

COLORADO LAWS RELATED TO TOBACCO SALES TO MINORS

ARTICLE 7, TITLE 44, C.R.S.

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18-13-121. Furnishing cigarettes or tobacco products to minors1

REGULATION OF TOBACCO SALES TO MINORS

44-7-101. Legislative declaration.....2
44-7-102. Definitions.....2
44-7-103. Sale of cigarettes or tobacco products to minors or in vending machines prohibited – warning sign - small quantity sales prohibited3
44-7-104. Enforcement authority - designation of agency - coordination - sharing of information3
44-7-104.5 License required – fees – rules - repeal5
44-7-104.7 Restrictions on sales – minimum distance requirement – advertising restriction – online sales prohibited – exemptions - rules6
44-7-105. Hearings.....7
44-7-106. Limitation on fines8
44-7-107. Cigarette, tobacco product, and nicotine product use by minors prevention fund – grants.....9

18-13-121. Furnishing cigarettes, tobacco products, or nicotine products to minors

(1) (a) A person shall not give, sell, distribute, dispense, or offer for sale a cigarette, tobacco product, or nicotine product to any person who is under twenty-one years of age.

(b) Before giving, selling, distributing, dispensing, or offering to sell to an individual any cigarette, tobacco product, or nicotine product, a person shall request from the individual and examine a government-issued photographic identification that establishes that the individual is twenty-one years of age or older.

(c) A person who violates paragraph (a) or (b) of this subsection (1) commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of two hundred dollars.

(d) It is an affirmative defense to a prosecution under subsection (1)(a) of this section that the person furnishing the cigarette, tobacco product, or nicotine product was presented with and reasonably relied upon a government-issued photographic identification that identified the individual receiving the cigarette, tobacco product, or nicotine product as being twenty-one years of age or older.

(2) Repealed.

(3) (a) Nothing in this section prohibits a statutory or home rule municipality, county, or city and county from enacting an ordinance or resolution that prohibits the sale of any cigarettes, tobacco products, or nicotine products to persons under twenty-one years of age or imposes requirements more stringent than provided in this section.

(b) A statutory or home rule municipality, county, or city and county shall not enact an ordinance or resolution that establishes a minimum age to purchase cigarettes, tobacco products, or nicotine products that is under twenty-one years of age.

(3.5) Nothing in this section affects federal laws concerning cigarettes, tobacco products, or nicotine products, as they apply to military bases and Indian reservations within the state.

(4) (Deleted by amendment, L. 98, p. 1185, 2, effective July 1, 1998.)

(5) (a) As used in this section, "cigarette, tobacco product, or nicotine product" means:

(I) A product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or

(II) Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including an electronic cigarette, cigar, cigarillo, or pipe.

(b) Notwithstanding any provision of paragraph (a) of this subsection (5) to the contrary, "cigarette, tobacco product, or nicotine product" does not mean a product that the food and drug administration of the United States department of health and human services has approved as a tobacco use cessation product.

REGULATION OF TOBACCO SALES TO MINORS

44-7-101. Legislative declaration.

(1) The general assembly finds that:

(a) The use of cigarettes, tobacco products, or nicotine products creates dangerous risks to the health of the people of the state of Colorado;

(b) Studies have shown that most people who use cigarettes, tobacco products, or nicotine products started using them before the age of eighteen; and

(c) The costs of health care for persons suffering from diseases caused by the use of cigarettes, tobacco products, or nicotine products are borne by all people of the state of Colorado.

(2) The general assembly also recognizes that federal regulations now require states, through designated state agencies, to develop programs to reduce the use of cigarettes, tobacco products, or nicotine products by minors as demonstrated by random inspection of businesses that sell cigarettes, tobacco products, or nicotine products at retail.

44-7-102. Definitions.

As used in this article 7, unless the context otherwise requires:

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

(2) (a) "Distributor" means a person who sells or distributes cigarettes, tobacco products, or nicotine products to licensed retailers in this state.

(b) "Distributor" includes a "distributor" or "distributing subcontractor" as those terms are defined in section 39-28.5-101.

(3) "Division" means the division of liquor enforcement within the department.

(4) "Electronic smoking device" has the meaning set forth in section 25-14-203 (4.5).

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

(6) "Local authority" means the governing body of a local government or any authority designated by a municipal or county charter, municipal ordinance, or county resolution to regulate retailers.

