

Floor Amendment to SB 248-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 Access to and Use of Tobacco Products; Purpose. Amend RSA 126-K:1 to read as follows:

4 126-K:1 Purpose. The purpose of this chapter is to protect the citizens of New Hampshire from
5 the possibility of addiction, disability, and death resulting from the use of tobacco products by
6 ensuring that tobacco products will not be supplied to persons under the age of [19] **21**.

7 2 Access to and Use of Tobacco Products; Definitions. Amend RSA 126-K:2, XI to read as
8 follows:

9 XI. "Tobacco product" means any product containing tobacco including, but not limited to,
10 cigarettes, smoking tobacco, cigars, chewing tobacco, snuff, pipe tobacco, smokeless tobacco, and
11 smokeless cigarettes. ***"Tobacco product" shall not include drugs, devices, or combination***
12 ***products authorized for sale by the United States Food and Drug Administration, as those***
13 ***terms are defined in the federal Food, Drug, and Cosmetic Act.***

14 3 Access to and Use of Tobacco Products; Proof of Age of Purchaser. Amend the introductory
15 paragraph of RSA 126-K:3, I to read as follows:

16 I. For the purposes of this chapter, any person responsible for monitoring sales from a
17 tobacco vending machine or any person making the sale of tobacco products, e-cigarettes, or liquid
18 nicotine which vending machine or other sale is to be made to any person who does not appear to be
19 at least [19] **21** years of age, shall require the purchaser to furnish any of the following
20 documentation that such person is [19] **21** years of age or over:

21 4 Access to and Use of Tobacco Products; Proof of Age of Purchaser. Amend RSA 126-K:3, III
22 to read as follows:

23 III. The establishment of all of the following facts by a person responsible for monitoring
24 sales from a vending machine or a person or sampler making a sale or distribution of tobacco
25 products, e-cigarettes, or liquid nicotine to a person under [19] **21** years of age shall constitute prima
26 facie evidence of innocence and a defense to any prosecution for such sale:

27 (a) That the person falsely represented in writing and supported by some official
28 documents that the person was [19] **21** years of age or older;

29 (b) That the appearance of the person was such that an ordinary and prudent person
30 would believe such person to be at least [19] **21** years of age or older; and

31 (c) That the sale was made in good faith relying on such written representation and
32 appearance in the reasonable belief that the person was actually [19] **21** years of age or over.

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1 5 Access to and Use of Tobacco Products; Sale and Distribution. Amend the section heading
2 and paragraph I of RSA 126-K:4 to read as follows:

3 126-K:4 Sale and Distribution of Tobacco Products, E-cigarettes, or Liquid Nicotine to Persons
4 Who Have Not Attained ~~[19]~~ **21** years of Age Prohibited.

5 I. No person shall sell, give, or furnish or cause or allow or procure to be sold, given, or
6 furnished tobacco products, e-cigarettes, or liquid nicotine to a person who has not attained ~~[19]~~ **21**
7 years of age. The prohibition established by this paragraph shall not be deemed to prohibit persons
8 who have not attained ~~[19]~~ **21** years of age employed by any manufacturer, wholesaler, sub-jobber,
9 vending machine operator, sampler, or retailer from performing the necessary handling of tobacco
10 products, e-cigarettes, or liquid nicotine during the duration of their employment.

11 6 Access to and Use of Tobacco Products; Rolling Papers. Amend RSA 126-K:4-a, II to read as
12 follows:

13 126-K:4-a Rolling Papers.

14 II. No person under ~~[19]~~ 21 years of age shall purchase, possess, or use any rolling paper.
15 Any person who violates this section shall be guilty of a violation and shall be punished by a fine not
16 to exceed \$100 for each offense.

17 7 Access and Use of Tobacco Products; Distribution of Free Samples. Amend RSA 126-K:5, I and
18 II to read as follows:

19 I. No person may distribute or offer to distribute samples of tobacco products, e-cigarettes,
20 or liquid nicotine in a public place or to a person who has not attained ~~[19]~~ **21** years of age. This
21 prohibition shall not apply to sampling:

22 (a) In an area to which minors are denied access.

23 (b) In a store to which a retailer's license has been issued.

24 (c) At factory sites, construction sites, conventions, trade shows, fairs, or motorsport
25 facilities in areas to which minors are denied access.

