

# Chapter 88

2020 Regular Session

**Subject** Raising the age to purchase tobacco and related products to 21

**Analyst** Elisabeth Klarqvist

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## Overview

Current state law requires a person to be age 18 or older to purchase tobacco, tobacco products, electronic delivery devices, and nicotine and lobelia delivery products. This act raises the age for persons to purchase these items to 21 or older to conform to federal law. (Under federal law, the minimum age to purchase tobacco and related products is 21.) It also modifies the penalties for selling, providing, or furnishing these items, and for purchasing or attempting to purchase these items if under age 21; requires alternative penalties to be established for certain violations; and makes other changes to the Clean Indoor Air Act and statutes governing the sale of tobacco and related products.

## Summary

Section	Description
1	<p><b>Tobacco products prohibited in public schools.</b></p> <p>Amends § 144.4165. In a section prohibiting the use or ingestion of tobacco, tobacco products, and electronic delivery devices at public schools and charter schools, removes a reference to the term “tobacco product,” and strikes language that prohibits persons under 18 from possessing tobacco and electronic delivery devices.</p>
2	<p><b>Tobacco products shop.</b></p> <p>Amends § 144.4167, subd. 4. In a subdivision in the Clean Indoor Air Act that allows sampling of tobacco products in a tobacco products shop, amends the definition of tobacco products shop to specify it is a shop that a person under age 21 cannot enter at any time.</p>
3	<p><b>Suspension; illegal purchase of alcohol or tobacco.</b></p> <p>Amends § 171.171. In a section requiring the commissioner of public safety to suspend a person’s driver’s license for illegally purchasing alcohol or tobacco, strikes a clause referring to a petty misdemeanor penalty being eliminated in the act for using false identification to purchase tobacco. Also provides that if a person lends a license or other identification to a person under 21 (rather than under 18 as in current law) for certain purchases, the commissioner must suspend the lender’s</p>

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license, and modifies the purchases covered by this clause to include tobacco, a tobacco-related device, an electronic delivery device, or a nicotine or lobelia delivery product (rather than a tobacco product as in current law).

**4 Administrative penalty for sales and furnishing; licensees.**

Amends § 461.12, subd. 2. In a subdivision establishing penalties for certain conduct by a retail seller of tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products, makes the following changes:

- changes the age at or above which a person can purchase tobacco, tobacco-related devices, electronic delivery devices, and nicotine delivery devices from 18 to 21;
- makes the penalties apply to giving or furnishing these items, in addition to selling these items as in current law; and
- increases the administrative penalty amounts imposed for selling, giving, or furnishing to a person under age 21, and allows a license to be revoked for a third or subsequent violation.

**5 Administrative penalty for sales and furnishing; individuals.**

Amends § 461.12, subd. 3. In a subdivision establishing penalties for certain conduct by an individual, makes the following changes:

- makes the \$50 penalty apply to giving or furnishing tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to an underage person, in addition to selling these items as in current law;
- changes the age at or above which an individual can buy these items from another individual, from 18 to 21; and
- makes imposition of the administrative penalty optional rather than mandatory.

**6 Alternative penalties for use of false identification; persons under age 21.**

Amends § 461.12, subd. 4. In a subdivision allowing local units of government to consult with interested persons to develop alternative penalties for using a false ID to buy tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products, makes the following changes:

- changes terms used, from “children” or “minors” to “persons under the age of 21 years”;
- lists the types of false identification the use of which may subject a person to penalties; and

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- provides that the penalties must be alternative civil penalties and prohibits these alternative civil penalties from including fines or monetary penalties.

**7 Compliance checks.**

Amends § 461.12, subd. 5. In a subdivision governing compliance checks conducted on retail sellers of tobacco products and related items, changes the ages of persons who must be involved in compliance checks (from over age 15 but under age 18 as in current law, to at least 17 but under age 21). Requires a person under age 18 to get a parent's prior written consent to participate in compliance checks. Specifies that the age requirements in this subdivision for participating in compliance checks do not affect the age requirements in federal law for federally required compliance checks.

**8 Defense.**

Amends § 461.12, subd. 6. Amends a subdivision establishing an affirmative defense to a charge of selling tobacco or related items to an underage person, by changing the age at which a person can purchase tobacco or related items from 18 to 21.