(7) "Local government" means a statutory or home rule municipality, county, or city and county.

(8) "Minor" means a person under twenty-one years of age.

(9) "New retail location" means a retail location in the state at which cigarettes, tobacco products, or nicotine products were not sold before July 14, 2020.

(10) "Retailer" means the owner or operator of a business of any kind at a specific location that sells cigarettes, tobacco products, or nicotine products to a user or consumer.

(11) "School" has the meaning set forth in section 44-3-103 (50).

(12) "State license" means a license issued by the division in accordance with section 44-7-104.5.

(13) (a) "Wholesaler" means a person engaged in the wholesale distribution of cigarettes, tobacco products, or nicotine products in this state.

(b) "Wholesaler" includes a "wholesaler" and "wholesale subcontractor" as those terms are defined in section 39-28-101.

44-7-103. Sale of cigarettes, tobacco products, or nicotine products to persons under twenty-one years of age or in vending machines prohibited - warning sign - small quantity sales prohibited - rules

(1) A retailer shall not sell or permit the sale of cigarettes, tobacco products, or nicotine products to a minor; except that it is not a violation if the retailer establishes that the person selling the cigarette, tobacco product, or nicotine product was presented with and reasonably relied upon a valid government-issued photographic identification, as determined by the executive director by rule, that identified the person purchasing the cigarette, tobacco product, or nicotine product as being twenty-one years of age or older. A retailer shall require an individual who seeks to purchase cigarettes, tobacco products, or nicotine products and who appears to be under fifty years of age to present to the retailer a valid government-issued photographic identification at the time of purchase.

(2) A retailer shall not sell or offer to sell any cigarettes, tobacco products, or nicotine products by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in an age-restricted area of a licensed gaming establishment, as defined in section 44-30-103 (18).

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

WARNING

IT IS ILLEGAL TO SELL CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE. STATE LAW REQUIRES THAT, TO PURCHASE CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THIS RETAIL LOCATION, A PERSON MUST PRESENT A VALID GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION AT THE TIME OF PURCHASE IF THE PERSON APPEARS TO BE UNDER FIFTY YEARS OF AGE.

(4) No retailer shall sell or offer to sell individual cigarettes, or any pack or container of cigarettes containing fewer than twenty cigarettes, or roll-your-own tobacco in any package containing less than 0.60 ounces of tobacco.

(4.5) A retailer shall not permit a person under eighteen years of age to sell or participate in the sale of cigarettes, tobacco products, or nicotine products. This section does not prohibit an employee of a retailer who is eighteen years of age or older but under twenty-one years of age from handling or otherwise having any contact with cigarettes, tobacco products, or nicotine products that are offered for sale at the retailer's business.

(5) Nothing in this section affects federal laws concerning cigarettes, tobacco products, or nicotine products, as they apply to military bases and Indian reservations within the state.

44-7-104. Enforcement authority - designation of agency - coordination - sharing of information - rules

(1) The division has the power to enforce all state statutes relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors. The division is designated as the lead state agency for the enforcement of state statutes in compliance with federal laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors.

(2) The division shall coordinate the enforcement of state laws relating to the prohibition of the sale of

cigarettes, tobacco products, or nicotine products to minors by multiple state agencies to avoid duplicative inspections of the same retailer by multiple state agencies.

(3) (a) The division shall work with the department of human services and the department of public health and environment to ensure compliance with federal regulations for continued receipt of all federal funds contingent upon compliance with laws related to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors.

(b)

(I) To the degree that is achievable within the amount of fees collected, each year, the division shall perform, cause to be performed, or coordinate with a local authority in the performance of at least two compliance checks at each retail location at which cigarettes, tobacco products, or nicotine products are sold or at least the minimum number of annual compliance checks required by federal regulations, whichever is greater. The division shall perform a compliance check by engaging a person under twenty-one years of age to enter a retail location to purchase cigarettes, tobacco products, or nicotine products.

(II) If a compliance check of a retail location performed pursuant to subsection (3)(b)(I) of this section reveals a violation of this article 7, the division, or a local authority in coordination with the division pursuant to section 44-7-104.5 (4)(c), shall conduct an additional compliance check of the retail location within three to six months after the compliance check at which the violation was discovered.

