

28-1418. Tobacco; vapor products or alternative nicotine products; use by minors; penalty.

Whoever, being a minor under the age of eighteen years, shall smoke cigarettes or cigars, use vapor products or alternative nicotine products, or use tobacco in any form whatever, in this state, shall be guilty of a Class V misdemeanor. Any minor charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco.

Source: Laws 1911, c. 181, §§ 1, 2, 3, p. 561; R.S.1913, § 8846; C.S.1922, § 9847; C.S.1929, § 28-1021; R.S.1943, § 28-1020; Laws 1977, LB 40, § 103; R.R.S.1943, § 28-1020, (1975); Laws 2014, LB863, § 16.

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28-1418.01. Terms, defined.

For purposes of sections 28-1418 to 28-1429.03:

(1) Alternative nicotine product means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, cigarette, cigar, or other tobacco product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act;

(2) Self-service display means a retail display that contains a tobacco product, a tobacco-derived product, a vapor product, or an alternative nicotine product and is located in an area openly accessible to a retailer's customers and from which such customers can readily access the product without the assistance of a salesperson. Self-service display does not include a display case that holds tobacco products, vapor products, or alternative nicotine products behind locked doors;

(3) Tobacco specialty store means a retail store that (a) derives at least seventy-five percent of its revenue from tobacco products, tobacco-derived products, vapor products, or alternative nicotine products and (b) does not permit minors under the age of eighteen years to enter the premises unless accompanied by a parent or legal guardian; and

(4) Vapor product means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include an alternative nicotine product, cigarette, cigar, or other tobacco product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

Source: Laws 2014, LB863, § 17.

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28-1419. Tobacco; vapor products; alternative nicotine products; sale to minors; penalty.

Whoever shall sell, give, or furnish, in any way, any tobacco in any form whatever, or any cigarettes, cigarette paper, vapor products, or alternative nicotine products, to any minor under eighteen years of age, is guilty of a Class III misdemeanor for each offense.

Source: Laws 1885, c. 105, §§ 1, 2, p. 394; Laws 1903, c. 138, § 1, p. 643; R.S.1913, § 8847; C.S.1922, § 9848; C.S.1929, § 28-1022; R.S.1943, § 28-1021; Laws 1977, LB 40, § 104; R.R.S.1943, § 28-1021, (1975); Laws 2014, LB863, § 18.

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28-1420. Tobacco; license requisite for sale; violation; penalty.

It shall be unlawful for any person, partnership, limited liability company, or corporation to sell, keep for sale, or give away in course of trade, any cigars, tobacco, cigarettes, or cigarette material to anyone without first obtaining a license as provided in sections 28-1421 and 28-1422. It shall also be unlawful for any wholesaler to sell or deliver any cigars, tobacco, cigarettes, or cigarette material to any person, partnership, limited liability company, or corporation who, at the time of such sale or delivery, is not the recipient of a valid tobacco license for the current year to retail the same as provided in such sections. It shall also be unlawful for any person, partnership, limited liability company, or corporation to purchase or receive, for purposes of resale, any cigars, tobacco, cigarettes, or cigarette material if such person, partnership, limited liability company, or corporation is not the recipient of a valid tobacco license to retail such tobacco products at the time the same are purchased or received. Whoever shall be found guilty of violating this section shall be guilty of a Class III misdemeanor for each offense.

Source: Laws 1919, c. 180, § 1, p. 401; C.S.1922, § 9849; C.S.1929, § 28-1023; Laws 1941, c. 50, § 1, p. 242; C.S.Supp.,1941, § 28-1023; R.S.1943, § 28-1022; Laws 1977, LB 40, § 105; R.R.S.1943, § 28-1022, (1975); Laws 1993, LB 121, § 187.

28-1421. License for sale of tobacco; where obtained; prohibited sales.

Licenses for the sale of cigars, tobacco, cigarettes, and cigarette material to persons over the age of eighteen years shall be issued to individuals, partnerships, limited liability companies, and corporations by the clerk or finance director of any city or village and by the county clerk of any county upon application duly made as provided in section 28-1422. The sale of cigarettes or cigarette materials that contain perfumes or drugs in any form is prohibited and is not licensed by the provisions of this section. Only cigarettes and cigarette material containing pure white paper and pure tobacco shall be licensed.

Source: Laws 1919, c. 180, § 2, p. 401; C.S.1922, § 9850; C.S.1929, § 28-1024; R.S.1943, § 28-1023; Laws 1961, c. 128, § 1, p. 379; R.R.S.1943, § 28-1023, (1975); Laws 1993, LB 121, § 188.

28-1422. License for sale of tobacco; application; contents.

Every person, partnership, limited liability company, or corporation desiring a license under sections 28-1420 to 28-1429 shall file with the clerk or finance department of the city, town, or village where his, her, their, or its place of business is located, if within the limits of a city, town, or village or with the clerk of the county where such place of business is located if outside the limits of any city, town, or village a written application stating the name of the person, partnership, limited liability company, or corporation for whom such license is desired and the exact location of the place of business and shall deposit with such application the amount of the

license fee provided in section 28-1423. If the applicant is an individual, the application shall include the applicant's social security number.

Source: Laws 1919, c. 180, § 3, p. 401; C.S.1922, § 9851; C.S.1929, § 28-1025; R.S.1943, § 28-1024; Laws 1961, c. 128, § 2, p. 379; R.R.S.1943, § 28-1024, (1975); Laws 1993, LB 121, § 189; Laws 1997, LB 752, § 85.

28-1423. License for sale of tobacco; term; fees; false swearing; penalty.

