

**As Reported by the House Criminal Justice Committee**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 258**

**Representative Carruthers**

**Cosponsors: Representatives Richardson, Abrams, Williams, Schmidt**

---

**A BILL**

To amend sections 2927.02, 3767.01, and 4301.74 of  
the Revised Code to increase fines for  
repeatedly selling tobacco products to minors  
and to apply the public nuisance law to places  
where such sales occur.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2927.02, 3767.01, and 4301.74 of  
the Revised Code be amended to read as follows:

**Sec. 2927.02.** (A) As used in this section and sections  
2927.021 and 2927.022 of the Revised Code:

(1) "Age verification" means a service provided by an  
independent third party (other than a manufacturer, producer,  
distributor, wholesaler, or retailer of cigarettes, other  
tobacco products, alternative nicotine products, or papers used  
to roll cigarettes) that compares information available from a  
commercially available database, or aggregate of databases, that  
regularly are used by government and businesses for the purpose  
of age and identity verification to personal information  
provided during an internet sale or other remote method of sale

to establish that the purchaser is twenty-one years of age or 19  
older. 20

(2) (a) "Alternative nicotine product" means, subject to 21  
division (A) (2) (b) of this section, an electronic smoking 22  
device, vapor product, or any other product or device that 23  
consists of or contains nicotine that can be ingested into the 24  
body by any means, including, but not limited to, chewing, 25  
smoking, absorbing, dissolving, or inhaling. 26

(b) "Alternative nicotine product" does not include any of 27  
the following: 28

(i) Any cigarette or other tobacco product; 29

(ii) Any product that is a "drug" as that term is defined 30  
in 21 U.S.C. 321(g) (1); 31

(iii) Any product that is a "device" as that term is 32  
defined in 21 U.S.C. 321(h); 33

(iv) Any product that is a "combination product" as 34  
described in 21 U.S.C. 353(g). 35

(3) "Cigarette" includes clove cigarettes and hand-rolled 36  
cigarettes. 37

(4) "Distribute" means to furnish, give, or provide 38  
cigarettes, other tobacco products, alternative nicotine 39  
products, or papers used to roll cigarettes to the ultimate 40  
consumer of the cigarettes, other tobacco products, alternative 41  
nicotine products, or papers used to roll cigarettes. 42

(5) "Electronic smoking device" means any device that can 43  
be used to deliver aerosolized or vaporized nicotine or any 44  
other substance to the person inhaling from the device including 45  
an electronic cigarette, electronic cigar, electronic hookah, 46

vaping pen, or electronic pipe. "Electronic smoking device" 47  
includes any component, part, or accessory of such a device, 48  
whether or not sold separately, and includes any substance 49  
intended to be aerosolized or vaporized during the use of the 50  
device. "Electronic smoking device" does not include any product 51  
that is a drug, device, or combination product, as those terms 52  
are defined or described in 21 U.S.C. 321 and 353(g). 53

(6) "Proof of age" means a driver's license, a commercial 54  
driver's license, a military identification card, a passport, or 55  
an identification card issued under sections 4507.50 to 4507.52 56  
of the Revised Code that shows that a person is eighteen years 57  
of age or older. 58

(7) "Tobacco product" means any product that is made or 59  
derived from tobacco or that contains any form of nicotine, if 60  
it is intended for human consumption or is likely to be 61  
consumed, whether smoked, heated, chewed, absorbed, dissolved, 62  
inhaled, or ingested by any other means, including, but not 63  
limited to, a cigarette, an electronic smoking device, a cigar, 64  
pipe tobacco, chewing tobacco, snuff, or snus. "Tobacco product" 65  
also means any component or accessory used in the consumption of 66  
a tobacco product, such as filters, rolling papers, pipes, blunt 67  
or hemp wraps, and liquids used in electronic smoking devices, 68  
whether or not they contain nicotine. "Tobacco product" does not 69  
include any product that is a drug, device, or combination 70  
product, as those terms are defined or described in 21 U.S.C. 71  
321 and 353(g). 72

(8) "Vapor product" means a product, other than a 73  
cigarette or other tobacco product as defined in Chapter 5743. 74  
of the Revised Code, that contains or is made or derived from 75  
nicotine and that is intended and marketed for human 76

consumption, including by smoking, inhaling, snorting, or 77  
sniffing. "Vapor product" includes any component, part, or 78  
additive that is intended for use in an electronic smoking 79  
device, a mechanical heating element, battery, or electronic 80  
circuit and is used to deliver the product. "Vapor product" does 81  
not include any product that is a drug, device, or combination 82  
product, as those terms are defined or described in 21 U.S.C. 83  
321 and 353(g). "Vapor product" includes any product containing 84  
nicotine, regardless of concentration. 85

(9) "Vending machine" has the same meaning as "coin 86  
machine" in section 2913.01 of the Revised Code. 87

(B) No manufacturer, producer, distributor, wholesaler, or 88  
retailer of cigarettes, other tobacco products, alternative 89  
nicotine products, or papers used to roll cigarettes, no agent, 90  
employee, or representative of a manufacturer, producer, 91  
distributor, wholesaler, or retailer of cigarettes, other 92  
tobacco products, alternative nicotine products, or papers used 93  
to roll cigarettes, and no other person shall do any of the 94  
following: 95