**9 Ban on self-service sales; exceptions.**

Amends § 461.18. In a subdivision prohibiting self-service sales of tobacco and related items, amends the description of tobacco products shop to conform with language in section 144.4167, subdivision 4; changes the age at which a person can enter a tobacco products shop from 18 to 21; and adds sales of electronic delivery devices to the list of items sold at a tobacco products shop. Provides that a subdivision prohibiting the sale of tobacco products and related items from vending machines does not apply to vending machines in locations that cannot be entered by persons under age 21, rather than under age 18 as in current law. Also updates a citation to a provision in the Code of Federal Regulations, which governs tobacco product sales via vending machines, self-service displays, and mail-order sales.

**10 Age verification and signage required.**

Adds § 461.22.

**Subd. 1. Signage.** Requires all locations where tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products are sold, to display a sign in plain view that selling these products to a person under age 21 is illegal. Requires the notice to be placed in a conspicuous location and be readily visible to customers. States that this sign provides notice to people selling these products that they must verify the age of any person under age 30 who wants to buy one of these products.

**Subd. 2. Age verification.** Requires a retail seller of tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to

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verify that a person seeking to buy tobacco or a related item is at least age 21. Provides that verification is not required if the purchaser appears to be age 30 or older.

**11 Sale of tobacco to persons under age 21.**

Amends § 609.685.

**Subd. 1. Definitions.** Modifies the description of items that are not tobacco. Makes a technical change to the definition of tobacco-related devices. Amends the definition of electronic delivery device by adding a reference to inhaling aerosol and removing language that a person uses an electronic delivery device to simulate smoking in the delivery of nicotine or another substance. Lists items that are included in the definition of electronic delivery device, and updates language describing products that are not electronic delivery devices.

**Subd. 1a. Penalty to sell or furnish.** Changes the penalty from a misdemeanor to a petty misdemeanor for a first violation if a person gives or furnishes tobacco or related items, in addition to selling these items as in current law, to an underage person, and changes the age from 18 to 21. Lowers the penalty for a subsequent violation from a gross misdemeanor to a misdemeanor.

**Subd. 2. Use of false identification.** Strikes language regarding furnishing tobacco or related items to persons under age 18. Changes the penalty from a misdemeanor to an alternative civil penalty if a person under age 21 (rather than under 18 as in current law) buys or attempts to buy tobacco or a related item using a false ID.

**Subd. 2a. Alternative penalties.** Directs law enforcement and court systems representatives to consult with interested persons to develop alternative civil penalties for persons under 21 who violate this section, and lists options for alternative civil penalties. Prohibits alternative civil penalties from including fines or monetary penalties.

**Subd. 3. Petty misdemeanor.** Strikes a subdivision establishing a petty misdemeanor penalty for a person under age 18 who possesses or purchases tobacco or related items.

**Subd. 4. Effect on local ordinances.** Updates references to a range of subdivisions since subdivision 3 is being stricken.

**Subd. 5. Exceptions.** Allows an Indian to furnish tobacco to an Indian under 21, rather than under 18 as in current law, if furnished as part of a traditional Indian spiritual or cultural ceremony, and exempts persons under 21, rather than under 18 as in current law, from the penalties in this section if the person buys or

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attempts to buy tobacco or related items for training, education, research, or enforcement.

**Subd. 6. Seizure of false identification.** In a subdivision allowing seizure of false identification, changes a term from retailer to licensee.

**12 Sale of nicotine delivery products to persons under age 21.**

Amends § 609.6855.

**Subd. 1. Penalty to sell or furnish.** Changes the penalty from a misdemeanor to a petty misdemeanor for a first violation if a person gives or furnishes, in addition to sells as in current law, a product containing or delivering nicotine or lobelia to a person under age 21 (rather than 18 as in current law). Allows a product containing or delivering nicotine or lobelia to be sold to a person under age 21 if the product is a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration.

**Subd. 2. Use of false identification.** Changes the penalty from a misdemeanor to an alternative civil penalty if a person under 21 (rather than under 18 as in current law) buys or attempts to buy a nicotine or lobelia delivery product. Provides that penalties do not apply if a person under age 21 buys or attempts to buy these products for training, education, research, or enforcement purposes.

**Subd. 3. Alternative penalties.** Strikes language establishing a penalty for a person under age 18 who possesses or purchases a nicotine or lobelia delivery product. Directs law enforcement and court systems representatives to develop alternative civil penalties for persons under age 21 who violate this section, and lists options for alternative civil penalties. Prohibits alternative civil penalties from including fines or monetary penalties.



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