

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 20-0057.01 Jennifer Berman x3286

HOUSE BILL 20-1001

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A BILL FOR AN ACT

101 **CONCERNING NICOTINE PRODUCT REGULATIONS, AND, IN CONNECTION**
102 **THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Sections 1 through 8 of the bill raise the minimum age of a person to whom cigarettes, tobacco products, and nicotine products (products) may be sold from 18 years of age to 21 years of age.

Under current law, if a minor purchases or attempts to purchase any one of the products, the minor may be convicted of a class 2 petty offense subject to a \$100 fine. In addition to raising the minimum age

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 3rd Reading
June 5, 2020

SENATE
Amended 2nd Reading
June 4, 2020

HOUSE
3rd Reading Unamended
March 10, 2020

HOUSE
Amended 2nd Reading
March 9, 2020

from 18 years of age to 21 years of age, section 1 also repeals the criminal penalty for purchasing or attempting to purchase the products as a minor.

Section 7 also prohibits a retailer from permitting a person under 18 years of age to sell or participate in the sale of products.

Section 8 also increases the minimum number of compliance checks required of each retail location at which the products are sold to 2 per year or at least the minimum number annually required by federal regulation, whichever number is greater.

Section 9 requires every retailer of the products in the state, on and after July 1, 2021, to be licensed. The liquor enforcement division (division) of the department of revenue is charged with licensing retailers and coordinating with local authorities on retail location compliance checks and investigations of complaints about retailers.

Section 10 prohibits: New retail locations at which products are sold from being located within 500 feet of a school; retail locations that sell electronic smoking device products from advertising those products in a manner that is visible from outside the retail location; and delivery of products directly to consumers.

Section 11 governs enforcement of the licensing requirements.

Section 12 adjusts the fine amounts for violating the prohibition against selling products to minors from a maximum fine for a fifth or subsequent violation within 24 months of \$1,000 to \$15,000 to a maximum fine for a fourth or subsequent violation in 36 months of \$1,000 to \$15,000. Additionally, the division must prohibit a retailer who commits a second or subsequent violation within 36 months from selling products at the retail location where the violation occurred for a specified period of time, starting with at least 7 days for a second violation within 36 months, to at least 30 days for a third violation within 36 months, and finally for up to 3 years for a fourth or subsequent violation within 36 months.

Additionally, section 12 establishes fines for selling or offering to sell products without a valid state license on or after July 1, 2021, with the amount of fines ranging from \$1,000 for a first violation to \$3,000 for a third or subsequent violation. If a person sells or offers to sell products without a valid state license at least 3 times in a 36-month period, the person is not eligible to apply for a state license for 3 years thereafter.

Section 12 also adjusts the period within which a subsequent violation of the prohibition against selling products from a vending machine or the requirement to display a warning at the retail location is subject to an increased fee from 24 months to 36 months. Further, section 12 also applies the same fine structure as exists for selling products from a vending machine or failing to display the requisite warning to a violation of the prohibition against allowing a person under 18 years of age to sell or participate in the sale of products.

Sections 13 through 17 make conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-13-121, **amend**
3 (1)(a), (1)(b), (1)(d), and (3); and **repeal** (2) as follows:

4 **18-13-121. Furnishing cigarettes, tobacco products, or nicotine**
5 **products to persons under twenty-one years of age.** (1) (a) A person
6 shall not give, sell, distribute, dispense, or offer for sale a cigarette,
7 tobacco product, or nicotine product to any person who is under ~~eighteen~~
8 TWENTY-ONE years of age.

9 (b) Before giving, selling, distributing, dispensing, or offering to
10 sell to an individual any cigarette, tobacco product, or nicotine product,
11 a person shall request from the individual and examine a
12 government-issued photographic identification that establishes that the
13 individual is ~~eighteen~~ TWENTY-ONE years of age or older. ~~except that, in~~
14 ~~face-to-face transactions, this requirement is waived if the individual~~
15 ~~appears older than thirty years of age.~~

16 (d) It is an affirmative defense to a prosecution under ~~paragraph~~
17 ~~(a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION that the
18 person furnishing the cigarette, tobacco product, or nicotine product was
19 presented with and reasonably relied upon a **document**
20 **GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION** that identified the
21 individual receiving the cigarette, tobacco product, or nicotine product as
22 being ~~eighteen~~ TWENTY-ONE years of age or older.

23 ~~(2) (a) A person who is under eighteen years of age and who~~
24 ~~purchases or attempts to purchase any cigarettes, tobacco products, or~~
25 ~~nicotine products commits a class 2 petty offense and, upon conviction~~
26 ~~thereof, shall be punished by a fine of one hundred dollars; except that,~~

1 following a conviction or adjudication for a first offense under this
2 subsection (2), the court in lieu of the fine may sentence the person to
3 participate in a tobacco education program. The court may allow a person
4 convicted under this subsection (2) to perform community service and be
5 granted credit against the fine and court costs at the rate of five dollars for
6 each hour of work performed for up to fifty percent of the fine and court
7 costs.

8 (b) It is not an offense under paragraph (a) of this subsection (2)
9 if the person under eighteen years of age was acting at the direction of an
10 employee of a governmental agency authorized to enforce or ensure
11 compliance with laws relating to the prohibition of the sale of cigarettes,
12 tobacco products, or nicotine products to minors.

13 (3) (a) Nothing in this section prohibits a statutory or home rule
14 municipality, county, or city and county from enacting an ordinance or
15 resolution that prohibits a minor from purchasing THE SALE OF any
16 cigarettes, tobacco products, or nicotine products TO PERSONS UNDER
17 TWENTY-ONE YEARS OF AGE or imposes requirements more stringent than
18 provided in this section.

19 (b) A STATUTORY OR HOME RULE MUNICIPALITY, COUNTY, OR CITY
20 AND COUNTY SHALL NOT ENACT AN ORDINANCE OR RESOLUTION THAT
21 ESTABLISHES A MINIMUM AGE TO PURCHASE CIGARETTES, TOBACCO
22 PRODUCTS, OR NICOTINE PRODUCTS THAT IS UNDER TWENTY-ONE YEARS
23 OF AGE.

24 **SECTION 2.** In Colorado Revised Statutes, 25-14-204, **amend**
25 (2)(b) and (3) as follows:

26 **25-14-204. General smoking restrictions.** (2) A cigar-tobacco
27 bar:

1 (b) Shall prohibit entry by any person under ~~eighteen~~
2 TWENTY-ONE years of age and shall display signage in at least one
3 conspicuous place and at least four inches by six inches in size stating:
4 "Smoking allowed. ~~Children~~ PERSONS under ~~eighteen~~ TWENTY-ONE years
5 of age may not enter."

6 (3) A retail tobacco business:

7 (a) Shall prohibit entry by any person under ~~eighteen~~ TWENTY-ONE
8 years of age; and

9 (b) Shall display signage in at least one conspicuous place and at
10 least four inches by six inches in size stating either:

11 (I) "Smoking allowed. ~~Children~~ PERSONS under ~~eighteen~~
12 TWENTY-ONE years of age may not enter."; or

13 (II) In the case of a retail tobacco business that desires to allow
14 the use of ESDs but not other forms of smoking on the premises, "Vaping
15 allowed. ~~Children~~ PERSONS under ~~eighteen~~ TWENTY-ONE years of age
16 may not enter."

