

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 153
Committee Substitute Favorable 3/2/23

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

(Public)

Sponsors:

Referred to:

February 22, 2023

A BILL TO BE ENTITLED
AN ACT TO ALLOW THE USE OF A TRIBAL ENROLLMENT CARD ISSUED BY A
STATE OR FEDERALLY 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 State or federally recognized Indian 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 State or federally recognized Indian 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 State or federally recognized Indian Tribe, or other photographic identification that includes the bearer's date of birth that purports to establish that the person is 18 years of age or older.

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

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

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

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

- (1) The defendant demanded, was shown, and reasonably relied upon proof of age in the case of a retailer, or any other documentary or written evidence of age in the case of a nonretailer.
- (2) The defendant relied on the electronic system established and operated by the Division of Motor Vehicles pursuant to G.S. 20-37.02.
- (3) The defendant relied on 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, a tribal enrollment card issued by a State or federally recognized Indian 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 card.

...

(d) Sending or assisting a person less than 18 years to purchase or receive tobacco products or cigarette wrapping papers. – If any person shall send a person less than 18 years of age to purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or cigarette wrapping papers, or if any person shall aid or abet a person who is less than 18 years of age in purchasing, acquiring, or receiving or attempting to purchase, acquire, or receive tobacco products or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided, however, persons under the age of 18 may be enlisted by police or local sheriffs' departments to test compliance if the testing is under the direct supervision of that law enforcement department and written parental consent is provided; provided further, that the Department of Health and Human Services shall have the authority, pursuant to a written plan prepared by the Secretary of Health and Human Services, to use persons under 18 years of age in annual, random, unannounced inspections, provided that prior written parental consent is given for the involvement of these persons and that the inspections are conducted for the sole purpose of preparing a scientifically and methodologically valid statistical study of the extent of success the State has achieved in reducing the availability of tobacco products to persons under the age

1 of 18, and preparing any report to the extent required by section 1926 of the federal Public Health
2 Service Act (42 USC § 300x-26).

3"

4 **SECTION 3.** This act becomes effective December 1, 2023, and applies to offenses
5 committed and purchases made on or after that date.