local regulations

The bill specifically authorizes a municipality or township to impose regulations on the selling by a child of cigarettes, other tobacco products, or papers used to roll cigarettes that are more restrictive than the prohibition specified in the bill (R.C. 2151.87(I)).

COMMENT

1. Existing law, unchanged by the bill, defines the following terms (R.C. 2151.87(A) and R.C. 2927.02(A)--not in the bill):

"Cigarette" includes clove cigarettes and hand-rolled cigarettes.

"Tobacco product" means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, or snuff.

"Youth smoking education program" means a private or public agency program: (1) that is related to tobacco use, prevention, and cessation, (2) that is carried out or funded by the Tobacco Use Prevention and Control Foundation pursuant to R.C. 183.07, which requires the Foundation to prepare a plan to reduce tobacco use by Ohioans, (3) that utilizes educational methods focusing on the negative health effects of smoking and using tobacco products, and (4) that is not more than 12 hours in duration.

2. R.C. 2927.02(C), not in the bill, prohibits any person from selling or offering to sell cigarettes or other tobacco products by or from a *vending machine*

(see definition below), except in the following locations: (1) an area within a factory, business, office, or other place not open to the general public, (2) an area to which children are not generally permitted access, and (3) any other place not identified in (1) or (2), above, upon all of the following conditions:

(a) The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes and other tobacco product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. A vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, is not considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.

(b) The vending machine is inaccessible to the public when the place is closed.

"Vending machine" has the same meaning as "coin machine," which is defined as any mechanical or electronic device designed to do both of the following: (1) receive a coin, bill, or token made for that purpose and (2) in return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license (R.C. 2927.02(A)(6) and 2913.01(I)--not in the bill).

HISTORY

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Introduced	06-19-01	p. 672

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