17 **SECTION 3.** In Colorado Revised Statutes, 25-14-208.5, **amend**
18 (2) introductory portion, (2)(a), and (2)(b) as follows:

19 **25-14-208.5. Violations relating to signage and admission of**
20 **persons under twenty-one years of age - limitation on fines.**

21 (2) Notwithstanding subsection (1) of this section, ~~no~~ A fine for a
22 violation of section 25-14-204 (2) or (3) shall NOT be imposed upon a
23 ~~person~~ RETAILER that can establish as an affirmative defense that, prior
24 to the date of the violation, ~~it~~ THE RETAILER:

25 (a) Had adopted and enforced a written policy against allowing
26 persons under ~~eighteen~~ TWENTY-ONE years of age to enter the premises;

27 (b) Had informed ~~its~~ THE RETAILER'S employees of the applicable

1 laws regarding the prohibition of AGAINST persons under eighteen
2 TWENTY-ONE years of age to enter or remain ENTERING OR REMAINING in
3 areas where smoking is permitted;

4 **SECTION 4.** In Colorado Revised Statutes, 25-14-301, **amend**
5 (2) and (4); and **repeal** (3)(b) as follows:

6 **25-14-301. Sale of cigarettes, tobacco products, or nicotine**
7 **products to persons under twenty-one years of age prohibited -**
8 **definitions.** (2) (a) ~~Possession~~ THE SALE of a cigarette or tobacco product
9 by TO a person who is under ~~eighteen~~ TWENTY-ONE years of age is
10 prohibited.

11 ~~(b) It shall not be an offense under paragraph (a) of this subsection~~
12 ~~(2) if the person under eighteen years of age was acting at the direction~~
13 ~~of an employee of a governmental agency authorized to enforce or ensure~~
14 ~~compliance with laws relating to the prohibition of the sale of cigarettes~~
15 ~~and tobacco products to minors.~~

16 (3) As used in this section, unless the context otherwise requires:

17 (b) "Possession" means that a person:

18 ~~(I) Has or holds any amount of cigarettes or tobacco products~~
19 ~~anywhere on his or her person;~~

20 ~~(II) Owns or has custody of cigarettes or tobacco products; or~~

21 ~~(III) Has cigarettes or tobacco products within his or her~~
22 ~~immediate presence and control.~~

23 (4) (a) Nothing in this section prohibits a statutory or home rule
24 municipality, county, or city and county from enacting an ordinance or
25 resolution that prohibits the ~~possession~~ SALE of cigarettes, tobacco
26 products, or nicotine products by a ~~minor~~ TO A PERSON UNDER
27 TWENTY-ONE YEARS OF AGE or imposes requirements more stringent than

1 provided in this section.

2 (b) A STATUTORY OR HOME RULE MUNICIPALITY, COUNTY, OR CITY
3 AND COUNTY SHALL NOT ENACT AN ORDINANCE OR RESOLUTION THAT
4 ESTABLISHES A MINIMUM AGE TO PURCHASE CIGARETTES, TOBACCO
5 PRODUCTS, OR NICOTINE PRODUCTS THAT IS UNDER TWENTY-ONE YEARS
6 OF AGE.

7 **SECTION 5.** In Colorado Revised Statutes, 30-15-401, **amend**
8 (1.5) as follows:

9 **30-15-401. General regulations - definitions.** (1.5) In addition
10 to any other powers, the board of county commissioners has the power to
11 adopt a resolution or an ordinance to:

12 (a) Regulate the possession or ~~purchasing~~ SALE of cigarettes,
13 tobacco products, or nicotine products, as defined by section 18-13-121
14 (5), ~~by TO a minor or to regulate the sale of cigarettes, tobacco products,~~
15 ~~or nicotine products to minors; and~~ CONSISTENT WITH SECTION 18-13-121
16 (3);

17 (b) Limit smoking, as defined in section 25-14-203 (16), in any
18 manner that is no less restrictive than the limitations set forth in the
19 "Colorado Clean Indoor Air Act", part 2 of article 14 of title 25; AND

20 (c) LICENSE OR OTHERWISE REGULATE THE SALE OF CIGARETTES,
21 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS.

22 **SECTION 6.** In Colorado Revised Statutes, **amend** 44-7-102 as
23 follows:

24 **44-7-102. Definitions.** As used in this article 7, unless the context
25 otherwise requires:

26 (1) "Cigarette, tobacco product, or nicotine product" has the same
27 meaning as provided in section ~~18-13-121~~ 18-13-121 (5).

1 (2) (a) "DISTRIBUTOR" MEANS A PERSON WHO SELLS OR
2 DISTRIBUTES CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS
3 TO LICENSED RETAILERS IN THIS STATE.

4 (b) "DISTRIBUTOR" INCLUDES A "DISTRIBUTOR" OR "DISTRIBUTING
5 SUBCONTRACTOR" AS THOSE TERMS ARE DEFINED IN SECTION 39-28.5-101.

6 ~~(2)~~(3) "Division" means the division of liquor enforcement within
7 the department.

8 (4) "ELECTRONIC SMOKING DEVICE" HAS THE MEANING SET FORTH
9 IN SECTION 25-14-203 (4.5).

10 ~~(3)~~ (5) "Hearing officer" means a person designated by the
11 executive director to conduct hearings held pursuant to section 44-7-105.

12 (6) "LOCAL AUTHORITY" MEANS THE GOVERNING BODY OF A
13 LOCAL GOVERNMENT OR ANY AUTHORITY DESIGNATED BY A MUNICIPAL OR
14 COUNTY CHARTER, MUNICIPAL ORDINANCE, OR COUNTY RESOLUTION TO
15 REGULATE RETAILERS.

16 (7) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE
17 MUNICIPALITY, COUNTY, OR CITY AND COUNTY.

18 ~~(4)~~(8) "Minor" means a person under ~~eighteen~~ TWENTY-ONE years
19 of age.

20 (9) "NEW RETAIL LOCATION" MEANS A RETAIL LOCATION IN THE
21 STATE AT WHICH CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
22 PRODUCTS WERE NOT SOLD BEFORE THE EFFECTIVE DATE OF THIS
23 SUBSECTION (9).

24 ~~(5)~~(10) "Retailer" means THE OWNER OR OPERATOR OF a business
25 of any kind at a specific location that sells cigarettes, tobacco products,
26 or nicotine products to a user or consumer.

27 (11) "SCHOOL" HAS THE MEANING SET FORTH IN SECTION 44-3-103

1 (50).

2 (12) "STATE LICENSE" MEANS A LICENSE ISSUED BY THE DIVISION
3 IN ACCORDANCE WITH SECTION 44-7-104.5.

4 (13) (a) "WHOLESALER" MEANS A PERSON ENGAGED IN THE
5 WHOLESALE DISTRIBUTION OF CIGARETTES, TOBACCO PRODUCTS, OR
6 NICOTINE PRODUCTS IN THIS STATE.

7 (b) "WHOLESALER" INCLUDES A "WHOLESALER" AND "WHOLESALE
8 SUBCONTRACTOR" AS THOSE TERMS ARE DEFINED IN SECTION 39-28-101.

9 **SECTION 7.** In Colorado Revised Statutes, 44-7-103, **amend** (1),
10 (2), and (3); and **add** (4.5) as follows:

11 **44-7-103. Sale of cigarettes, tobacco products, or nicotine**
12 **products to persons under twenty-one years of age or in vending**
13 **machines prohibited - warning sign - small quantity sales prohibited**
14 **- rules.** (1) ~~No~~ A retailer shall NOT sell or permit the sale of cigarettes,
15 tobacco products, or nicotine products to a minor; except that it is not a
16 violation if the retailer establishes that the person selling the cigarette,
17 tobacco product, or nicotine product was presented with and reasonably
18 relied upon a VALID GOVERNMENT-ISSUED photographic identification, AS
19 DETERMINED BY THE EXECUTIVE DIRECTOR BY RULE, that identified the
20 person purchasing the cigarette, tobacco product, or nicotine product as
21 being ~~eighteen~~ TWENTY-ONE years of age or older. A RETAILER SHALL
22 REQUIRE AN INDIVIDUAL WHO SEEKS TO PURCHASE CIGARETTES, TOBACCO
23 PRODUCTS, OR NICOTINE PRODUCTS AND WHO APPEARS TO BE UNDER FIFTY
24 YEARS OF AGE TO PRESENT TO THE RETAILER A VALID
25 GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION AT THE TIME OF
26 PURCHASE.

