

Amendment to HB 1662-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]~~ **20**.

7 2 Access to and Use of Tobacco Products; Proof of Age of Purchaser. Amend the introductory
8 paragraph of RSA 126-K:3, I to read as follows:

9 I. For the purposes of this chapter, any person responsible for monitoring sales from a
10 tobacco vending machine or any person making the sale of tobacco products, e-cigarettes, or e-liquid
11 which vending machine or other sale is to be made to any person who does not appear to be at least
12 ~~[19]~~ **20** years of age, shall require the purchaser to furnish any of the following documentation that
13 such person is ~~[19]~~ **20** years of age or over:

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

16 III. The establishment of all of the following facts by a person responsible for monitoring
17 sales from a vending machine or a person or sampler making a sale or distribution of tobacco
18 products, e-cigarettes, or e-liquid to a person under ~~[19]~~ **20** years of age shall constitute prima facie
19 evidence of innocence and a defense to any prosecution for such sale:

20 (a) That the person falsely represented in writing and supported by some official
21 documents that the person was ~~[19]~~ **20** years of age or older;

22 (b) That the appearance of the person was such that an ordinary and prudent person
23 would believe such person to be at least ~~[19]~~ **20** years of age or older; and

24 (c) That the sale was made in good faith relying on such written representation and
25 appearance in the reasonable belief that the person was actually ~~[19]~~ **20** years of age or over.

26 4 Access to and Use of Tobacco Products; Sale and Distribution. Amend the section heading and
27 paragraph I of RSA 126-K:4 to read as follows:

28 126-K:4 Sale and Distribution of Tobacco Products, E-cigarettes, or E-Liquid to Persons Who
29 Have Not Attained ~~[19]~~ **20** Years of Age Prohibited.

30 I. No person shall sell, give, or furnish or cause or allow or procure to be sold, given, or
31 furnished tobacco products, e-cigarettes, or e-liquid to a person who has not attained ~~[19]~~ **20** years of
32 age. The prohibition established by this paragraph shall not be deemed to prohibit persons who

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1 have not attained [19] **20** years of age employed by any manufacturer, wholesaler, sub-jobber,
2 vending machine operator, sampler, or retailer from performing the necessary handling of tobacco
3 products, e-cigarettes, or [~~liquid nicotine~~] **e-liquid** during the duration of their employment.

4 5 Access to and Use of Tobacco Products; Rolling Papers. Amend RSA 126-K:4-a to read as
5 follows:

6 126-K:4-a Rolling Papers.

7 I. No person shall sell, give, or furnish rolling papers to a minor. Violations of this
8 paragraph shall be civil infractions punishable by administrative action of the commission against
9 the licensee. The fines for violations of this paragraph shall not exceed \$250 for the first offense,
10 \$500 for the second offense, and \$750 for the third and subsequent offenses.

11 II. No person under [19] **20** years of age shall purchase, possess, or use any rolling paper.
12 Any person who violates this section shall be guilty of a violation and shall be punished by a fine not
13 to exceed \$100 for each offense.

14 6 Access and Use of Tobacco Products; Distribution of Free Samples. Amend RSA 126-K:5, I and
15 II to read as follows:

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

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

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

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

23 II. The commission shall adopt rules, pursuant to RSA 541-A, concerning the distribution of
24 free samples of tobacco products, e-cigarettes, or [~~liquid nicotine~~] **e-liquid** to prevent their
25 distribution to persons who have not attained [19] **20** years of age.

26 7 Access to and Use of Tobacco Products; Possession and Use of Tobacco Products, E-Cigarettes,
27 or Liquid Nicotine. Amend RSA 126-K:6 to read as follows:

28 126-K:6 Possession and Use of Tobacco Products, E-cigarettes, or E-Liquid [~~Nicotine~~] by Persons
29 Who Have Not Attained [19] **20** Years of Age.

30 I. No person under [19] **20** years of age shall purchase, attempt to purchase, possess, or use
31 any tobacco product, e-cigarette, device, or e-liquid except that a minor who has been issued a
32 registry identification card under RSA 126-X:4 may possess e-liquids containing cannabis and
33 applicable devices.