26 II. The commission shall adopt rules, pursuant to RSA 541-A, concerning the distribution of
27 free samples of tobacco products, e-cigarettes, or liquid nicotine to prevent their distribution to
28 persons who have not attained ~~[19]~~ **21** years of age.

29 8 Access to and Use of Tobacco Products; Possession and Use of Tobacco Products, E-Cigarettes,
30 or Liquid Nicotine. Amend RSA 126-K:6 to read as follows:

31 126-K:6 Possession and Use of Tobacco Products, E-cigarettes, or Liquid Nicotine by Persons
32 Who Have Not Attained ~~[19]~~ **21** years of age.

33 I. No person under ~~[19]~~ **21** years of age shall purchase, attempt to purchase, possess, or use
34 any tobacco product, e-cigarette, or liquid nicotine.

35 II. The prohibition on possession of tobacco products, e-cigarettes, or liquid nicotine shall not
36 be deemed to prohibit minors employed by any manufacturer, wholesaler, sub-jobber, vending

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1 machine operator, sampler, or retailer from performing the necessary handling of tobacco products,
2 e-cigarettes, or liquid nicotine during the duration of their employment.

3 III. A person who has not attained [49] **21** years of age shall not misrepresent his or her age
4 for the purpose of purchasing tobacco products.

5 IV. Notwithstanding RSA 169-B and RSA 169-D, a person 12 years of age and older who
6 violates this section shall not be considered a delinquent or a child in need of services.

7 V. Any person who has not attained [49] **21** years of age who violates this section may be
8 guilty of a violation and shall be punished by a fine not to exceed \$100 for each offense or shall be
9 required to complete up to 20 hours of community service for each offense, or both. Where available,
10 punishment may also include participation in an education program.

11 9 Access to and Use of Tobacco Products; Special Provisions. Amend RSA 126-K:8, I(a) to read
12 as follows:

13 I.(a) No person shall sell, give, or furnish tobacco products, e-cigarettes, or liquid nicotine to
14 a person who has not attained [49] **21** years of age who has a note from an adult requesting such
15 sale, gift, or delivery. Tobacco products, e-cigarettes, or liquid nicotine shall only be delivered to a
16 person who provides an identification as enumerated in RSA 126-K:3 establishing that the person
17 has attained [49] **21** years of age.

18 10 Delinquent Children; Limitations of Authority Conferred. Amend RSA 169-B:32 to read as
19 follows:

20 169-B:32 Limitations of Authority Conferred. This chapter shall not be construed as applying to
21 persons 16 years of age or over who are charged with the violation of a motor vehicle law, an
22 aeronautics law, a law relating to navigation or boats, a fish and game law, a law relating to title
23 XIII, a law relating to fireworks under RSA 160-B or RSA 160-C, any town or municipal ordinance
24 which provides for a penalty not exceeding \$100 plus the penalty assessment, and shall not be
25 construed as applying to any minor charged with the violation of any law relating to the possession,
26 sale, or distribution of tobacco products to or by a person under [49] **21** years of age. However, if
27 incarceration takes place at any stage in proceedings on such violations, incarceration shall be only
28 in a juvenile facility certified by the commissioner of the department of health and human services.

29 11 Children in Need of Services; Limitations of Authority Conferred. Amend RSA 169-D:22 to
30 read as follows:

31 169-D:22 Limitations of Authority Conferred. This chapter shall not be construed as applying
32 to persons 16 years of age or over who are charged with the violation of a motor vehicle law, an
33 aeronautics law, a law relating to navigation of boats, a fish and game law, a law relating to title
34 XIII, or a law relating to fireworks under RSA 160-B or RSA 160-C, and shall not be construed as
35 applying to any minor charged with the violation of any law relating to the possession, sale, or
36 distribution of tobacco products to or by a person under [49] **21** years of age.

37 12 Retail Tobacco License. Amend RSA 178:19-a, III to read as follows:

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1 III. The commission, when issuing or renewing a retail tobacco license, shall furnish a sign
2 which shall read or be substantially similar to the following: "State Law prohibits the sale of tobacco
3 products or e-cigarettes to persons under age [19] **21**. Warning: violators of these provisions may
4 be subject to a fine."

5 13 Cigar Bars. Amend RSA 178:20-a, II(c) to read as follows:

6 (c) Does not allow any person under the age of [19] **21** on the premises unless
7 accompanied by a parent, legal guardian, or adult spouse.

8 14 Effective Date. This act shall take effect upon its passage.