27 (2) ~~No~~ A retailer shall NOT sell or offer to sell any cigarettes,

1 tobacco products, or nicotine products by use of a vending machine or
2 other coin-operated machine; except that cigarettes may be sold at retail
3 through vending machines only in AN AGE-RESTRICTED AREA OF A
4 LICENSED GAMING ESTABLISHMENT, AS DEFINED IN SECTION 44-30-103
5 (18).

6 (a) ~~Factories, businesses, offices, or other places not open to the~~
7 ~~general public;~~

8 (b) ~~Places to which minors are not permitted access; or~~

9 (c) ~~Establishments where the vending machine dispenses~~
10 ~~cigarettes through the operation of a device that enables an adult~~
11 ~~employee of the establishment to prevent the dispensing of cigarettes to~~
12 ~~minors.~~

13 (3) Any person who sells or offers to sell cigarettes, tobacco
14 products, or nicotine products shall display a warning sign as specified in
15 this subsection (3). The warning sign must be displayed in a prominent
16 place in the building and on any vending or coin-operated machine at all
17 times, must have a minimum height of three inches and a width of six
18 inches, and must read as follows:

19 WARNING

20 IT IS ~~ILLEGAL FOR~~ ILLEGAL TO SELL CIGARETTES,
21 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO ANY
22 PERSON UNDER ~~EIGHTEEN~~ TWENTY-ONE YEARS OF
23 AGE. ~~TO PURCHASE CIGARETTES, TOBACCO~~
24 ~~PRODUCTS, OR NICOTINE PRODUCTS, AND, UPON~~
25 ~~CONVICTION, A \$100.00 FINE MAY BE~~ IMPOSED
26 STATE LAW REQUIRES THAT, TO PURCHASE CIGARETTES,
27 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THIS

1 RETAIL LOCATION, A PERSON MUST PRESENT A VALID
2 GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION AT
3 THE TIME OF PURCHASE IF THE PERSON APPEARS TO BE
4 UNDER FIFTY YEARS OF AGE.

5 (4.5) A RETAILER SHALL NOT PERMIT A PERSON UNDER EIGHTEEN
6 YEARS OF AGE TO SELL OR PARTICIPATE IN THE SALE OF CIGARETTES,
7 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS. THIS SECTION DOES NOT
8 PROHIBIT AN EMPLOYEE OF A RETAILER WHO IS EIGHTEEN YEARS OF AGE
9 OR OLDER BUT UNDER TWENTY-ONE YEARS OF AGE FROM HANDLING OR
10 OTHERWISE HAVING ANY CONTACT WITH CIGARETTES, TOBACCO
11 PRODUCTS, OR NICOTINE PRODUCTS THAT ARE OFFERED FOR SALE AT THE
12 RETAILER'S BUSINESS.

13 **SECTION 8.** In Colorado Revised Statutes, 44-7-104, **amend**
14 (3)(b) and (4); and **add** (5) as follows:

15 **44-7-104. Enforcement authority - designation of agency -**
16 **coordination - sharing of information - rules.** (3) (b) (I) TO THE
17 DEGREE THAT IS ACHIEVABLE WITHIN THE AMOUNT OF FEES COLLECTED,
18 EACH YEAR, the division shall perform, CAUSE TO BE PERFORMED, OR
19 COORDINATE WITH A LOCAL AUTHORITY IN THE PERFORMANCE OF at least
20 TWO COMPLIANCE CHECKS AT EACH RETAIL LOCATION AT WHICH
21 CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ARE SOLD OR
22 AT LEAST the minimum number of ~~random inspections of businesses that~~
23 ~~sell cigarettes, tobacco products, or nicotine products at retail~~ as ANNUAL
24 COMPLIANCE CHECKS required by federal regulations, WHICHEVER IS
25 GREATER. THE DIVISION SHALL PERFORM A COMPLIANCE CHECK BY
26 ENGAGING A PERSON UNDER TWENTY-ONE YEARS OF AGE TO ENTER A
27 RETAIL LOCATION TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR

1 NICOTINE PRODUCTS.

2 (II) IF A COMPLIANCE CHECK OF A RETAIL LOCATION PERFORMED
3 PURSUANT TO SUBSECTION (3)(b)(I) OF THIS SECTION REVEALS A
4 VIOLATION OF THIS ARTICLE 7, THE DIVISION, OR A LOCAL AUTHORITY IN
5 COORDINATION WITH THE DIVISION PURSUANT TO SECTION 44-7-104.5
6 (4)(c), SHALL CONDUCT AN ADDITIONAL COMPLIANCE CHECK OF THE
7 RETAIL LOCATION WITHIN THREE TO SIX MONTHS AFTER THE COMPLIANCE
8 CHECK AT WHICH THE VIOLATION WAS DISCOVERED.

9 (4) In order to enforce laws relating to the prohibition of the sale
10 of cigarettes, tobacco products, or nicotine products to minors, the
11 department of revenue ~~may share information on~~ SHALL MAINTAIN AND
12 PUBLISH ON THE DIVISION'S PUBLIC WEBSITE ~~the identification and address~~
13 ~~BUSINESS NAMES AND ADDRESSES~~ of STATE-LICENSED retailers that sell
14 ~~cigarettes~~, tobacco products, or nicotine products AND MAY SHARE THE
15 LIST OR INFORMATION INCLUDED IN THE LIST with any state OR LOCAL
16 agency responsible for the enforcement of laws relating to the prohibition
17 of the sale of cigarettes, tobacco products, or nicotine products to minors.

18 (5) (a) TO ENSURE THE PROTECTION OF PUBLIC HEALTH, THE
19 EXECUTIVE DIRECTOR SHALL PROMULGATE RULES CONCERNING THE
20 DIVISION'S ENFORCEMENT OF THIS ARTICLE 7, INCLUDING RULES:

21 (I) TO SET NECESSARY AND REASONABLE FEE AMOUNTS THAT WILL
22 COVER THE DIRECT AND INDIRECT COST OF ENFORCEMENT AND
23 ADMINISTRATION; EXCEPT THAT THE FEE AMOUNT MUST NOT EXCEED FOUR
24 HUNDRED DOLLARS PER YEAR. THE EXECUTIVE DIRECTOR MAY BY RULE
25 INCREASE THE MAXIMUM FEE AMOUNT TO SIX HUNDRED DOLLARS IF THE
26 DIVISION DETERMINES THAT STATEWIDE COMPLIANCE WITH THIS ARTICLE
27 7 FALLS BELOW NINETY PERCENT.

1 (II) FOR RETAILERS WITH MORE THAN TEN RETAIL LOCATIONS
2 UNDER THE SAME CORPORATE OR BUSINESS ENTITY, ALLOW THE
3 CORPORATE OR BUSINESS ENTITY TO PAY A SINGLE, LARGE-OPERATOR
4 LICENSE FEE INSTEAD OF PAYING A SEPARATE FEE FOR EACH RETAIL
5 LOCATION. NOTWITHSTANDING SUBSECTION (5)(a)(I) OF THIS SECTION,
6 THE FEE AMOUNT MUST BE SUFFICIENT TO COVER THE DIVISION'S DIRECT
7 AND INDIRECT COSTS OF ENFORCING AND ADMINISTERING THIS ARTICLE 7
8 IN RELATION TO A LARGE OPERATOR. NOTHING IN THIS SUBSECTION
9 (5)(a)(II) PREVENTS THE DIVISION FROM ENFORCING THIS ARTICLE 7 ON A
10 PER-RETAIL LOCATION BASIS.