34 II. The prohibition on possession of tobacco products, devices, e-cigarettes, or e-liquid shall
35 not be deemed to prohibit minors employed by any manufacturer, wholesaler, sub-jobber, vending
36 machine operator, sampler, or retailer from performing the necessary handling of tobacco products,
37 devices, e-cigarettes, or e-liquids during the duration of their employment.

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1 III. A person who has not attained [~~19~~] **20** years of age shall not misrepresent his or her age
2 for the purpose of purchasing tobacco products.

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

5 V. Any person who has not attained [~~19~~] **20** years of age who violates this section may be
6 guilty of a violation and shall be punished by a fine not to exceed \$100 for each offense or shall be
7 required to complete up to 20 hours of community service for each offense, or both. Where available,
8 punishment may also include participation in an education program.

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

11 I.(a) No person shall sell, give, or furnish tobacco products, e-cigarettes, or e-liquid to a
12 person who has not attained [~~19~~] **20** years of age who has a note from an adult requesting such sale,
13 gift, or delivery. Tobacco products, e-cigarettes, or e-liquid shall only be delivered to a person who
14 provides an identification as enumerated in RSA 126-K:3 establishing that the person has attained
15 [~~19~~] **20** years of age.

16 9 Delinquent Children; Limitations of Authority Conferred. Amend RSA 169-B:32 to read as
17 follows:

18 169-B:32 Limitations of Authority Conferred. This chapter shall not be construed as applying to
19 persons 16 years of age or over who are charged with the violation of a motor vehicle law, an
20 aeronautics law, a law relating to navigation or boats, a fish and game law, a law relating to title
21 XIII, a law relating to fireworks under RSA 160-B or RSA 160-C, any town or municipal ordinance
22 which provides for a penalty not exceeding \$100 plus the penalty assessment, and shall not be
23 construed as applying to any minor charged with the violation of any law relating to the possession,
24 sale, or distribution of tobacco products to or by a person under [~~19~~] **20** years of age. However, if
25 incarceration takes place at any stage in proceedings on such violations, incarceration shall be only
26 in a juvenile facility certified by the commissioner of the department of health and human services.

27 10 Children in Need of Services; Limitations of Authority Conferred. Amend RSA 169-D:22 to
28 read as follows:

29 169-D:22 Limitations of Authority Conferred. This chapter shall not be construed as applying to
30 persons 16 years of age or over who are charged with the violation of a motor vehicle law, an
31 aeronautics law, a law relating to navigation of boats, a fish and game law, a law relating to title
32 XIII, or a law relating to fireworks under RSA 160-B or RSA 160-C, and shall not be construed as
33 applying to any minor charged with the violation of any law relating to the possession, sale, or
34 distribution of tobacco products to or by a person under [~~19~~] **20** years of age.

35 11 Retail Tobacco License. Amend RSA 178:19-a, III to read as follows:

36 III. The commission, when issuing or renewing a retail tobacco license, shall furnish a sign
37 which shall read or be substantially similar to the following: "State Law prohibits the sale of tobacco

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1 products or e-cigarettes to persons under age [19] **20**. Warning: violators of these provisions may be
2 subject to a fine."

3 12 Cigar Bars. Amend RSA 178:20-a, II(c) to read as follows:

4 (c) Does not allow any person under the age of [19] **20** on the premises unless
5 accompanied by a parent, legal guardian, or adult spouse.

6 13 Access to and Use of Tobacco Products; Purpose. Amend RSA 126-k:1 to read as follows:

7 126-K:1 Purpose. The purpose of this chapter is to protect the citizens of New Hampshire from
8 the possibility of addiction, disability, and death resulting from the use of tobacco products by
9 ensuring that tobacco products will not be supplied to persons under the age of [20] **21**.

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22 evidence of innocence and a defense to any prosecution for such sale:

23 (a) That the person falsely represented in writing and supported by some official
24 documents that the person was [20] **21** years of age or older;

25 (b) That the appearance of the person was such that an ordinary and prudent person
26 would believe such person to be at least [20] **21** years of age or older; and

27 (c) That the sale was made in good faith relying on such written representation and
28 appearance in the reasonable belief that the person was actually [20] **21** years of age or over.

29 16 Access to and Use of Tobacco Products; Sale and Distribution. Amend the section heading
30 and paragraph I of RSA 126-K:4 to read as follows:

31 126-K:4 Sale and Distribution of Tobacco Products, E-cigarettes, or E-Liquid to Persons Who
32 Have Not Attained [20] **21** Years of Age Prohibited.