(c) In order to pay for the inspections required by subsection (3)(b) of this section, the division shall apply for a grant from the tobacco education, prevention, and cessation program established in part 8 of article 3.5 of title 25.

(4) In order to enforce laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors, the department of revenue shall maintain and publish on the division's public website the business names and addresses of state-licensed retailers that sell cigarettes, tobacco products, or nicotine products and may share the list or information included in the list with any state or local agency responsible for the enforcement of laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors.

(5) (a) To ensure the protection of public health, the executive director shall promulgate rules concerning the division's enforcement of this article 7, including rules:

(I) To set necessary and reasonable fee amounts that will cover the direct and indirect cost of enforcement and administration; except that the fee amount must not exceed four hundred dollars per year. The executive director may by rule increase the maximum fee amount to six hundred dollars if the division determines that statewide compliance with this article 7 falls below ninety percent.

(II) For retailers with more than ten retail locations under the same corporate or business entity, that allow the corporate or business entity to pay a single, large-operator license fee instead of paying a separate fee for each retail location. Notwithstanding subsection (5)(a)(I) of this section, the fee amount must be sufficient to cover the division's direct and indirect costs of enforcing and administering this article 7 in relation to a large operator. Nothing in this subsection (5)(a)(II) prevents the division from enforcing this article 7 on a per-retail location basis.

(III) In accordance with subsections (2) and (3)(b) of this section, regarding the number and manner of compliance checks of retail locations that the division shall perform, cause to be performed, or coordinate with a local authority in the performance of each year. The rules must ensure that any coordination between the division and a local authority on the performance of compliance checks satisfies federal requirements and that local authorities apprise the division in an appropriate form and manner of compliance checks conducted.

(IV) To ensure that complaints received by the division are forwarded to the appropriate local authority and that complaints received by the local authority are forwarded to the division for the timely investigation into and action taken on the complaints. The rules must ensure that local authorities apprise the division of complaints and any action taken on those complaints.

(V) Regarding retailers' obligations to comply with the division's document production requests related to implementation and enforcement of this article 7.

(b) The executive director may promulgate rules authorizing a person to apply for a temporary state license and requiring the payment of a temporary state license fee. If the executive director promulgates such

rules, the rules must specify that the temporary state license remains in effect for no more than thirty days and is not renewable.

(c) In promulgating rules pursuant to this subsection (5), the executive director may consult with the department of human services, the department of public health and environment, local governments, and any other state or local agencies the executive director deems appropriate.

(d) On or before July 1, 2021, the executive director shall, in consultation with licensed wholesalers and retailers, promulgate rules regarding the targeted enforcement against the smuggling of cigarettes, tobacco products, or nicotine products.

44-7-104.5. License required – fees – rules – repeal

(1) (a) (I) On or after July 1, 2021, a retailer doing business in this state shall not sell or offer for sale cigarettes, tobacco products, or nicotine products in this state without first obtaining a state license as a retailer from the division.

(II) A state license is valid for one year and may be renewed by application in the form and manner prescribed by the division and by payment of a fee set by rule pursuant to section 44-7-104 (5)(a)(I).

(b) An owner of multiple retail locations in the state at which cigarettes, tobacco products, or nicotine products are sold or offered for sale must apply for a separate state license for each retail location. If the executive director wishes to authorize an owner of multiple retail locations in the state to apply simultaneously for state licenses for each retail location owned by submitting a joint application, the executive director may establish by rule:

(I) The process by which the owner may apply for state licenses for multiple retail locations in a joint application; and

(II) A joint application fee.

(2) (a) Except as provided in subsection (4)(b) of this section, the division shall approve or deny a state license application within sixty days after receiving the application. The division may deny an application only for good cause. If the division denies an application, the division shall inform the applicant in writing of the reasons for the denial, and the applicant, within fourteen days after receiving the written denial, may request that a hearing be held on the matter in accordance with section 44-7-105.

(b)

(I) If a retailer that sold or offered to sell cigarettes, tobacco products, or nicotine products at a retail location in the state before July 1, 2021, has applied for a state license from the division and paid the state license fee on or before July 1, 2021, the retailer may continue to sell or offer to sell cigarettes, tobacco products, or nicotine products on or after July 1, 2021, without a state license during the pendency of the division's review of the retailer's state license application.

(II) This subsection (2)(b) is repealed, effective July 1, 2022.

