

2019-071
EXHIBIT A

537.14 ILLEGAL DISTRIBUTION OF CIGARETTES, ELECTRONIC SMOKING DEVICES, TOBACCO PRODUCTS OR TOBACCO PRODUCT PARAPHERNALIA ~~OTHER TOBACCO PRODUCTS OR ALTERNATE NICOTINE PRODUCTS.~~

(a) As used in this section:

(1) "Age verification" means a service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, alternative nicotine products, or papers used to roll cigarette~~) 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 ~~eighteen~~ years of age or older.

"Alternative nicotine product" means, subject to subsection (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.~~ "Alternative nicotine" product does not include any of the following:

- a. ~~Any cigarette or other tobacco product.~~
- b. ~~Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);~~
- c. ~~Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);~~
- d. ~~Any product that is a "combination product" as described in 21 U.S.C. 353(g).~~

~~"Child" has the same meaning as in Ohio R.C. 2151.011.~~

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

(3) "Distribute" means to furnish, give, or provide cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, alternative nicotine products, or papers used to roll cigarettes~~ to the ultimate consumer of the cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, alternative nicotine products, or papers used to roll cigarettes.~~

~~"Electronic cigarette" means, subject to subsection (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. "Electronic cigarette" does not include any of the following: item, product or device described in subsections (a)(2)B.1. to 4. of this section.~~

~~a. Any cigarette or other tobacco product.~~

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

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

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

(4) "Electronic Smoking Device" means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the US Food and Drug Administration, as those terms are defined in the federal Food, Drug and Cosmetic Act.

(5) "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 Ohio R.C. 4507.50 to 4507.52 that shows that a person is twenty-one ~~eighteen~~ years of age or older.

(6) "Tobacco product" means any product that is made from or derived from tobacco, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The term also includes Tobacco Product Paraphernalia, including, but not limited to, electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes or liquids used in electronic smoking devices, whether or not they contain nicotine. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Durg and Cosmetic Act. ~~means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco or snuff.~~

- (7) "Tobacco Product Paraphernalia" means any product that is used to assist in chewing, smoking, absorbing, dissolving, inhaling, or any other consumption of nicotine to include, but not limited to, pipes, rolling papers, and electronic cigarette cases.
- (8) "Vending machine" has the same meaning as "coin machine" in Ohio R.C. 2913.01.
- (b) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~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, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~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, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, alternative nicotine products, or papers used to roll cigarettes~~ to any child person under the age of twenty-one;
 - (2) Give away, sell or distribute cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~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, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, alternative nicotine products, or papers used to roll cigarettes~~ to a person under twenty-one ~~eighteen~~ years of age is prohibited by law;
 - (3) Knowingly furnish any false information regarding the name, age or other identification of any child person under the age of twenty-one with the purpose to obtain cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, alternative nicotine products, or papers used to roll cigarettes~~ for that child person under the age of twenty-one;
 - (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, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~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 electronic smoking devices, tobacco products or tobacco product paraphernalia ~~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, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~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~~ persons under the age of twenty-one are not generally permitted access;
 - (3) Any other place not identified in subsection (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, electronic smoking device, tobacco product or tobacco product paraphernalia ~~other tobacco products or alternative nicotine products~~ 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) All manufacturers, producers, distributors, wholesalers or retailers of cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia shall comply with any applicable certification requirements promulgated by the Summit County Combined General Health District.
- (e) The following are affirmative defenses to a charge or civil fine for a violation of ~~under~~ subsection (b)(1) of this section:
- (1) The ~~child~~ person under the age of twenty-one was accompanied by a parent, spouse who is twenty-one ~~eighteen~~ years of age or older, or legal guardian of the ~~child~~ person under the age of twenty-one.
 - (2) The person who gave, sold or distributed cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, alternative nicotine products, or papers used to roll cigarettes~~ to a ~~child~~ person under the age of twenty-one under subsection (b)(1) of this section is a parent, spouse who is twenty-one ~~eighteen~~ years of age or older, or legal guardian of the ~~child~~ person under the age of twenty-one.

- (f) It is not a violation of subsections (b)(1) or (2) of this section for a person to give or otherwise distribute to a child person under the age of twenty-one cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, alternative nicotine products or papers used to roll cigarettes~~ while the child person under the age of twenty-one is participating in a research protocol if all of the following apply:
- (1) If under the age of eighteen, the parent, guardian or legal custodian of the child person has consented in writing to the child person participating in the research protocol, and, if eighteen years or older, the person consents to 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 person under the age of twenty-one is participating in the research protocol at the facility or location specified in the research protocol.
- (g) Whoever violates subsections ~~(b)(1), (2), (4), (5) or (6)~~ or (c) of this section by distributing cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia to a person under eighteen years of age is guilty of illegal distribution of cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, or alternative nicotine products~~. Except as otherwise provided in this subsection, illegal distribution of cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, or alternative nicotine products~~ to a person under the age of eighteen years of age is a misdemeanor of the fourth degree. If the offender previously has been convicted of a criminal violation of subsections (b)(1), (2), (4), (5) or (6) or (c) of this section, illegal distribution of cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, or alternative nicotine products~~ to a person under the age of eighteen years of age is a misdemeanor of the third degree.

Whoever violates subsections (b) or (c) of this section shall also be subject to a civil penalty for illegal distribution of cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia, provided, however, that the person shall not be subject to a fine for a first violation. A civil fine of \$500 will be issued for a second violation of subsection (b) or (c) of this section. A civil fine of \$1,000 will be issued for all subsequent violations.

~~Whoever violates subsection (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 subsection, 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 subsection (b)(3) of this section, permitting~~

~~children to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.~~

- (h) Any cigarettes, electronic smoking devices, tobacco products or tobacco product paraphernalia ~~other tobacco products, alternative nicotine products, or papers used to roll cigarettes~~ that are given, sold or otherwise distributed to a child person under the age of twenty-one in violation of this section and that are used, possessed, purchased or received by a child person under the age of twenty-one in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. Chapter 2981.
- (i) All fines collected by the Summit County Combined General Health District pursuant to this section shall be utilized for efforts to prevent smoking initiation by persons under the age of 21, or for efforts to promote smoking cessation, including supports for those whole will no longer be able to purchase cigarettes, electronic smoking devices, tobacco products or other tobacco product paraphernalia pursuant to this section.
- (j) Notwithstanding any other provision of this section, enforcement authority of this section shall rest with the Summit County Combined General Health District pursuant to Ohio R.C. Section 3709.281. Enforcement of this section, including the issuance of penalties, shall only be undertaken following the adoption of regulations by the Summit County Combined General Health District relating to the enforcement of this section. Furthermore, enforcement of this section, including the issuance of penalties, shall only be undertaken following the execution by the County Executive of an agreement for the enforcement of the same between the County and the Summit County Combined General Health District, which is hereby authorized by County Council.