33 I. No person shall sell, give, or furnish or cause or allow or procure to be sold, given, or
34 furnished tobacco products, e-cigarettes, or e-liquid to a person who has not attained [20] **21** years of
35 age. The prohibition established by this paragraph shall not be deemed to prohibit persons who
36 have not attained [20] **21** years of age employed by any manufacturer, wholesaler, sub-jobber,
37 vending machine operator, sampler, or retailer from performing the necessary handling of tobacco

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1 products, e-cigarettes, or e-liquid during the duration of their employment.

2 17 Access to and Use of Tobacco Products; Rolling Papers. Amend RSA 126-K:4-a to read as
3 follows:

4 126-K:4-a Rolling Papers.

5 I. No person shall sell, give, or furnish rolling papers to a minor. Violations of this
6 paragraph shall be civil infractions punishable by administrative action of the commission against
7 the licensee. The fines for violations of this paragraph shall not exceed \$250 for the first offense,
8 \$500 for the second offense, and \$750 for the third and subsequent offenses.

9 II. No person under [20] **21** years of age shall purchase, possess, or use any rolling paper.
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11 to exceed \$100 for each offense.

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13 and II to read as follows:

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15 or e-liquid in a public place or to a person who has not attained [20] **21** years of age. This prohibition
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22 free samples of tobacco products, e-cigarettes, or e-liquid to prevent their distribution to persons who
23 have not attained [20] **21** years of age.

24 19 Access to and Use of Tobacco Products; Possession and Use of Tobacco Products, E-
25 Cigarettes, or Liquid Nicotine. Amend RSA 126-K:6 to read as follows:

26 126-K:6 Possession and Use of Tobacco Products, E-cigarettes, or E-Liquid by Persons Who
27 Have Not Attained [20] **21** Years of Age.

28 I. No person under [20] **21** years of age shall purchase, attempt to purchase, possess, or use
29 any tobacco product, e-cigarette, device, or e-liquid except that a minor who has been issued a
30 registry identification card under RSA 126-X:4 may possess e-liquids containing cannabis and
31 applicable devices.

32 II. The prohibition on possession of tobacco products, devices, e-cigarettes, or e-liquid shall
33 not be deemed to prohibit minors employed by any manufacturer, wholesaler, sub-jobber, vending
34 machine operator, sampler, or retailer from performing the necessary handling of tobacco products,
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36 III. A person who has not attained [20] **21** years of age shall not misrepresent his or her age
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1 IV. Notwithstanding RSA 169-B and RSA 169-D, a person 12 years of age and older who
2 violates this section shall not be considered a delinquent or a child in need of services.

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4 guilty of a violation and shall be punished by a fine not to exceed \$100 for each offense or shall be
5 required to complete up to 20 hours of community service for each offense, or both. Where available,
6 punishment may also include participation in an education program.

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11 gift, or delivery. Tobacco products, e-cigarettes, or e-liquid shall only be delivered to a person who
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13 [20] **21** years of age.

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30 XIII, or a law relating to fireworks under RSA 160-B or RSA 160-C, and shall not be construed as
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32 distribution of tobacco products to or by a person under [20] **21** years of age.

33 23 Retail Tobacco License. Amend RSA 178:19-a, III to read as follows:

34 III. The commission, when issuing or renewing a retail tobacco license, shall furnish a sign
35 which shall read or be substantially similar to the following: "State Law prohibits the sale of tobacco
36 products or e-cigarettes to persons under age [20] **21**. Warning: violators of these provisions may be
37 subject to a fine."

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1 24 Cigar Bars. Amend RSA 178:20-a, II(c) to read as follows:

2 (c) Does not allow any person under the age of [20] **21** on the premises unless
3 accompanied by a parent, legal guardian, or adult spouse.

4 25 Effective Date.

5 I. Sections 13-24 of this act shall take effect January 1, 2022.

6 II. The remainder of this act shall take effect January 1, 2021.

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2020-0322h

AMENDED ANALYSIS

This bill increases the age for sales and possession of tobacco products and e-cigarettes to 20 in the year 2021 and to 21 in the year 2022.