(3) (a) Upon obtaining a state license from the division for a retail location, a retailer shall conspicuously display the state license at the retail location.

(b)

(I) State licenses are not transferable. If a licensee ceases to be a retailer at a retail location by reason of discontinuation, sale, or transfer of the licensee's business, the licensee shall notify the division in writing on or before the date on which the discontinuance, sale, or transfer takes effect.

(II) If a person to whom a retailer's retail location is sold applies for a state license for the retail location within thirty days after taking ownership of the retail location, which date of taking ownership must be demonstrated in the application in a manner determined by the division, the person may continue to sell or offer to sell cigarettes, tobacco products, or nicotine products without a state license during the pendency of the division's review of the person's state license application.

(4) (a) If a local government imposes licensing requirements on retailers, the licensing requirements must be as stringent as, and may be more stringent than, the statewide licensing requirements set forth in this article 7.

(b) If a retailer applies for a state license from the division pursuant to this section for a retail location that is within the jurisdiction of a local government that imposes licensing requirements on retailers, the division shall:

(I) Issue a state license to the retailer upon the retailer demonstrating to the division that the retailer has obtained a local license and paying the state license fee; and

(II) (A) Except as provided in subsection (4)(b)(II)(B) of this section, set the state license renewal date on the same date as the local license renewal date. The division shall prorate the initial state license fee if setting the state license renewal date in line with the local license renewal date requires renewal within less than twelve months after the initial state license was issued.

(B) If a local government first imposes a local licensing requirement on cigarettes, tobacco products, or nicotine products on or after July 1, 2021, the local government shall set the local license renewal date for a retailer on the same date as the state license renewal date.

(c) The division shall collaborate with any local authority regarding the performance of compliance checks and complaints received in accordance with rules promulgated by the executive director pursuant to section 44-7-104 (5)(a)(III).

(5) (a) Ninety days before the expiration date of an existing state license, the division shall notify the licensee of the expiration date of the state license by electronic mail or by first-class mail, as determined by the executive director, at the mailing address that the division has on file for the licensee. The division shall establish a process for a licensee to confirm receipt of a notice sent pursuant to this subsection (5)(a). The division shall describe the confirmation process in the notice itself and on the division's website.

(b) If the state license concerns a retail location that is located within the jurisdiction of a local authority that imposes licensing requirements on retailers, the division shall renew the licensee's state license upon the licensee demonstrating to the division that the licensee is operating under a valid local license and paying the renewal state license fee.

(c) If the retailer's state license concerns a retail location that is located within the jurisdiction of a local authority that imposes licensing requirements on retailers and the local authority:

(I) Suspends the retailer's local license, the division shall, pursuant to the notice and hearing process set forth in section 44-7-105 (1)(b), suspend the retailer's state license until the retailer can demonstrate to the division's satisfaction that the local license has been reinstated; or

(II) Revokes the retailer's local license, the division shall, pursuant to the notice and hearing process set forth in section 44-7-105 (1)(b), revoke the retailer's state license.

(6) The division shall transfer any fees collected in accordance with this article 7 to the state treasurer, who shall credit the fees to the liquor enforcement division and state licensing authority cash fund created in section 44-6-101.

44-7-104.7. Restrictions on sales – minimum distance requirement – advertising restriction – online sales prohibited – exemptions - rules

(1) (a) Unless a local authority has approved an application for a new retail location pursuant to an ordinance or resolution adopted pursuant to subsection (1)(d) of this section, the division shall not approve a state license application for the new retail location if the new retail location is located within five hundred feet of a school. The distance between the new retail location and the school is measured from the nearest property line of land used for school purposes to the nearest portion of the building where cigarettes, tobacco products, or nicotine products will be sold, using a route of direct pedestrian access.

(b) This subsection (1) does not apply to retail locations at which cigarettes, tobacco products, or nicotine products were sold before July 14, 2020.

(c) If a retail location that was in existence as of July 14, 2020, is transferred to a new owner after July 14, 2020, the new owner need not comply with this subsection (1).

(d) A local authority may by ordinance or resolution:

(I) Eliminate one or more types of schools from the distance restriction set forth in subsection (1)(a) of this section; or

(II) Adopt shorter distance restrictions.

(2) A retailer shall not advertise an electronic smoking device product in a manner that is visible from outside the retail location at which the product is offered for sale.

