



Ohio Revised Code

Section 2927.02 Illegal distribution of or permitting children to use cigarettes or other tobacco or alternative nicotine products.

Effective: August 2, 2014

Legislation: House Bill 144 - 130th General Assembly

(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 eighteen years of age or older.

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

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

(i) Any cigarette or other tobacco product;

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

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

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

(3) "Child" has the same meaning as in section 2151.011 of the Revised Code.



(4) "Cigarette" includes clove cigarettes and hand-rolled cigarettes.

(5) "Distribute" means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

(6)(a) "Electronic cigarette" means, subject to division (A)(6)(b) of this section, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe.

(b) "Electronic cigarette" does not include any item, product, or device described in divisions (A)(2)(b)(i) to (iv) of this section.

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

(8) "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.

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

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

(1) Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any child;



(2) Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under eighteen years of age is prohibited by law;

(3) Knowingly furnish any false information regarding the name, age, or other identification of any child with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that child;

(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;

(5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;

(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.

(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:

(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;

(3) Any other place not identified in division (C)(1) or (2) of this section, 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, other



tobacco product, and alternative nicotine 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. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be 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.

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

(1) The child was accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(2) The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a child under division (B)(1) of this section is a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(E) It is not a violation of division (B)(1) or (2) of this section for a person to give or otherwise distribute to a child cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the child is participating in a research protocol if all of the following apply:

(1) The parent, guardian, or legal custodian of the child has consented in writing to the child participating in the research protocol.

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

(3) The child is participating in the research protocol at the facility or location specified in the research protocol.

(F)(1) Whoever violates division (B)(1), (2), (4), (5), or (6) or (C) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as



otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (B)(1), (2), (4), (5), or (6) or (C) of this section, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(2) Whoever violates division (B)(3) of this section is guilty of permitting children to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting children to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (B)(3) of this section, permitting children to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(G) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a child in violation of this section and that are used, possessed, purchased, or received by a child in violation of section 2151.87 of the Revised Code are subject to seizure and forfeiture as contraband under Chapter 2981. of the Revised Code.