(1) Give, sell, or otherwise distribute cigarettes, other 96  
tobacco products, alternative nicotine products, or papers used 97  
to roll cigarettes to any person under twenty-one years of age; 98

(2) Give away, sell, or distribute cigarettes, other 99  
tobacco products, alternative nicotine products, or papers used 100  
to roll cigarettes in any place that does not have posted in a 101  
conspicuous place a legibly printed sign in letters at least 102  
one-half inch high stating that giving, selling, or otherwise 103  
distributing cigarettes, other tobacco products, alternative 104  
nicotine products, or papers used to roll cigarettes to a person 105  
under twenty-one years of age is prohibited by law; 106

(3) Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;	107 108 109 110 111
(4) Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;	112 113 114 115
(5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;	116 117 118
(6) Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.	119 120 121 122
(C) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:	123 124 125
(1) An area within a factory, business, office, or other place not open to the general public;	126 127
(2) An area to which persons under twenty-one years of age are not generally permitted access;	128 129
(3) Any other place not identified in division (C) (1) or (2) of this section, upon all of the following conditions:	130 131
(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	132 133 134

cigarettes, other tobacco product, and alternative nicotine 135  
product purchases from the vending machine will be readily 136  
observed by the person who owns or operates the place or an 137  
employee of that person. For the purpose of this section, a 138  
vending machine located in any unmonitored area, including an 139  
unmonitored coatroom, restroom, hallway, or outer waiting area, 140  
shall not be considered located within the immediate vicinity, 141  
plain view, and control of the person who owns or operates the 142  
place, or an employee of that person. 143

(b) The vending machine is inaccessible to the public when 144  
the place is closed. 145

(c) A clearly visible notice is posted in the area where 146  
the vending machine is located that states the following in 147  
letters that are legibly printed and at least one-half inch 148  
high: 149

"It is illegal for any person under the age of 21 to 150  
purchase tobacco or alternative nicotine products." 151

(D) The following are affirmative defenses to a charge 152  
under division (B) (1) of this section: 153

(1) The person under twenty-one years of age was 154  
accompanied by a parent, spouse who is twenty-one years of age 155  
or older, or legal guardian of the person under twenty-one years 156  
of age. 157

(2) The person who gave, sold, or distributed cigarettes, 158  
other tobacco products, alternative nicotine products, or papers 159  
used to roll cigarettes to a person under twenty-one years of 160  
age under division (B) (1) of this section is a parent, spouse 161  
who is twenty-one years of age or older, or legal guardian of 162  
the person under twenty-one years of age. 163

(E) It is not a violation of division (B) (1) or (2) of 164  
this section for a person to give or otherwise distribute to a 165  
person under twenty-one years of age cigarettes, other tobacco 166  
products, alternative nicotine products, or papers used to roll 167  
cigarettes while the person under twenty-one years of age is 168  
participating in a research protocol if all of the following 169  
apply: 170

(1) The parent, guardian, or legal custodian of the person 171  
under twenty-one years of age has consented in writing to the 172  
person under twenty-one years of age participating in the 173  
research protocol. 174

(2) An institutional human subjects protection review 175  
board, or an equivalent entity, has approved the research 176  
protocol. 177

(3) The person under twenty-one years of age is 178  
participating in the research protocol at the facility or 179  
location specified in the research protocol. 180

(F) (1) Whoever violates division (B) (1), (2), (4), (5), or 181  
(6) or (C) of this section is guilty of illegal distribution of 182  
cigarettes, other tobacco products, or alternative nicotine 183  
products. Except as otherwise provided in ~~this division~~ division 184  
(F) of this section, illegal distribution of cigarettes, other 185  
tobacco products, or alternative nicotine products is a 186  
misdemeanor of the fourth degree. If the offender previously has 187  
been convicted of a violation of division (B) (1), (2), (4), (5), 188  
or (6) or (C) of this section, illegal distribution of 189  
cigarettes, other tobacco products, or alternative nicotine 190  
products is a misdemeanor of the third degree. 191

~~(2)~~ (2) (a) Notwithstanding division (A) (2) of section 192

2929.28 of the Revised Code, if an offender is convicted of or 193  
pleads guilty to a violation of division (B)(1) of this section, 194  
the court shall impose a fine in the following amount: 195

(i) Except as otherwise provided in divisions (F)(2)(a) 196  
(ii), (iii), (iv), and (v) of this section, not more than two 197  
hundred fifty dollars; 198

(ii) Except as otherwise provided in divisions (F)(2)(a) 199  
(iii), (iv), and (v) of this section, if an offender has 200  
previously been convicted of or pleaded guilty to a violation of 201  
division (B)(1) of this section, not more than five hundred 202  
dollars; 203

(iii) Except as otherwise provided in divisions (F)(2)(a) 204  
(iv) and (v) of this section, if an offender previously has been 205  
convicted of or pleaded guilty to two or more violations of 206  
division (B)(1) of this section, five hundred dollars; 207