(3) (a) Except as provided in subsection (3)(b) or (3)(c) of this section, a person shall not ship or deliver cigarettes, tobacco products, or nicotine products directly to a consumer in this state.

(b) (I) A retailer licensed to sell cigarettes, tobacco products, or nicotine products pursuant to this article 7 that complies with this subsection (3)(b) and rules promulgated pursuant to this subsection (3)(b) may deliver cigarettes, tobacco products, or nicotine products to a person twenty-one years of age or older if:

(A) The person receiving the delivery of cigarettes, tobacco products, or nicotine products is located at a place that is not licensed pursuant to this article 7;

(B) The delivery is made by an owner or employee of the licensed retailer who is at least twenty-one years of age; and

(C) The person making the delivery verifies that the person receiving the delivery is twenty-one years of age or older by requiring the person receiving the delivery to present a valid government-issued photographic identification. The licensee or employee shall make a determination from the information presented whether the person receiving the delivery is twenty-one years of age or older.

(II) The executive director shall promulgate rules as necessary for the proper delivery of cigarettes, tobacco products, or nicotine products, and the division is authorized to issue a permit to any retailer that is licensed under this article 7 and delivers cigarettes, tobacco products, or nicotine products pursuant to this subsection (3)(b). A permit issued under this subsection (3)(b) is subject to the same suspension and revocation provisions as are set forth in section 44-7-105 (1)(b).

(c) The prohibition set forth in subsection (3)(a) of this section does not apply to the direct shipment or delivery of cigars and pipe tobacco to a consumer who is twenty-one years of age or older.

44-7-105. Enforcement – fines – suspension and revocation – injunctive relief – hearings - appeals

(1) (a) (I) Subject to the fine limitations contained in section 44-7-106, the division, on its own motion or on a complaint from another governmental agency responsible for the enforcement of laws relating to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors, may penalize retailers for violations of this article 7.

(II) The division, in the name of the people of the state of Colorado and through the attorney general of the state of Colorado, may apply for an injunction in any court of competent jurisdiction to enjoin any person from committing an act prohibited by this article 7. If the division establishes that the defendant has been or is committing an act prohibited by this article 7, the court shall enter a decree enjoining the defendant from further committing the act. An injunctive proceeding may be brought pursuant to this article 7 in addition to, and not in lieu of, penalties and other remedies provided in this article 7 and the rules promulgated pursuant to this article 7 or otherwise provided by law.

(b) In addition to any other sanctions prescribed by this article 7 or rules promulgated pursuant to this article 7, the division may, after investigation and a public hearing at which a retailer must be afforded an opportunity to be heard, fine a retailer or, if the retailer holds a state license, suspend or revoke the retailer's state license for a violation of this article 7 or any rule promulgated pursuant to this article 7 committed by the retailer or by any agent or employee of the retailer.

(2) (a) A retailer accused of violating this article 7 or any rule promulgated pursuant to this article 7 is entitled to written notice of the time and place of the hearing personally delivered to the retailer at the actual retail location or mailed to the retailer at the last-known address as shown by the records of the division. The retailer is also entitled to be represented by counsel, to present evidence, and to cross-examine witnesses.

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

(3) A hearing pursuant to this section shall be conducted at a location designated by the division before a hearing officer. The hearing officer may administer oaths and issue subpoenas to require the presence of persons and the production of documents relating to any alleged violation of this article 7 or any rule promulgated pursuant to this article 7.

(4) If the hearing officer finds, by a preponderance of the evidence, that the retailer violated this article 7 or any rule promulgated pursuant to this article 7, the hearing officer may issue a written order to suspend or revoke the retailer's state license or to levy a fine against the retailer in accordance with section 44-7-106.

(5) The decision of the hearing officer is a final agency action. Any appeal of the decision of the hearing officer shall be filed with a district court of competent jurisdiction.

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

(7) The division shall forward any fines collected for violations of this article 7 or any rule promulgated pursuant to this article 7 to the state treasurer, who shall credit them to the cigarette, tobacco product, and nicotine product use by minors prevention fund created in section 44-7-107.(8) Nothing in this section or section 44-7-106 prohibits a local government from imposing sanctions on a retailer for a violation of a local ordinance or resolution.

44-7-106. Limitation on fines.