11 (III) IN ACCORDANCE WITH SUBSECTIONS (2) AND (3)(b) OF THIS
12 SECTION, REGARDING THE NUMBER AND MANNER OF COMPLIANCE CHECKS
13 OF RETAIL LOCATIONS THAT THE DIVISION SHALL PERFORM, CAUSE TO BE
14 PERFORMED, OR COORDINATE WITH A LOCAL AUTHORITY IN THE
15 PERFORMANCE OF EACH YEAR. THE RULES MUST ENSURE THAT ANY
16 COORDINATION BETWEEN THE DIVISION AND A LOCAL AUTHORITY ON THE
17 PERFORMANCE OF COMPLIANCE CHECKS SATISFIES FEDERAL
18 REQUIREMENTS AND THAT LOCAL AUTHORITIES APPRISE THE DIVISION IN
19 AN APPROPRIATE FORM AND MANNER OF COMPLIANCE CHECKS
20 CONDUCTED.

21 (IV) TO ENSURE THAT COMPLAINTS RECEIVED BY THE DIVISION
22 ARE FORWARDED TO THE APPROPRIATE LOCAL AUTHORITY AND THAT
23 COMPLAINTS RECEIVED BY THE LOCAL AUTHORITY ARE FORWARDED TO
24 THE DIVISION FOR THE TIMELY INVESTIGATION INTO AND ACTION TAKEN
25 ON THE COMPLAINTS. THE RULES MUST ENSURE THAT LOCAL AUTHORITIES
26 APPRISE THE DIVISION OF COMPLAINTS AND ANY ACTION TAKEN ON THOSE
27 COMPLAINTS.

1 (V) REGARDING RETAILERS' OBLIGATIONS TO COMPLY WITH THE
2 DIVISION'S DOCUMENT PRODUCTION REQUESTS RELATED TO
3 IMPLEMENTATION AND ENFORCEMENT OF THIS ARTICLE 7.

4 (b) THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES
5 AUTHORIZING A PERSON TO APPLY FOR A TEMPORARY STATE LICENSE AND
6 REQUIRING THE PAYMENT OF A TEMPORARY STATE LICENSE FEE. IF THE
7 EXECUTIVE DIRECTOR PROMULGATES SUCH RULES, THE RULES MUST
8 SPECIFY THAT THE TEMPORARY STATE LICENSE REMAINS IN EFFECT FOR NO
9 MORE THAN THIRTY DAYS AND IS NOT RENEWABLE.

10 (c) IN PROMULGATING RULES PURSUANT TO THIS SUBSECTION (5),
11 THE EXECUTIVE DIRECTOR MAY CONSULT WITH THE DEPARTMENT OF
12 HUMAN SERVICES, THE DEPARTMENT OF PUBLIC HEALTH AND
13 ENVIRONMENT, LOCAL GOVERNMENTS, AND ANY OTHER STATE OR LOCAL
14 AGENCIES THE EXECUTIVE DIRECTOR DEEMS APPROPRIATE.

15 (d) ON OR BEFORE JULY 1, 2021, THE EXECUTIVE DIRECTOR SHALL,
16 IN CONSULTATION WITH LICENSED WHOLESALERS AND RETAILERS,
17 PROMULGATE RULES REGARDING THE TARGETED ENFORCEMENT AGAINST
18 THE SMUGGLING OF CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
19 PRODUCTS.

20 **SECTION 9.** In Colorado Revised Statutes, **add** 44-7-104.5 as
21 follows:

22 **44-7-104.5. License required - fees - rules - repeal.**

23 (1) (a) (I) ON OR AFTER JULY 1, 2021, A RETAILER DOING BUSINESS IN
24 THIS STATE SHALL NOT SELL OR OFFER FOR SALE CIGARETTES, TOBACCO
25 PRODUCTS, OR NICOTINE PRODUCTS IN THIS STATE WITHOUT FIRST
26 OBTAINING A STATE LICENSE AS A RETAILER FROM THE DIVISION.

27 (II) A STATE LICENSE IS VALID FOR ONE YEAR AND MAY BE

1 RENEWED BY APPLICATION IN THE FORM AND MANNER PRESCRIBED BY THE
2 DIVISION AND BY PAYMENT OF A FEE SET BY RULE PURSUANT TO SECTION
3 44-7-104 (5)(a)(I).

4 (b) AN OWNER OF MULTIPLE RETAIL LOCATIONS IN THE STATE AT
5 WHICH CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ARE
6 SOLD OR OFFERED FOR SALE MUST APPLY FOR A SEPARATE STATE LICENSE
7 FOR EACH RETAIL LOCATION. IF THE EXECUTIVE DIRECTOR WISHES TO
8 AUTHORIZE AN OWNER OF MULTIPLE RETAIL LOCATIONS IN THE STATE TO
9 APPLY SIMULTANEOUSLY FOR STATE LICENSES FOR EACH RETAIL LOCATION
10 OWNED BY SUBMITTING A JOINT APPLICATION, THE EXECUTIVE DIRECTOR
11 MAY ESTABLISH BY RULE:

12 (I) THE PROCESS BY WHICH THE OWNER MAY APPLY FOR STATE
13 LICENSES FOR MULTIPLE RETAIL LOCATIONS IN A JOINT APPLICATION; AND

14 (II) A JOINT APPLICATION FEE.

15 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (4)(b) OF THIS
16 SECTION, THE DIVISION SHALL APPROVE OR DENY A STATE LICENSE
17 APPLICATION WITHIN SIXTY DAYS AFTER RECEIVING THE APPLICATION. THE
18 DIVISION MAY DENY AN APPLICATION ONLY FOR GOOD CAUSE. IF THE
19 DIVISION DENIES AN APPLICATION, THE DIVISION SHALL INFORM THE
20 APPLICANT IN WRITING OF THE REASONS FOR THE DENIAL, AND THE
21 APPLICANT, WITHIN FOURTEEN DAYS AFTER RECEIVING THE WRITTEN
22 DENIAL, MAY REQUEST THAT A HEARING BE HELD ON THE MATTER IN
23 ACCORDANCE WITH SECTION 44-7-105.

24 (b) (I) IF A RETAILER THAT SOLD OR OFFERED TO SELL CIGARETTES,
25 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT A RETAIL LOCATION IN
26 THE STATE BEFORE JULY 1, 2021, HAS APPLIED FOR A STATE LICENSE FROM
27 THE DIVISION AND PAID THE STATE LICENSE FEE ON OR BEFORE JULY 1,

1 2021, THE RETAILER MAY CONTINUE TO SELL OR OFFER TO SELL
2 CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS ON OR AFTER
3 JULY 1, 2021, WITHOUT A STATE LICENSE DURING THE PENDENCY OF THE
4 DIVISION'S REVIEW OF THE RETAILER'S STATE LICENSE APPLICATION.

5 (II) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE JULY 1, 2022.

6 (3) (a) UPON OBTAINING A STATE LICENSE FROM THE DIVISION FOR
7 A RETAIL LOCATION, A RETAILER SHALL CONSPICUOUSLY DISPLAY THE
8 STATE LICENSE AT THE RETAIL LOCATION.

9 (b) (I) STATE LICENSES ARE NOT TRANSFERABLE. IF A LICENSEE
10 CEASES TO BE A RETAILER AT A RETAIL LOCATION BY REASON OF
11 DISCONTINUATION, SALE, OR TRANSFER OF THE LICENSEE'S BUSINESS, THE
12 LICENSEE SHALL NOTIFY THE DIVISION IN WRITING ON OR BEFORE THE
13 DATE ON WHICH THE DISCONTINUANCE, SALE, OR TRANSFER TAKES EFFECT.