(iv) Except as otherwise provided in division (F)(2)(a)(v) 208  
of this section, if an offender previously has been convicted of 209  
or pleaded guilty to three or more violations of division (B)(1) 210  
of this section, one thousand dollars; 211

(v) If an offender previously has been convicted of or 212  
pleaded guilty to four or more violations of division (B)(1) of 213  
this section, one thousand five hundred dollars. 214

(b) The financial sanctions required by division (F)(2)(a) 215  
of this section are in lieu of the financial sanctions described 216  
in division (A)(2) of section 2929.28 of the Revised Code, but 217  
are in addition to any other sanctions or penalties that may 218  
apply to the offender, including other financial sanctions under 219  
that section or a jail term under section 2929.24 of the Revised 220  
Code. 221



(3) Whoever violates division (B) (3) of this section is 222  
guilty of permitting a person under twenty-one years of age to 223  
use cigarettes, other tobacco products, or alternative nicotine 224  
products. Except as otherwise provided in this division, 225  
permitting a person under twenty-one years of age to use 226  
cigarettes, other tobacco products, or alternative nicotine 227  
products is a misdemeanor of the fourth degree. If the offender 228  
previously has been convicted of a violation of division (B) (3) 229  
of this section, permitting a person under twenty-one years of 230  
age to use cigarettes, other tobacco products, or alternative 231  
nicotine products is a misdemeanor of the third degree. 232

(G) Any cigarettes, other tobacco products, alternative 233  
nicotine products, or papers used to roll cigarettes that are 234  
given, sold, or otherwise distributed to a person under twenty- 235  
one years of age in violation of this section and that are used, 236  
possessed, purchased, or received by a person under twenty-one 237  
years of age in violation of section 2151.87 of the Revised Code 238  
are subject to seizure and forfeiture as contraband under 239  
Chapter 2981. of the Revised Code. 240

**Sec. 3767.01.** As used in all sections of the Revised Code 241  
relating to nuisances: 242

(A) "Place" includes any building, erection, or place or 243  
any separate part or portion thereof or the ground itself; 244

(B) "Person" includes any individual, corporation, 245  
association, partnership, trustee, lessee, agent, or assignee; 246

(C) "Nuisance" means any of the following: 247

(1) That which is defined and declared by statutes to be a 248  
nuisance; 249

(2) Any place in or upon which lewdness, assignation, or 250

prostitution is conducted, permitted, continued, or exists, or 251  
any place, in or upon which lewd, indecent, lascivious, or 252  
obscene films or plate negatives, film or plate positives, films 253  
designed to be projected on a screen for exhibition films, or 254  
glass slides either in negative or positive form designed for 255  
exhibition by projection on a screen, are photographed, 256  
manufactured, developed, screened, exhibited, or otherwise 257  
prepared or shown, and the personal property and contents used 258  
in conducting and maintaining any such place for any such 259  
purpose. This chapter shall not affect any newspaper, magazine, 260  
or other publication entered as second class matter by the post- 261  
office department. 262

(3) Any room, house, building, boat, vehicle, structure, 263  
or place where beer or intoxicating liquor is manufactured, 264  
sold, bartered, possessed, or kept in violation of law and all 265  
property kept and used in maintaining the same, and all property 266  
designed for the unlawful manufacture of beer or intoxicating 267  
liquor and beer or intoxicating liquor contained in the room, 268  
house, building, boat, structure, or place, or the operation of 269  
such a room, house, building, boat, structure, or place as 270  
described in division (C) (3) of this section where the operation 271  
of that place substantially interferes with public decency, 272  
sobriety, peace, and good order. "Violation of law" includes, 273  
but is not limited to, sales to any person under the legal 274  
drinking age as prohibited in division (A) of section 4301.22 or 275  
division (A) of section 4301.69 of the Revised Code and any 276  
violation of section 2913.46 or 2925.03 of the Revised Code. 277

(4) Any place in which a pattern of continuous or repeated 278  
violations of division (B) (1) of section 2927.02 of the Revised 279  
Code has occurred. 280

**Sec. 4301.74.** Any person subject to an injunction, 281  
temporary or permanent, granted pursuant to division (D) or (E) 282  
of section 3767.05 of the Revised Code involving a condition 283  
described in division (C) (3) ~~or (4)~~ of section 3767.01 of the 284  
Revised Code shall obey such injunction. If such person violates 285  
such injunction, the court or in vacation a judge thereof, may 286  
summarily try and punish the violator. The proceedings for 287  
punishment for contempt shall be commenced by filing with the 288  
clerk of the court from which such injunction issued information 289  
under oath setting out the alleged facts constituting the 290  
violation, whereupon the court shall forthwith cause a warrant 291  
to issue under which the defendant shall be arrested. The trial 292  
may be had upon affidavits, or either party may demand the 293  
production and oral examination of the witnesses. 294

**Section 2.** That existing sections 2927.02, 3767.01, and 295  
4301.74 of the Revised Code are hereby repealed. 296