The term for which such license shall run shall be from the date of filing such application and paying such license fee to and including December 31 of the calendar year in which application for such license is made, and the license fee for any person, partnership, limited liability company, or corporation selling at retail shall be twenty-five dollars in cities of the metropolitan class, fifteen dollars in cities of the primary and first classes, and ten dollars in cities of all other classes and in towns and villages and in locations outside of the limits of cities, towns and villages. Any person, partnership, limited liability company, or corporation selling annually in the aggregate more than one hundred fifty thousand cigars, packages of cigarettes, and packages of tobacco in any form, at wholesale, shall pay a license fee of one hundred dollars, and if such combined annual sales amount to less than one hundred fifty thousand cigars, packages of cigarettes and packages of tobacco, the annual license fee shall be fifteen dollars. No wholesaler's license shall be issued in any year on a less basis than one hundred dollars per annum unless the applicant for the same shall file with such application a statement duly sworn to by himself or herself, or if applicant is a partnership, by a member of the firm, or if a limited liability company, by a member or manager of the company, or if a corporation, by an officer or manager thereof, that in the past such wholesaler's combined sales of cigars, packages of cigarettes, and packages of tobacco in every form have not exceeded in the aggregate one hundred fifty thousand annually, and that such sales will not exceed such aggregate amount for the current year for which the license is to issue. Any person swearing falsely in such affidavit shall be guilty of perjury and upon conviction thereof shall be punished as provided by section 28-915 and such wholesaler's license shall be revoked until the full license fee of one hundred dollars is paid. If application for license is made after July 1 of any calendar year, the fee shall be one-half of the fee provided in this section.

Source: Laws 1919, c. 180, § 4, p. 402; C.S.1922, § 9852; Laws 1923, c. 136, § 1, p. 335; Laws 1927, c. 198, § 1, p. 565; C.S.1929, § 28-1026; R.S.1943, § 28-1025; Laws 1978, LB 748, § 20; R.R.S.1943, § 28-1025, (1975); Laws 1993, LB 121, § 190.

28-1424. License for sale of tobacco; rights of licensee.

The license, provided for in sections 28-1421 and 28-1422 when issued, shall authorize the sale of cigars, tobacco, cigarettes, and cigarette material by the licensee and employees, to persons over the age of eighteen years, at the place of business described in such license for the term therein authorized, unless the same be forfeited as provided in section 28-1425.

Source: Laws 1919, c. 180, § 5, p. 402; C.S.1922, § 9853; C.S.1929, § 28-1027; R.S.1943, § 28-1026; Laws 1957, c. 100, § 2, p. 359; R.R.S.1943, § 28-1026, (1975).

28-1425. Licensees; sale of tobacco, vapor products, or alternative nicotine products to persons under the age of eighteen years; penalty.

Any licensee who shall sell, give, or furnish in any way to any person under the age of eighteen years, or who shall willingly allow to be taken from his or her place of business by any person under the age of eighteen years, any cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products is guilty of a Class III misdemeanor. Any officer, director, or manager having charge or control, either separately or jointly with others, of the business of any corporation which violates sections 28-1418.01, 28-1420 to 28-1429, and 28-1429.03, if he or she has knowledge of such violation, shall be subject to the penalties provided in this section. In addition to the penalties provided in this section, such licensee shall be subject to the additional penalty of a revocation and forfeiture of his, her, their, or its license, at the discretion of the court before whom the complaint for violation of such sections may be heard. If such license is revoked and forfeited, all rights under such license shall at once cease and terminate.

Source: Laws 1919, c. 180, § 6, p. 402; C.S.1922, § 9854; C.S.1929, § 28-1028; R.S.1943, § 28-1027; Laws 1957, c. 100, § 3, p. 360; Laws 1977, LB 40, § 106; R.R.S.1943, § 28-1027, (1975); Laws 2014, LB863, § 19.

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28-1426. Licenses for sale of tobacco; fees inure to school fund.

All money collected as license fees under the provisions of sections 28-1420 to 28-1429, shall be paid over by the clerk or finance director receiving it to the treasurer of the school fund for the particular city, town, village or county, as the case may be.

Source: Laws 1919, c. 180, § 7, p. 403; C.S.1922, § 9855; C.S.1929, § 28-1029; R.S.1943, § 28-1028; Laws 1961, c. 128, § 3, p. 380; R.R.S.1943, § 28-1028, (1975).

28-1427. Minor misrepresenting age to obtain tobacco, vapor products, or alternative nicotine products; penalty.

Any person under the age of eighteen years who shall obtain cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products from a licensee by representing that he or she is of the age of eighteen years or over is guilty of a Class V misdemeanor.

Source: Laws 1919, c. 180, § 8, p. 403; C.S.1922, § 9856; C.S.1929, § 28-1030; R.S.1943, § 28-1029; Laws 1947, c. 98, § 1, p. 281; Laws 1977, LB 40, § 107; R.R.S.1943, § 28-1029, (1975); Laws 2014, LB863, § 20.

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28-1428. Transfer of tobacco license.

In case of the sale of a business where the owner has a license hereunder, the licensing authority may authorize such license to be transferred to the purchaser. In case of a change of location by any licensee hereunder, the licensing authority may transfer such license to the new location.

Source: Laws 1919, c. 180, § 9, p. 403; C.S.1922, § 9857; C.S.1929, § 28-1031; R.S.1943, § 28-1030.

28-1429. Revocation of tobacco license; reissue.

In the event that the license of a licensee hereunder shall be revoked and forfeited as provided in section 28-1425, no new license shall be issued to such licensee until the expiration of one year from the date of such revocation and forfeiture.

Source: Laws 1919, c. 180, § 10, p. 403; C.S.1922, § 9858; C.S.1929, § 28-1032; R.S.1943, § 28-1031.