14 (II) IF A PERSON TO WHOM A RETAILER'S RETAIL LOCATION IS SOLD
15 APPLIES FOR A STATE LICENSE FOR THE RETAIL LOCATION WITHIN THIRTY
16 DAYS AFTER TAKING OWNERSHIP OF THE RETAIL LOCATION, WHICH DATE
17 OF TAKING OWNERSHIP MUST BE DEMONSTRATED IN THE APPLICATION IN
18 A MANNER DETERMINED BY THE DIVISION, THE PERSON MAY CONTINUE TO
19 SELL OR OFFER TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
20 PRODUCTS WITHOUT A STATE LICENSE DURING THE PENDENCY OF THE
21 DIVISION'S REVIEW OF THE PERSON'S STATE LICENSE APPLICATION.

22 (4) (a) IF A LOCAL GOVERNMENT IMPOSES LICENSING
23 REQUIREMENTS ON RETAILERS, THE LICENSING REQUIREMENTS MUST BE AS
24 STRINGENT AS, AND MAY BE MORE STRINGENT THAN, THE STATEWIDE
25 LICENSING REQUIREMENTS SET FORTH IN THIS ARTICLE 7.

26 (b) IF A RETAILER APPLIES FOR A STATE LICENSE FROM THE
27 DIVISION PURSUANT TO THIS SECTION FOR A RETAIL LOCATION THAT IS

1 WITHIN THE JURISDICTION OF A LOCAL GOVERNMENT THAT IMPOSES
2 LICENSING REQUIREMENTS ON RETAILERS, THE DIVISION SHALL:

3 (I) ISSUE A STATE LICENSE TO THE RETAILER UPON THE RETAILER
4 DEMONSTRATING TO THE DIVISION THAT THE RETAILER HAS OBTAINED A
5 LOCAL LICENSE AND PAYING THE STATE LICENSE FEE; AND

6 (II) (A) EXCEPT AS PROVIDED IN SUBSECTION (4)(b)(II)(B) OF THIS
7 SECTION, SET THE STATE LICENSE RENEWAL DATE ON THE SAME DATE AS
8 THE LOCAL LICENSE RENEWAL DATE. THE DIVISION SHALL PRORATE THE
9 INITIAL STATE LICENSE FEE IF SETTING THE STATE LICENSE RENEWAL DATE
10 IN LINE WITH THE LOCAL LICENSE RENEWAL DATE REQUIRES RENEWAL
11 WITHIN LESS THAN TWELVE MONTHS AFTER THE INITIAL STATE LICENSE
12 WAS ISSUED.

13 (B) IF A LOCAL GOVERNMENT FIRST IMPOSES A LOCAL LICENSING
14 REQUIREMENT ON CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
15 PRODUCTS ON OR AFTER JULY 1, 2021, THE LOCAL GOVERNMENT SHALL
16 SET THE LOCAL LICENSE RENEWAL DATE FOR A RETAILER ON THE SAME
17 DATE AS THE STATE LICENSE RENEWAL DATE.

18 (c) THE DIVISION SHALL COLLABORATE WITH ANY LOCAL
19 AUTHORITY REGARDING THE PERFORMANCE OF COMPLIANCE CHECKS AND
20 COMPLAINTS RECEIVED IN ACCORDANCE WITH RULES PROMULGATED BY
21 THE EXECUTIVE DIRECTOR PURSUANT TO SECTION 44-7-104 (5)(a)(III).

22 (5) (a) NINETY DAYS BEFORE THE EXPIRATION DATE OF AN
23 EXISTING STATE LICENSE, THE DIVISION SHALL NOTIFY THE LICENSEE OF
24 THE EXPIRATION DATE OF THE STATE LICENSE BY ELECTRONIC MAIL OR BY
25 FIRST-CLASS MAIL, AS DETERMINED BY THE EXECUTIVE DIRECTOR, AT THE
26 MAILING ADDRESS THAT THE DIVISION HAS ON FILE FOR THE LICENSEE. THE
27 DIVISION SHALL ESTABLISH A PROCESS FOR A LICENSEE TO CONFIRM

1 RECEIPT OF A NOTICE SENT PURSUANT TO THIS SUBSECTION (5)(a). THE
2 DIVISION SHALL DESCRIBE THE CONFIRMATION PROCESS IN THE NOTICE
3 ITSELF AND ON THE DIVISION'S WEBSITE.

4 (b) IF THE STATE LICENSE CONCERNS A RETAIL LOCATION THAT
5 IS LOCATED WITHIN THE JURISDICTION OF A LOCAL AUTHORITY THAT
6 IMPOSES LICENSING REQUIREMENTS ON RETAILERS, THE DIVISION SHALL
7 RENEW THE LICENSEE'S STATE LICENSE UPON THE LICENSEE
8 DEMONSTRATING TO THE DIVISION THAT THE LICENSEE IS OPERATING
9 UNDER A VALID LOCAL LICENSE AND PAYING THE RENEWAL STATE LICENSE
10 FEE.

11 (c) IF THE RETAILER'S STATE LICENSE CONCERNS A RETAIL
12 LOCATION THAT IS LOCATED WITHIN THE JURISDICTION OF A LOCAL
13 AUTHORITY THAT IMPOSES LICENSING REQUIREMENTS ON RETAILERS AND
14 THE LOCAL AUTHORITY:

15 (I) SUSPENDS THE RETAILER'S LOCAL LICENSE, THE DIVISION
16 SHALL, PURSUANT TO THE NOTICE AND HEARING PROCESS SET FORTH IN
17 SECTION 44-7-105 (1)(b), SUSPEND THE RETAILER'S STATE LICENSE UNTIL
18 THE RETAILER CAN DEMONSTRATE TO THE DIVISION'S SATISFACTION THAT
19 THE LOCAL LICENSE HAS BEEN REINSTATED; OR

20 (II) REVOKES THE RETAILER'S LOCAL LICENSE, THE DIVISION
21 SHALL, PURSUANT TO THE NOTICE AND HEARING PROCESS SET FORTH IN
22 SECTION 44-7-105 (1)(b), REVOKE THE RETAILER'S STATE LICENSE.

23 (6) THE DIVISION SHALL TRANSFER ANY FEES COLLECTED IN
24 ACCORDANCE WITH THIS ARTICLE 7 TO THE STATE TREASURER, WHO SHALL
25 CREDIT THE FEES TO THE LIQUOR ENFORCEMENT DIVISION AND STATE
26 LICENSING AUTHORITY CASH FUND CREATED IN SECTION 44-6-101.

27 **SECTION 10.** In Colorado Revised Statutes, **add** 44-7-104.7 as

1 follows:

2 **44-7-104.7. Restrictions on sales - minimum distance**
3 **requirement - advertising restriction - online sales prohibited.**

4 (1) (a) UNLESS A LOCAL AUTHORITY HAS APPROVED AN APPLICATION FOR
5 A NEW RETAIL LOCATION PURSUANT TO AN ORDINANCE OR RESOLUTION
6 ADOPTED PURSUANT TO SUBSECTION (1)(d) OF THIS SECTION, THE DIVISION
7 SHALL NOT APPROVE A STATE LICENSE APPLICATION FOR THE NEW RETAIL
8 LOCATION IF THE NEW RETAIL LOCATION IS LOCATED WITHIN FIVE
9 HUNDRED FEET OF A SCHOOL. THE DISTANCE BETWEEN THE NEW RETAIL
10 LOCATION AND THE SCHOOL IS MEASURED FROM THE NEAREST PROPERTY
11 LINE OF LAND USED FOR SCHOOL PURPOSES TO THE NEAREST PORTION OF
12 THE BUILDING WHERE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
13 PRODUCTS WILL BE SOLD, USING A ROUTE OF DIRECT PEDESTRIAN ACCESS.

