

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

1

HOUSE BILL 153

Short Title: Use Tribal ID for Alcohol & Tobacco Purchase. (Public)

Sponsors: Representatives Gillespie, Clampitt, B. Jones, and Lowery (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Federal Relations and American Indian Affairs, if favorable, Rules, Calendar, and
Operations of the House

February 22, 2023

A BILL TO BE ENTITLED
AN ACT TO ALLOW THE USE OF A TRIBAL ENROLLMENT CARD ISSUED BY A
FEDERAL RECOGNIZED TRIBE WHEN MAKING ALCOHOL OR TOBACCO
PURCHASES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-302(d) reads as rewritten:

"(d) Defense. – It is a defense to a violation of subsection (a) of this section if the seller
does any of the following:

(1) Shows that the purchaser produced a driver's license, a special identification
card issued under G.S. 20-37.7 or issued by the state agency of any other state
authorized to issue similar official state special identification cards for that
state, a tribal enrollment card issued by a federal recognized tribe, a military
identification card, or a passport, showing the purchaser's age to be at least the
required age for purchase and bearing a physical description of the person
named on the card reasonably describing the purchaser.

...

(3) Shows that at the time of purchase, the purchaser utilized a biometric
identification system that demonstrated (i) the purchaser's age to be at least
the required age for the purchase and (ii) the purchaser had previously
registered with the seller or seller's agent a drivers license, a special
identification card issued under G.S. 20-37.7 or issued by the state agency of
any other state authorized to issue similar official state special identification
cards for that state, a tribal enrollment card issued by a federal recognized
tribe, a military identification card, or a passport showing the purchaser's date
of birth and bearing a physical description of the person named on the
document."

SECTION 2. G.S. 14-313 reads as rewritten:

**"§ 14-313. Youth access to tobacco products, tobacco-derived products, vapor products,
and cigarette wrapping papers.**

(a) Definitions. – The following definitions apply in this section:

...

(2) Proof of age. – A drivers ~~license~~license, a tribal enrollment card issued by a
federal recognized tribe, or other photographic identification that includes the



* H 1 5 3 - V - 1 *

1 bearer's date of birth that purports to establish that the person is 18 years of
2 age or older.

3 ...

4 (b) Sale or distribution to persons under the age of 18 years. – If any person shall
5 distribute, or aid, assist, or abet any other person in distributing tobacco products or cigarette
6 wrapping papers to any person under the age of 18 years, or if any person shall purchase tobacco
7 products or cigarette wrapping papers on behalf of a person under the age of 18 years, the person
8 shall be guilty of a Class 2 misdemeanor; provided, however, that it shall not be unlawful to
9 distribute tobacco products or cigarette wrapping papers to an employee when required in the
10 performance of the employee's duties. Retail distributors of tobacco products shall prominently
11 display near the point of sale a sign in letters at least five-eighths of an inch high which states the
12 following:

13 N.C. LAW STRICTLY PROHIBITS
14 THE PURCHASE OF TOBACCO PRODUCTS, TOBACCO-DERIVED PRODUCTS,
15 VAPOR PRODUCTS, AND CIGARETTE WRAPPING PAPERS
16 BY PERSONS UNDER THE AGE OF 18.
17 PROOF OF AGE REQUIRED.

18 Failure to post the required sign shall be an infraction punishable by a fine of twenty-five dollars
19 (\$25.00) for the first offense and seventy-five dollars (\$75.00) for each succeeding offense.

20 A person engaged in the sale of tobacco products or cigarette wrapping papers shall demand
21 proof of age from a prospective purchaser if the person has reasonable grounds to believe that
22 the prospective purchaser is under 18 years of age. Failure to demand proof of age as required by
23 this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18 years of
24 age. Retail distributors of tobacco products or cigarette wrapping papers shall train their sales
25 employees in the requirements of this law. Proof of any of the following shall be a defense to any
26 action brought under this subsection:

- 27 (1) The defendant demanded, was shown, and reasonably relied upon proof of age
28 in the case of a retailer, or any other documentary or written evidence of age
29 in the case of a nonretailer.
30 (2) The defendant relied on the electronic system established and operated by the
31 Division of Motor Vehicles pursuant to G.S. 20-37.02.
32 (3) The defendant relied on a biometric identification system that demonstrated
33 (i) the purchaser's age to be at least the required age for the purchase and (ii)
34 the purchaser had previously registered with the seller or seller's agent a
35 drivers license, a special identification card issued under G.S. 20-37.7, a tribal
36 enrollment card issued by a federal recognized tribe, a military identification
37 card, or a passport showing the purchaser's date of birth and bearing a physical
38 description of the person named on the card.

39 ...

40 (d) Sending or assisting a person less than 18 years to purchase or receive tobacco
41 products or cigarette wrapping papers. – If any person shall send a person less than 18 years of
42 age to purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or
43 cigarette wrapping papers, or if any person shall aid or abet a person who is less than 18 years of
44 age in purchasing, acquiring, or receiving or attempting to purchase, acquire, or receive tobacco
45 products or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor;
46 provided, however, persons under the age of 18 may be enlisted by police or local sheriffs'
47 departments to test compliance if the testing is under the direct supervision of that law
48 enforcement department and written parental consent is provided; provided further, that the
49 Department of Health and Human Services shall have the authority, pursuant to a written plan
50 prepared by the Secretary of Health and Human Services, to use persons under 18 years of age
51 in annual, random, unannounced inspections, provided that prior written parental consent is given

1 for the involvement of these persons and that the inspections are conducted for the sole purpose
2 of preparing a scientifically and methodologically valid statistical study of the extent of success
3 the State has achieved in reducing the availability of tobacco products to persons under the age
4 of 18, and preparing any report to the extent required by section 1926 of the federal Public Health
5 Service Act (42 USC § 300x-26).

6"

7 **SECTION 3.** This act becomes effective July 1, 2023, and applies to purchases made
8 on or after that date.