

CHAPTER 180
FORMERLY
HOUSE BILL NO. 269

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SPECIFIC OFFENSES AND SALE AND DISTRIBUTION OF TOBACCO PRODUCTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend §1116, Title 11 of the Delaware Code by inserting a new subsection (c) as follows:

“(c) A person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient of such products who is under 27 years of age.”.

Section 2. Amend §1117, Title 11 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

“§ 1117. Notice.

A person engaged in the sale or distribution of tobacco products shall post conspicuously at each point of purchase and each tobacco vending machine a notice stating that selling tobacco products to anyone under 18 years of age is illegal, that the purchase of tobacco products by anyone under 18 years of age is illegal and that a violator is subject to fines. The notice shall also state that all persons selling tobacco products are required, under law, to check the proof of age of any purchaser of tobacco products under the age of 27 years. The notice shall include a toll-free telephone number to the Department of Safety and Homeland Security for persons to report unlawful sales of tobacco products. The owners of an establishment who fails to post a notice in compliance with this section shall be subject to a fine of \$100.”.

Section 3. Amend §1119(c), Title 11 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

“(c) It shall be unlawful for any person who owns, operates or manages a business establishment where tobacco products are offered for sale over the counter at retail to maintain such products in any display accessible to customers that is not under the control of a cashier or other employee. This prohibition shall not apply to business establishments to which persons under the age of 18 are not admitted unless accompanied by an adult, tobacco vending machines as permitted under subsection (b) of this section, or tobacco stores. As used in this subsection, ‘under the control’ means customers cannot readily access the tobacco products without the assistance of a cashier or other employee. A display that holds tobacco products behind locked doors shall be constructed as under the control of a cashier or other employee.”.

Approved July 22, 2009