14 (b) THIS SUBSECTION (1) DOES NOT APPLY TO RETAIL LOCATIONS
15 AT WHICH CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS
16 WERE SOLD BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1).

17 (c) IF A RETAIL LOCATION THAT WAS IN EXISTENCE AS OF THE
18 EFFECTIVE DATE OF THIS SUBSECTION (1) IS TRANSFERRED TO A NEW
19 OWNER AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1), THE NEW
20 OWNER NEED NOT COMPLY WITH THIS SUBSECTION (1).

21 (d) A LOCAL AUTHORITY MAY BY ORDINANCE OR RESOLUTION:

22 (I) ELIMINATE ONE OR MORE TYPES OF SCHOOLS FROM THE
23 DISTANCE RESTRICTION SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION;

24 OR

25 (II) ADOPT SHORTER DISTANCE RESTRICTIONS.

26 (2) A RETAILER SHALL NOT ADVERTISE AN ELECTRONIC SMOKING
27 DEVICE PRODUCT IN A MANNER THAT IS VISIBLE FROM OUTSIDE THE RETAIL

1 LOCATION AT WHICH THE PRODUCT IS OFFERED FOR SALE.

2 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OR (3)(c) OF
3 THIS SECTION, A PERSON SHALL NOT SHIP OR DELIVER CIGARETTES,
4 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS DIRECTLY TO A CONSUMER
5 IN THIS STATE.

6 (b) (I) A RETAILER LICENSED TO SELL CIGARETTES, TOBACCO
7 PRODUCTS, OR NICOTINE PRODUCTS PURSUANT TO THIS ARTICLE 7 THAT
8 COMPLIES WITH THIS SUBSECTION (3)(b) AND RULES PROMULGATED
9 PURSUANT TO THIS SUBSECTION (3)(b) MAY DELIVER CIGARETTES,
10 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO A PERSON TWENTY-ONE
11 YEARS OF AGE OR OLDER IF:

12 (A) THE PERSON RECEIVING THE DELIVERY OF CIGARETTES,
13 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS IS LOCATED AT A PLACE
14 THAT IS NOT LICENSED PURSUANT TO THIS ARTICLE 7;

15 (B) THE DELIVERY IS MADE BY AN OWNER OR EMPLOYEE OF THE
16 LICENSED RETAILER WHO IS AT LEAST TWENTY-ONE YEARS OF AGE; AND

17 (C) THE PERSON MAKING THE DELIVERY VERIFIES THAT THE
18 PERSON RECEIVING THE DELIVERY IS TWENTY-ONE YEARS OF AGE OR
19 OLDER BY REQUIRING THE PERSON RECEIVING THE DELIVERY TO PRESENT
20 A VALID GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION. THE
21 LICENSEE OR EMPLOYEE SHALL MAKE A DETERMINATION FROM THE
22 INFORMATION PRESENTED WHETHER THE PERSON RECEIVING THE
23 DELIVERY IS TWENTY-ONE YEARS OF AGE OR OLDER.

24 (II) THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES AS
25 NECESSARY FOR THE PROPER DELIVERY OF CIGARETTES, TOBACCO
26 PRODUCTS, OR NICOTINE PRODUCTS, AND THE DIVISION IS AUTHORIZED TO
27 ISSUE A PERMIT TO ANY RETAILER THAT IS LICENSED UNDER THIS ARTICLE

1 7 AND DELIVERS CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
2 PRODUCTS PURSUANT TO THIS SUBSECTION (3)(b). A PERMIT ISSUED
3 UNDER THIS SUBSECTION (3)(b) IS SUBJECT TO THE SAME SUSPENSION AND
4 REVOCATION PROVISIONS AS ARE SET FORTH IN SECTION 44-7-105 (1)(b).

5 (c) THE PROHIBITION SET FORTH IN SUBSECTION (3)(a) OF THIS
6 SECTION DOES NOT APPLY TO THE DIRECT SHIPMENT OR DELIVERY OF
7 CIGARS AND PIPE TOBACCO TO A CONSUMER WHO IS TWENTY-ONE YEARS
8 OF AGE OR OLDER.

9 **SECTION 11.** In Colorado Revised Statutes, **amend** 44-7-105 as
10 follows:

11 **44-7-105. Enforcement - fines - suspension and revocation -**
12 **injunctive relief - hearings - appeals.** (1) (a) (I) Subject to the FINE
13 limitations contained in section 44-7-106, the division, on its own motion
14 or on a complaint from another governmental agency responsible for the
15 enforcement of laws relating to the prohibition of the sale of cigarettes,
16 tobacco products, or nicotine products to minors, ~~has the power to~~ MAY
17 penalize retailers for violations of ~~section 44-7-103~~ THIS ARTICLE 7.

18 (II) THE DIVISION, IN THE NAME OF THE PEOPLE OF THE STATE OF
19 COLORADO AND THROUGH THE ATTORNEY GENERAL OF THE STATE OF
20 COLORADO, MAY APPLY FOR AN INJUNCTION IN ANY COURT OF COMPETENT
21 JURISDICTION TO ENJOIN ANY PERSON FROM COMMITTING AN ACT
22 PROHIBITED BY THIS ARTICLE 7. IF THE DIVISION ESTABLISHES THAT THE
23 DEFENDANT HAS BEEN OR IS COMMITTING AN ACT PROHIBITED BY THIS
24 ARTICLE 7, THE COURT SHALL ENTER A DECREE ENJOINING THE DEFENDANT
25 FROM FURTHER COMMITTING THE ACT. AN INJUNCTIVE PROCEEDING MAY
26 BE BROUGHT PURSUANT TO THIS ARTICLE 7 IN ADDITION TO, AND NOT IN
27 LIEU OF, PENALTIES AND OTHER REMEDIES PROVIDED IN THIS ARTICLE 7

1 AND THE RULES PROMULGATED PURSUANT TO THIS ARTICLE 7 OR
2 OTHERWISE PROVIDED BY LAW.

3 (b) IN ADDITION TO ANY OTHER SANCTIONS PRESCRIBED BY THIS
4 ARTICLE 7 OR RULES PROMULGATED PURSUANT TO THIS ARTICLE 7, THE
5 DIVISION MAY, AFTER INVESTIGATION AND A PUBLIC HEARING AT WHICH
6 A RETAILER MUST BE AFFORDED AN OPPORTUNITY TO BE HEARD, FINE A
7 RETAILER OR, IF THE RETAILER HOLDS A STATE LICENSE, SUSPEND OR
8 REVOKE THE RETAILER'S STATE LICENSE FOR A VIOLATION OF THIS ARTICLE
9 7 OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 7 COMMITTED
10 BY THE RETAILER OR BY ANY AGENT OR EMPLOYEE OF THE RETAILER.

11 (2) (a) A retailer accused of violating ~~section 44-7-103~~ shall be
12 THIS ARTICLE 7 OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE
13 7 IS entitled to written notice of the time and place of the hearing
14 personally delivered to the retailer at the actual retail location or mailed
15 to the retailer at the last-known address as shown by the records of the
16 ~~department~~ DIVISION. The retailer is also entitled to be represented by
17 counsel, to present evidence, and to cross-examine witnesses.

18 (b) A retailer that does not claim an affirmative defense pursuant
19 to section 44-7-106 (2) may waive its right to a hearing and pay the
20 appropriate fine.

21 (3) A hearing pursuant to this section shall be conducted at a
22 location designated by the division before a hearing officer. The hearing
23 officer ~~shall have the power to~~ MAY administer oaths and issue subpoenas
24 to require the presence of persons and the production of documents
25 relating to any alleged violation of ~~section 44-7-103~~ THIS ARTICLE 7 OR
26 ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 7.