(1) (a) For a violation of section 44-7-103 (1), the penalty is as follows:

(I) A fine in an amount of at least two hundred fifty dollars but not more than five hundred dollars for a first violation committed within a twenty-four-month period;

(II) A fine in an amount of at least five hundred dollars but not more than seven hundred fifty dollars for a second violation within a twenty-four-month period and a prohibition against the retailer selling cigarettes, tobacco products, or nicotine products at the retail location at which the violation occurred for at least seven days following the date that the fine is imposed;

(III) A fine in an amount of at least seven hundred fifty dollars but not more than one thousand dollars for a third violation within a twenty-four-month period and a prohibition against the retailer selling cigarettes, tobacco products, or nicotine products at the retail location at which the violation occurred for at least thirty days following the date that the fine is imposed; and

(IV) A fine in an amount of at least one thousand dollars but not more than fifteen thousand dollars for a fourth or subsequent violation within a twenty-four-month period and a prohibition against the retailer selling cigarettes, tobacco products, or nicotine products at the retail location at which the violation occurred for up to three years following the date that the fine is imposed.

(b) For a violation of section 44-7-103 (4), the penalty is as follows:

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

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

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

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

(V) A fine of at least one thousand dollars but not more than fifteen thousand dollars for a fifth or subsequent violation within a twenty-four-month period.

(c) (I) On or after July 1, 2021, a person who sells or offers to sell cigarettes, tobacco products, or nicotine products without a valid state license issued pursuant to this section is subject to the following civil fines for each retail location at which the person sells or offers to sell cigarettes, tobacco products, or nicotine products without a valid state license:

(A) One thousand dollars for the first violation;

(B) Two thousand dollars for the second violation within twenty-four months; and

(C) Three thousand dollars for the third or subsequent violation within twenty-four months.

(II) Each sale of or offer to sell cigarettes, tobacco products, or nicotine products without a valid state license is a distinct violation of this section subject to a fine.

(III) If the division finds that a retailer has violated this subsection (1)(c) three times within twenty-four months, the division shall issue the retailer an order prohibiting the retailer from selling cigarettes, tobacco

products, or nicotine products, which order renders the retailer ineligible to apply for a state license for three years following the date of the order.

(IV) The fine amounts set forth in subsection (1)(c)(I) of this section also apply to violations of section 44-7-104.7 (2) and (3).

(2) Notwithstanding subsection (1) of this section, a fine for a violation of section 44-7-103 (1) shall not be imposed upon a retailer that can establish an affirmative defense to the satisfaction of the division or the hearing officer that, prior to the date of the violation, it:

(a) Had adopted and enforced a written policy against selling cigarettes, tobacco products, or nicotine products to persons under twenty-one years of age;

(b) Had informed its employees of the applicable laws regarding the sale of cigarettes, tobacco products, or nicotine products to persons under twenty-one years of age;

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

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

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

(4) (a) (I) The penalty for a violation of section 44-7-103 (2) or (4.5) is a fine of twenty-five dollars for a first violation committed within a twenty-four-month period.

(II) The penalty for a violation of section 44-7-103 (3) is a written warning for a first violation committed within a twenty-four-month period.

(b) For a violation of section 44-7-103 (2), (3), or (4.5), the penalty is as follows:

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

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

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

(IV) A fine of at least two hundred fifty dollars but not more than one thousand dollars for a fifth or subsequent violation within a twenty-four-month period.

(5) Notwithstanding subsection (3) of this section, a licensed gaming establishment as defined in section 44-30-103 (18) that has a cigar-tobacco bar, as defined in section 25-14-203 (4), on July 14, 2020, shall be afforded two affirmative defenses within a twenty-four-month period.

44-7-107. Cigarette, tobacco product, and nicotine product use by minors prevention fund – grants

(1) There is hereby created in the state treasury the cigarette, tobacco product, and nicotine product use by minors prevention fund, referred to in this section as the "fund". Money in the fund is subject to annual appropriation by the general assembly. Any interest derived from the deposit and investment of money in the fund remains in the fund. Any unexpended or unencumbered money remaining in the fund at the end of any fiscal year remains in the fund and does not revert or transfer to the general fund or any other fund of the state.

(2) Subject to annual appropriations by the general assembly, the department of human services may make grants from the fund to programs designed to develop training materials for retailers related to the prohibition of the sale of cigarettes, tobacco products, or nicotine products to minors or to programs designed to prevent the use of cigarettes, tobacco products, or nicotine products by minors.