27 (4) If the hearing officer finds, by a preponderance of the

1 evidence, that the retailer violated ~~section 44-7-103~~ THIS ARTICLE 7 OR
2 ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 7, the hearing
3 officer may issue a written order TO SUSPEND OR REVOKE THE RETAILER'S
4 STATE LICENSE or TO levy a fine against the retailer ~~subject to the~~
5 ~~provisions of~~ IN ACCORDANCE WITH section 44-7-106.

6 (5) The ~~findings~~ DECISION of the hearing officer ~~shall be~~ IS a final
7 agency ~~order~~ ACTION. Any appeal of the decision of the hearing officer
8 shall be filed with ~~the Colorado~~ A DISTRICT court of ~~appeals pursuant to~~
9 ~~section 24-4-106 (11)~~ COMPETENT JURISDICTION.

10 (6) Any unpaid fine levied pursuant to this section, together with
11 reasonable attorney fees, may be collected in a civil action filed by the
12 attorney general.

13 (7) THE DIVISION SHALL FORWARD any fines collected for
14 violations of ~~section 44-7-103 shall be forwarded~~ THIS ARTICLE 7 OR ANY
15 RULE PROMULGATED PURSUANT TO THIS ARTICLE 7 to the state treasurer,
16 who shall credit them to the cigarette, tobacco product, and nicotine
17 product use by minors prevention fund created in section 44-7-107.

18 (8) NOTHING IN THIS SECTION OR SECTION 44-7-106 PROHIBITS A
19 LOCAL GOVERNMENT FROM IMPOSING SANCTIONS ON A RETAILER FOR A
20 VIOLATION OF A LOCAL ORDINANCE OR RESOLUTION.

21 **SECTION 12.** In Colorado Revised Statutes, **amend** 44-7-106 as
22 follows:

23 **44-7-106. Limitation on fines.** (1) (a) For a violation of section
24 44-7-103 (1), ~~or (4)~~, the penalty ~~shall be~~ IS as follows:

25 (I) A FINE IN AN AMOUNT OF AT LEAST TWO HUNDRED FIFTY
26 DOLLARS BUT NOT MORE THAN FIVE HUNDRED DOLLARS FOR A FIRST
27 VIOLATION COMMITTED WITHIN A ~~TWENTY-FOUR-MONTH~~ PERIOD;

1 (II) A FINE IN AN AMOUNT OF AT LEAST FIVE HUNDRED DOLLARS
2 BUT NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS FOR A SECOND
3 VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD AND A PROHIBITION
4 AGAINST THE RETAILER SELLING CIGARETTES, TOBACCO PRODUCTS, OR
5 NICOTINE PRODUCTS AT THE RETAIL LOCATION AT WHICH THE VIOLATION
6 OCCURRED FOR AT LEAST SEVEN DAYS FOLLOWING THE DATE THAT THE
7 FINE IS IMPOSED;

8 (III) A FINE IN AN AMOUNT OF AT LEAST SEVEN HUNDRED FIFTY
9 DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS FOR A THIRD
10 VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD AND A PROHIBITION
11 AGAINST THE RETAILER SELLING CIGARETTES, TOBACCO PRODUCTS, OR
12 NICOTINE PRODUCTS AT THE RETAIL LOCATION AT WHICH THE VIOLATION
13 OCCURRED FOR AT LEAST THIRTY DAYS FOLLOWING THE DATE THAT THE
14 FINE IS IMPOSED; AND

15 (IV) A FINE IN AN AMOUNT OF AT LEAST ONE THOUSAND DOLLARS
16 BUT NOT MORE THAN FIFTEEN THOUSAND DOLLARS FOR A FOURTH OR
17 SUBSEQUENT VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD AND A
18 PROHIBITION AGAINST THE RETAILER SELLING CIGARETTES, TOBACCO
19 PRODUCTS, OR NICOTINE PRODUCTS AT THE RETAIL LOCATION AT WHICH
20 THE VIOLATION OCCURRED FOR UP TO THREE YEARS FOLLOWING THE DATE
21 THAT THE FINE IS IMPOSED.

22 (b) FOR A VIOLATION OF SECTION 44-7-103 (4), THE PENALTY IS AS
23 FOLLOWS:

24 (a) (I) A written warning for a first violation committed within a
25 twenty-four-month period;

26 (b) (II) A fine of two hundred fifty dollars for a second violation
27 within a twenty-four-month period;

1 ~~(e)~~ (III) A fine of five hundred dollars for a third violation within
2 a twenty-four-month period;

3 ~~(d)~~ (IV) A fine of one thousand dollars for a fourth violation
4 within a twenty-four-month period; and

5 ~~(e)~~ (V) A fine of ~~between~~ AT LEAST one thousand dollars ~~and~~ BUT
6 NOT MORE THAN fifteen thousand dollars for a fifth or subsequent
7 violation within a twenty-four-month period.

8 (c) (I) ON OR AFTER JULY 1, 2021, A PERSON WHO SELLS OR OFFERS
9 TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS
10 WITHOUT A VALID STATE LICENSE ISSUED PURSUANT TO THIS SECTION IS
11 SUBJECT TO THE FOLLOWING CIVIL FINES FOR EACH RETAIL LOCATION AT
12 WHICH THE PERSON SELLS OR OFFERS TO SELL CIGARETTES, TOBACCO
13 PRODUCTS, OR NICOTINE PRODUCTS WITHOUT A VALID STATE LICENSE:

14 (A) ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION;

15 (B) TWO THOUSAND DOLLARS FOR THE SECOND VIOLATION WITHIN
16 TWENTY-FOUR MONTHS; AND

17 (C) THREE THOUSAND DOLLARS FOR THE THIRD OR SUBSEQUENT
18 VIOLATION WITHIN TWENTY-FOUR MONTHS.

19 (II) EACH SALE OF OR OFFER TO SELL CIGARETTES, TOBACCO
20 PRODUCTS, OR NICOTINE PRODUCTS WITHOUT A VALID STATE LICENSE IS
21 A DISTINCT VIOLATION OF THIS SECTION SUBJECT TO A FINE.

22 (III) IF THE DIVISION FINDS THAT A RETAILER HAS VIOLATED THIS
23 SUBSECTION (1)(c) THREE TIMES WITHIN TWENTY-FOUR MONTHS, THE
24 DIVISION SHALL ISSUE THE RETAILER AN ORDER PROHIBITING THE
25 RETAILER FROM SELLING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
26 PRODUCTS, WHICH ORDER RENDERS THE RETAILER INELIGIBLE TO APPLY
27 FOR A STATE LICENSE FOR THREE YEARS FOLLOWING THE DATE OF THE

1 ORDER.

2 (IV) THE FINE AMOUNTS SET FORTH IN SUBSECTION (1)(c)(I) OF
3 THIS SECTION ALSO APPLY TO VIOLATIONS OF SECTION 44-7-104.7 (2) AND
4 (3).

5 (2) Notwithstanding subsection (1) of this section, ~~no~~ A fine
6 for a violation of section 44-7-103 (1) shall NOT be imposed upon a
7 retailer that can establish an affirmative defense to the satisfaction of the
8 division or the hearing officer that, prior to the date of the violation, it:

9 (a) Had adopted and enforced a written policy against selling
10 cigarettes, tobacco products, or nicotine products to persons under
11 ~~eighteen~~ TWENTY-ONE years of age;

12 (b) Had informed its employees of the applicable laws regarding
13 the sale of cigarettes, tobacco products, or nicotine products to persons
14 under ~~eighteen~~ TWENTY-ONE years of age;

15 (c) Required employees to verify the age of cigarette, tobacco
16 product, or nicotine product customers by way of photographic
17 identification; and

18 (d) Had established and imposed disciplinary sanctions for
19 noncompliance.

20 (3) The affirmative defense established in subsection (2) of this
21 section may be used by a retailer only ~~twice~~ ONCE at each location within
22 any twenty-four-month period.

23 (4) (a) (I) THE PENALTY for a violation of section 44-7-103 (2) or
24 ~~(3), the penalty shall be as follows:~~ (4.5) IS

25 ~~(a) (I) For a violation of section 44-7-103 (2), a fine of~~
26 ~~twenty-five dollars for a first violation committed within a~~
27 ~~twenty-four-month period.~~

1 (II) THE PENALTY for a violation of section 44-7-103 (3) IS a
2 written warning for a first violation committed within a
3 twenty-four-month period.

4 (b) FOR A VIOLATION OF SECTION 44-7-103 (2), (3), OR (4.5), THE
5 PENALTY IS AS FOLLOWS:

6 ~~(b)~~ (I) A fine of fifty dollars for a second violation within a
7 twenty-four-month period;

8 ~~(c)~~ (II) A fine of one hundred dollars for a third violation within
9 a twenty-four-month period;

10 ~~(d)~~ (III) A fine of two hundred fifty dollars for a fourth violation
11 within a twenty-four-month period; and

12 ~~(e)~~ (IV) A fine of ~~between~~ AT LEAST two hundred fifty dollars and
13 BUT NOT MORE THAN one thousand dollars for a fifth or subsequent
14 violation within a twenty-four-month period.

15 (5) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, A
16 LICENSED GAMING ESTABLISHMENT AS DEFINED IN SECTION 44-30-103 (18)
17 THAT HAS A CIGAR-TOBACCO BAR, AS DEFINED IN SECTION 25-14-203 (4),
18 ON THE EFFECTIVE DATE OF THIS SUBSECTION (5) SHALL BE AFFORDED TWO
19 AFFIRMATIVE DEFENSES WITHIN A TWENTY-FOUR-MONTH PERIOD.

20 **SECTION 13.** In Colorado Revised Statutes, 13-4-102, **repeal**
21 (2)(gg) as follows:

22 **13-4-102. Jurisdiction.** (2) The court of appeals has initial
23 jurisdiction to:

24 ~~(gg) Review final actions and orders appropriate for judicial~~
25 ~~review of the department of revenue relating to penalties for violations of~~
26 ~~statutes relating to the sale of cigarettes, tobacco products, or nicotine~~
27 ~~products to minors pursuant to section 44-7-105 (5);~~

1 **SECTION 14.** In Colorado Revised Statutes, 19-2-104, **amend**
2 (1) introductory portion and (1)(a)(I) as follows:

3 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,
4 the juvenile court ~~shall have~~ HAS exclusive original jurisdiction in
5 proceedings:

6 (a) Concerning any juvenile ten years of age or older who has
7 violated:

8 (I) Any federal or state law, except nonfelony state traffic, game
9 and fish, and parks and recreation laws or rules; ~~the offenses specified in~~
10 ~~section 18-13-121, concerning tobacco products;~~ the offense specified in
11 section 18-13-122, concerning the illegal possession or consumption of
12 ethyl alcohol or marijuana by an underage person or illegal possession of
13 marijuana paraphernalia by an underage person; the offenses specified in
14 section 18-18-406 (5)(a)(I), (5)(b)(I), and (5)(b)(II), concerning marijuana
15 and marijuana concentrate; and the civil infraction in section 18-7-109
16 (3), concerning exchange of a private image by a juvenile;

17 **SECTION 15.** In Colorado Revised Statutes, 19-2-513, **amend**
18 (3)(a) introductory portion as follows:

19 **19-2-513. Petition form and content.** (3) (a) Pursuant to ~~the~~
20 ~~provisions of~~ section 19-1-126, in those delinquency proceedings to
21 which the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901 et
22 seq., AS AMENDED, applies, including but not limited to status offenses
23 such as the illegal possession or consumption of ethyl alcohol or
24 marijuana by an underage person or illegal possession of marijuana
25 paraphernalia by an underage person, as described in section 18-13-122,
26 C.R.S., ~~purchase or attempted purchase of cigarettes or tobacco products~~
27 ~~by a person under eighteen years of age, as described in section~~

1 ~~18-13-121, C.R.S.~~, and possession of handguns by juveniles, as described
2 in section 18-12-108.5, ~~C.R.S.~~, the petition ~~shall~~ MUST:

3

4 **SECTION 16.** In Colorado Revised Statutes, **amend** 44-6-101 as
5 follows:

6 **44-6-101. Liquor enforcement division and state licensing**
7 **authority cash fund.** There is hereby created in the state treasury the
8 liquor enforcement division and state licensing authority cash fund. The
9 fund ~~shall consist~~ CONSISTS of money transferred in accordance with
10 sections 44-3-502 (1), ~~and~~ 44-4-105 (2), ~~AND~~ 44-7-104.5 (6). The general
11 assembly shall make annual appropriations from the fund for a portion of
12 the direct and indirect costs of the liquor enforcement division and the
13 state licensing authority in the administration and enforcement of articles
14 3 to 5 ~~AND~~ 7 of this title 44. Any money remaining in the fund at the end
15 of each fiscal year ~~shall remain~~ REMAINS in the fund and ~~shall~~ DOES not
16 revert to the general fund or any other fund. The fund shall be maintained
17 in accordance with section 24-75-402.

18 **SECTION 17. Appropriation.** (1) For the 2019-20 state fiscal
19 year, \$45,414 is appropriated to the department of revenue. This
20 appropriation is from the liquor enforcement division and state licensing
21 authority cash fund created in section 44-6-101, C.R.S. To implement this
22 act, the department may use this appropriation as follows:

23 (a) \$26,139 for use by the liquor and tobacco enforcement
24 division for personal services, which amount is based on an assumption
25 that the division will require an additional 0.5 FTE; and

26 (b) \$19,275 for use by the liquor and tobacco enforcement
27 division for operating expenses.

1 **SECTION 18. Appropriation.** (1) For the 2020-21 state fiscal
 2 year, \$2,391,262 is appropriated to the department of revenue. This
 3 appropriation is from the liquor enforcement division and state licensing
 4 authority cash fund created in section 44-6-101, C.R.S., and is based on
 5 an assumption that the department will require an additional 18.9 FTE. To
 6 implement this act, the department may use this appropriation as follows:

7	Executive director's office, administration and support	
8	Health, life, and dental	\$180,166
9	Short-term disability	\$2,010
10	S.B. 04-257 amortization equalization disbursement	\$59,107
11	S.B. 06-235 supplemental amortization	
12	equalization disbursement	\$59,107
13	Legal services	\$98,605
14	Vehicle lease payments	\$69,450
15	Leased space	\$124,740
16	Executive director's office, hearings division	
17	Personal services	\$96,012 (1.5 FTE)
18	Operating expenses	\$11,325
19	Taxation business group, administration	
20	Tax administration IT system (GenTax) support	\$1,800
21	Enforcement business group, liquor and tobacco enforcement	
22	division	
23	Personal services	\$1,232,116 (17.4 FTE)
24	Operating expenses	\$456,824

25 (2) For the 2020-21 state fiscal year, \$98,605 is appropriated to
 26 the department of law. This appropriation is from reappropriated funds
 27 received from the department of revenue under subsection (1) of this

1 section and is based on an assumption that the department of law will
2 require an additional 0.5 FTE. To implement this act, the department of
3 law may use this appropriation to provide legal services for the
4 department of revenue.

5 (3) For the 2020-21 state fiscal year, \$69,450 is appropriated to
6 the department of personnel. This appropriation is from reappropriated
7 funds received from the department of revenue under subsection (1) of
8 this section. To implement this act, the department of personnel may use
9 this appropriation for vehicle replacement lease/purchase.

10 **SECTION 19. Applicability.** This act applies to offenses
11 committed on or after the effective date of this act.

12 **SECTION 20. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety.