

SECOND REGULAR SESSION

SENATE BILL NO. 829

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

Pre-filed January 7, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4619S.01I

AN ACT

To repeal sections 191.765, 191.769, 191.775, 191.776, 407.924, 407.925, 407.926, 407.927, 407.929, 407.931, 407.933, and 407.934, RSMo, and to enact in lieu thereof twelve new sections relating to tobacco products, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 191.765, 191.769, 191.775, 191.776, 407.924, 407.925, 407.926, 407.927, 407.929, 407.931, 407.933, and 407.934, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 191.765, 191.769, 191.775, 191.776, 407.924, 407.925, 407.926, 407.927, 407.929, 407.931, 407.933, and 407.934, to read as follows:

191.765. As used in sections 191.765 to [191.773] **191.777** and section 290.145, the following terms mean:

(1) "Bar" or "tavern", any licensed establishment which serves liquor on the premises for which not more than ten percent of the gross sales receipts of the business are supplied by food purchases, either for consumption on the premises or elsewhere;

(2) "Other person in charge", the agent of the proprietor authorized to give administrative directions to and general supervision of the activities within the public place, work place or public meeting at any given time;

(3) "Proprietor", the party who ultimately controls, governs or directs the activities within the public place, work place or public meeting, regardless of whether he is the owner or lessor of such place or site. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place or public meeting. The term "proprietor" shall

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 apply to a corporation as well as an individual;

16 (4) "Public meeting", a gathering in person of members of a governmental
17 body, whether an open or closed session, as defined in chapter 610;

18 (5) "Public place", any enclosed indoor area used by the general public or
19 serving as a place of work including, but not limited to:

20 (a) Any retail or commercial establishments;

21 (b) Health care facilities, health clinics or ambulatory care facilities
22 including, but not limited to, laboratories associated with health care treatment,
23 hospitals, nursing homes, physicians' offices and dentists' offices;

24 (c) Any vehicle used for public transportation including, but not limited
25 to, buses, taxicabs and limousines for hire;

26 (d) Rest rooms;

27 (e) Elevators;

28 (f) Libraries, educational facilities, day care facilities, museums,
29 auditoriums and art galleries;

30 (g) All public areas and waiting rooms of public transportation facilities
31 including, but not limited to, bus and airport facilities;

32 (h) Any enclosed indoor place used for entertainment or recreation
33 including, but not limited to, gymnasiums, theater lobbies, concert halls, arenas
34 and swimming pools;

35 (i) Any other enclosed indoor areas used by the general public including,
36 but not limited to, corridors and shopping malls;

37 (6) "Restaurant", any building, structure or area used, maintained or
38 advertised as or held out to the public to be an enclosure where meals for
39 consideration of payment are made available to be consumed on the premises;

40 (7) "Smoking", possession of burning tobacco in the form of a cigarette,
41 cigar, pipe or other smoking equipment, **or a vapor product;**

42 **(8) "Vapor product", the same meaning as in section 407.925.**

191.769. The following areas are not considered a public place:

2 (1) An entire room or hall which is used for private social functions,
3 provided that the seating arrangements are under the control of the sponsor of
4 the function and not of the proprietor or other person in charge;

5 (2) Limousines for hire and taxicabs, where the driver and all passengers
6 agree to smoking in such vehicle;

7 (3) Performers on the stage, provided that the smoking is part of the
8 production;

9 (4) A place where more than fifty percent of the volume of trade or
10 business carried on is that of the blending of tobaccos or sale of tobaccos,
11 cigarettes, pipes, cigars [or], smoking sundries, **or vapor products**;

12 (5) Bars, taverns, restaurants that seat less than fifty people, bowling
13 alleys and billiard parlors, which conspicuously post signs stating that
14 "Nonsmoking Areas are Unavailable";

15 (6) Private residences; and

16 (7) Any enclosed indoor arena, stadium or other facility which may be
17 used for sporting events and which has a seating capacity of more than fifteen
18 thousand persons.

191.775. No person shall smoke or otherwise use tobacco [or], tobacco
2 products, **or vapor products** in any indoor area of a public elementary or
3 secondary school building or educational facility, excluding institutions of higher
4 education, or on buses used solely to transport students to or from school or to
5 transport students to or from any place for educational purposes. Any school
6 board of any school district may set policy on the permissible uses of tobacco
7 products in any other nonclassroom or nonstudent occupant facility, and on the
8 school grounds or outdoor facility areas as the school board deems proper. Any
9 person who violates the provisions of this section shall be guilty of an infraction.

191.776. No person shall smoke or otherwise use tobacco products **or**
2 **vapor products** in any area of a child care facility licensed by the department
3 of health and senior services pursuant to the provisions of sections 210.201 to
4 210.245 during the period of time when the children cared for under that license
5 are present. Any person who violates the provisions of this section shall be guilty
6 of an infraction.

407.924. 1. The division of [liquor] **alcohol and tobacco** control within
2 the department of public safety shall implement and enforce the provisions of
3 sections 407.925 to 407.934.

4 2. Beginning January 1, 2003, the division of [liquor] **alcohol and**
5 **tobacco** control shall submit an annual report to the general assembly on the
6 effectiveness of sections 407.925 to 407.934 in reducing tobacco possession by
7 minors and the enforcement activities by the division for violations of sections
8 407.925 to 407.934.

407.925. As used in sections 407.925 to 407.934, the following terms
2 mean:

3 (1) "Alternative nicotine product", any noncombustible product containing

4 nicotine that is intended for human consumption, whether chewed, absorbed,
5 dissolved, or ingested by any other means. Alternative nicotine product does not
6 include any vapor product, tobacco product or any product regulated as a drug or
7 device by the United States Food and Drug Administration under Chapter V of
8 the Food, Drug, and Cosmetic Act;

9 (2) "Center of youth activities", any playground, school or other facility,
10 when such facility is being used primarily by persons under the age of eighteen
11 for recreational, educational or other purposes;

12 (3) "Distribute", a conveyance to the public by sale, barter, gift or sample;

13 (4) "Minor", a person under the age of [eighteen] **twenty-one**;

14 (5) "Municipality", the city, village or town within which tobacco products,
15 alternative nicotine products or vapor products are sold or distributed or, in the
16 case of tobacco products, alternative nicotine products or vapor products that are
17 not sold or distributed within a city, village or town, the county in which they are
18 sold or distributed;

19 (6) **"Nicotine liquid container", a bottle or other container of**
20 **liquid or other substance containing varying amounts of nicotine,**
21 **flavorings, or other chemicals that is sold, marketed, or intended for**
22 **use in a vapor product. A "nicotine liquid container" shall not include**
23 **a liquid or other substance containing nicotine in a cartridge that is**
24 **sold, marketed, or intended for use in a vapor product, provided that**
25 **such cartridge is prefilled and sealed by the manufacturer and not**
26 **intended to be opened by the consumer;**

27 (7) "Person", an individual, partnership, copartnership, firm, company,
28 public or private corporation, association, joint stock company, trust, estate,
29 political subdivision or any agency, board, department or bureau of the state or
30 federal government, or any other legal entity which is recognized by law as the
31 subject of rights and duties;

32 [(7)] (8) "Proof of age", a driver's license or other generally accepted
33 means of identification that contains a picture of the individual and appears on
34 its face to be valid;

35 [(8)] (9) "Rolling papers", paper designed, manufactured, marketed, or
36 sold for use primarily as a wrapping or enclosure for tobacco, which enables a
37 person to roll loose tobacco into a smokable cigarette;

38 [(9)] (10) "Sample", a tobacco product, alternative nicotine product, or
39 vapor product distributed to members of the general public at no cost or at

40 nominal cost for product promotional purposes;

41 [(10)] (11) "Sampling", the distribution to members of the general public
42 of tobacco product, alternative nicotine product or vapor product samples;

43 [(11)] (12) "Tobacco products", any substance [containing] **made or**
44 **derived from** tobacco [leaf] **that is intended for human consumption**,
45 including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing
46 tobacco, **vapor products**, or dipping tobacco but does not include alternative
47 nicotine products[, or vapor products];

48 [(12)] (13) "Vapor product", any noncombustible product containing
49 nicotine that employs a heating element, power source, electronic circuit, or other
50 electronic, chemical or mechanical means, regardless of shape or size, that can be
51 used to produce vapor from nicotine in a solution or other form. Vapor product
52 includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic
53 pipe, or similar product or device and any vapor cartridge or other container of
54 nicotine, **flavorings, or other chemicals** in a solution or other form that is
55 intended to be used with or in an electronic cigarette, electronic cigar, electronic
56 cigarillo, electronic pipe, or similar product or device. **Vapor product also**
57 **includes any device classified by the U.S. Food and Drug**
58 **Administration as an electronic nicotine delivery system.** Vapor product
59 does not include any alternative nicotine product [or tobacco product];

60 [(13)] (14) "Vending machine", any mechanical electric or electronic,
61 self-service device which, upon insertion of money, tokens or any other form of
62 payment, dispenses tobacco products, alternative nicotine products, or vapor
63 products.

407.926. 1. Any person or entity who sells tobacco products, alternative
2 nicotine products, or vapor products shall deny the sale of such tobacco products
3 to any person who is less than [eighteen] **twenty-one** years of age.

4 2. Any person or entity who sells or distributes tobacco products,
5 alternative nicotine products, or vapor products by mail or through the internet
6 in this state in violation of subsection 1 of this section shall be assessed a fine of
7 two hundred fifty dollars for the first violation and five hundred dollars for each
8 subsequent violation.

9 3. Alternative nicotine products and vapor products shall only be sold to
10 persons [eighteen] **twenty-one** years of age or older, **and** shall be subject to local
11 and state sales tax[, but shall not be otherwise taxed or]. **Vapor products**
12 **shall be taxed and** regulated as tobacco products.

13 4. (1) Any nicotine liquid container that is sold at retail in this state shall
14 satisfy the child-resistant effectiveness standards set forth in 16 CFR 1700.15(b)
15 as in effect on August 28, 2015, when tested in accordance with the method
16 described in 16 CFR 1700.20 as in effect on August 28, 2015.

17 (2) [For the purposes of this subsection, "nicotine liquid container" shall
18 mean a bottle or other container of liquid or other substance containing nicotine
19 if the liquid or substance is sold, marketed, or intended for use in a vapor
20 product. A "nicotine liquid container" shall not include a liquid or other
21 substance containing nicotine in a cartridge that is sold, marketed, or intended
22 for use in a vapor product, provided that such cartridge is prefilled and sealed by
23 the manufacturer and not intended to be opened by the consumer.

24 (3) Any person who engages in retail sales of liquid nicotine containers
25 in this state in violation of this subsection shall be assessed a fine of two hundred
26 fifty dollars for the first violation and five hundred dollars for each subsequent
27 violation.

28 [(4)] (3) The department of health and senior services may adopt rules
29 necessary to carry out the provisions of this subsection. Any rule or portion of
30 a rule, as that term is defined in section 536.010, that is created under the
31 authority delegated in this section shall become effective only if it complies with
32 and is subject to all of the provisions of chapter 536 and, if applicable, section
33 536.028. This section and chapter 536 are nonseverable and if any of the powers
34 vested with the general assembly under chapter 536 to review, to delay the
35 effective date, or to disapprove and annul a rule are subsequently held
36 unconstitutional, then the grant of rulemaking authority and any rule proposed
37 or adopted after August 28, 2015, shall be invalid and void.

38 [(5)] The provisions of this subsection and any rules adopted hereunder
39 shall be null, void, and of no force and effect upon the effective date of the final
40 regulations issued by the federal Food and Drug Administration or from any other
41 federal agency if such regulations mandate child-resistant effectiveness standards
42 for nicotine liquid containers.]

43 **5. Any person who engages in the sale of liquid nicotine**
44 **containers or vapor products that contain any amount of**
45 **tetrahydrocannabinol or any other controlled substance listed in**
46 **section 195.017 shall be guilty of a class A misdemeanor.**

 407.927. The owner of an establishment at which tobacco products,
2 alternative nicotine products, vapor products, or rolling papers are sold at retail

3 or through vending machines shall cause to be prominently displayed in a
4 conspicuous place at every display from which tobacco products, alternative
5 nicotine products, or vapor products are sold and on every vending machine where
6 tobacco products are purchased a sign that shall:

7 (1) Contain in red lettering at least one-half inch high on a white
8 background the following: "It is a violation of state law for cigarettes, other
9 tobacco products, alternative nicotine products, or vapor products to be sold or
10 otherwise provided to any person under the age of [eighteen] **twenty-one** or for
11 such person to purchase, attempt to purchase or possess cigarettes, other tobacco
12 products, alternative nicotine products or vapor products."; and

13 (2) Include a depiction of a pack of cigarettes at least two inches high
14 defaced by a red diagonal diameter of a surrounding red circle, and the words
15 "Under [18] **21**".

407.929. 1. A person or entity selling tobacco products, alternative
2 nicotine products, or vapor products or rolling papers or distributing tobacco
3 product, alternative nicotine product, or vapor product samples shall require
4 proof of age from a prospective purchaser or recipient if an ordinary person would
5 conclude on the basis of appearance that such prospective purchaser or recipient
6 may be under the age of [eighteen] **twenty-one**.

7 2. The operator's or chauffeur's license issued pursuant to the provisions
8 of section 302.177, or the operator's or chauffeur's license issued pursuant to the
9 laws of any state or possession of the United States to residents of those states
10 or possessions, or an identification card as provided for in section 302.181, or the
11 identification card issued by any uniformed service of the United States, or a
12 valid passport shall be presented by the holder thereof upon request of any agent
13 of the division of [liquor] **alcohol and tobacco** control or any owner or employee
14 of an establishment that sells tobacco, alternative nicotine products, or vapor
15 products, for the purpose of aiding the registrant, agent or employee to determine
16 whether or not the person is at least [eighteen] **twenty-one** years of age when
17 such person desires to purchase or possess tobacco products, alternative nicotine
18 products, or vapor products procured from a registrant. Upon such presentation,
19 the owner or employee of the establishment shall compare the photograph and
20 physical characteristics noted on the license, identification card or passport with
21 the physical characteristics of the person presenting the license, identification
22 card or passport.

23 3. Any person who shall, without authorization from the department of

24 revenue, reproduce, alter, modify or misrepresent any chauffeur's license, motor
25 vehicle operator's license or identification card shall be deemed guilty of a
26 misdemeanor and upon conviction shall be subject to a fine of not more than one
27 thousand dollars, and confinement for not more than one year, or by both such
28 fine and imprisonment.

29 4. Reasonable reliance on proof of age or on the appearance of the
30 purchaser or recipient shall be a defense to any action for a violation of
31 subsections 1, 2 and 3 of section 407.931. No person shall be liable for more than
32 one violation of subsections 2 and 3 of section 407.931 on any single day.

407.931. 1. It shall be unlawful for any person to sell, provide or
2 distribute tobacco products, alternative nicotine products, or vapor products to
3 persons under [eighteen] **twenty-one** years of age.

4 2. All vending machines that dispense tobacco products, alternative
5 nicotine products, or vapor products shall be located within the unobstructed line
6 of sight and under the direct supervision of an adult responsible for preventing
7 persons less than [eighteen] **twenty-one** years of age from purchasing any
8 tobacco product, alternative nicotine product, or vapor product from such machine
9 or shall be equipped with a lock-out device to prevent the machines from being
10 operated until the person responsible for monitoring sales from the machines
11 disables the lock. Such locking device shall be of a design that prevents it from
12 being left in an unlocked condition and which will allow only a single sale when
13 activated. A locking device shall not be required on machines that are located in
14 areas where persons less than [eighteen] **twenty-one** years of age are not
15 permitted or prohibited by law. An owner of an establishment whose vending
16 machine is not in compliance with the provisions of this subsection shall be
17 subject to the penalties contained in subsection 5 of this section. A determination
18 of noncompliance may be made by a local law enforcement agency or the division
19 of [liquor] **alcohol and tobacco** control. Nothing in this section shall apply to
20 a vending machine if located in a factory, private club or other location not
21 generally accessible to the general public.

22 3. No person or entity shall sell, provide or distribute any tobacco product,
23 alternative nicotine product, or vapor product or rolling papers to any minor, or
24 sell any individual cigarettes to any person in this state. This subsection shall
25 not apply to the distribution by family members on property that is not open to
26 the public.

27 4. Any person including, but not limited to, a sales clerk, owner or

28 operator who violates subsection 1, 2 or 3 of this section or section 407.927 shall
29 be penalized as follows:

- 30 (1) For the first offense, twenty-five dollars;
- 31 (2) For the second offense, one hundred dollars;
- 32 (3) For a third and subsequent offense, two hundred fifty dollars.

33 5. Any owner of the establishment where tobacco products, alternative
34 nicotine products, or vapor products are available for sale who violates subsection
35 3 of this section, in addition to the penalties established in subsection 4 of this
36 section, shall be penalized in the following manner:

37 (1) For the first violation per location within two years, a reprimand shall
38 be issued by the division of [liquor] **alcohol and tobacco** control;

39 (2) For the second violation per location within two years, the division of
40 [liquor] **alcohol and tobacco** control shall issue a citation prohibiting the outlet
41 from selling tobacco products, alternative nicotine products, or vapor products for
42 a twenty-four-hour period;

43 (3) For the third violation per location within two years, the division of
44 [liquor] **alcohol and tobacco** control shall issue a citation prohibiting the outlet
45 from selling tobacco products, alternative nicotine products, or vapor products for
46 a forty-eight-hour period;

47 (4) For the fourth and any subsequent violations per location within two
48 years, the division of [liquor] **alcohol and tobacco** control shall issue a citation
49 prohibiting the outlet from selling tobacco products for a five-day period.

50 6. Any owner of the establishment where tobacco products are available
51 for sale who violates subsection 3 of this section shall not be penalized pursuant
52 to this section if such person documents the following:

53 (1) An in-house or other tobacco compliance employee training program
54 was in place to provide the employee with information on the state and federal
55 regulations regarding sales of tobacco products, alternative nicotine products, or
56 vapor products to minors. Such training program must be attended by all
57 employees who sell tobacco products, alternative nicotine products, or vapor
58 products to the general public;

59 (2) A signed statement by the employee stating that the employee has
60 been trained and understands the state laws and federal regulations regarding
61 the sale of tobacco products, alternative nicotine products, or vapor products to
62 minors; and

63 (3) Such in-house or other tobacco compliance training meets the

64 minimum training criteria, which shall not exceed a total of ninety minutes in
65 length, established by the division of [liquor] **alcohol and tobacco** control.

66 7. The exemption in subsection 6 of this section shall not apply to any
67 person who is considered the general owner or operator of the outlet where
68 tobacco products, alternative nicotine products, or vapor products are available
69 for sale if:

70 (1) Four or more violations per location of subsection 3 of this section
71 occur within a one-year period; or

72 (2) Such person knowingly violates or knowingly allows his or her
73 employees to violate subsection 3 of this section.

74 8. If a sale is made by an employee of the owner of an establishment in
75 violation of sections 407.925 to 407.934, the employee shall be guilty of an offense
76 established in subsections 1, 2 and 3 of this section. If a vending machine is in
77 violation of section 407.927, the owner of the establishment shall be guilty of an
78 offense established in subsections 3 and 4 of this section. If a sample is
79 distributed by an employee of a company conducting the sampling, such employee
80 shall be guilty of an offense established in subsections 3 and 4 of this section.

81 9. A person cited for selling, providing or distributing any tobacco product,
82 alternative nicotine product, or vapor product to any individual less than
83 [eighteen] **twenty-one** years of age in violation of subsection 1, 2 or 3 of this
84 section shall conclusively be presumed to have reasonably relied on proof of age
85 of the purchaser or recipient, and such person shall not be found guilty of such
86 violation if such person raises and proves as an affirmative defense that such
87 individual presented a driver's license or other government-issued photo
88 identification purporting to establish that such individual was [eighteen]
89 **twenty-one** years of age or older.

90 10. Any person adversely affected by this section may file an appeal with
91 the administrative hearing commission which shall be adjudicated pursuant to
92 the procedures established in chapter 621.

407.933. 1. No person less than [eighteen] **twenty-one** years of age shall
2 purchase, attempt to purchase or possess cigarettes, other tobacco products,
3 alternative nicotine products, or vapor products unless such person is an
4 employee of a seller of cigarettes, tobacco products, alternative nicotine products,
5 or vapor products and is in such possession to effect a sale in the course of
6 employment, or an employee of the division of [liquor] **alcohol and tobacco**
7 control for enforcement purposes pursuant to subsection 5 of section 407.934.

8 2. Any person less than [eighteen] **twenty-one** years of age shall not
9 misrepresent his or her age to purchase cigarettes, tobacco products, alternative
10 nicotine products, or vapor products.

11 3. Any person who violates the provisions of this section shall be
12 penalized as follows:

13 (1) For the first violation, the person is guilty of an infraction and shall
14 have any cigarettes, tobacco products, alternative nicotine products, or vapor
15 products confiscated;

16 (2) For a second violation and any subsequent violations, the person is
17 guilty of an infraction, shall have any cigarettes, tobacco products, alternative
18 nicotine products, or vapor products confiscated and shall complete a tobacco
19 education or smoking cessation program, if available.

407.934. 1. No person shall sell cigarettes, tobacco products, alternative
2 nicotine products, or vapor products unless the person has a retail sales tax
3 license.

4 2. The department of revenue shall permit persons to designate through
5 the internet or by including a place on all sales tax license applications for the
6 applicant to designate himself or herself as a seller of tobacco products,
7 alternative nicotine products, or vapor products and to provide a list of all
8 locations where the applicant sells such products.

9 3. On or before July first of each year, the department of revenue shall
10 make available to the division of [liquor] **alcohol and tobacco** control and the
11 department of mental health a complete list of every establishment which sells
12 cigarettes, other tobacco products, alternative nicotine products, or vapor products
13 in this state.

14 4. The division of [liquor] **alcohol and tobacco** control shall have the
15 authority to inspect stores and tobacco outlets for compliance with all laws
16 related to access of tobacco products, alternative nicotine products, or vapor
17 products to minors. The division may employ a person **between** seventeen **and**
18 **twenty** years of age, with parental consent **for a person under eighteen**
19 **years of age**, to attempt to purchase tobacco for the purpose of inspection or
20 enforcement of tobacco laws.

21 5. The supervisor of the division of [liquor] **alcohol and tobacco** control
22 shall not use minors to enforce the provisions of this chapter unless the
23 supervisor promulgates rules that establish standards for the use of minors. The
24 supervisor shall establish mandatory guidelines for the use of minors in

25 investigations by a state, county, municipal or other local law enforcement
26 authority which shall be followed by such authority and which shall, at a
27 minimum, provide for the following:

28 (1) The minor shall be **between** seventeen **and twenty** years of age;

29 (2) The minor shall have a youthful appearance, and the minor, if a male,
30 shall not have facial hair or a receding hairline and if a female, shall not wear
31 excessive makeup or excessive jewelry;

32 (3) The state, county, municipal or other local law enforcement agency
33 shall obtain the consent of the minor's parent or legal guardian, **if the minor is**
34 **under eighteen years of age**, before the use of such minor on a form approved
35 by the supervisor;

36 (4) The state, county, municipal or other local law enforcement agency
37 shall make a photocopy of the minor's valid identification showing the minor's
38 correct date of birth;

39 (5) Any attempt by such minor to purchase tobacco products, alternative
40 nicotine products, or vapor products shall be videotaped or audiotaped with
41 equipment sufficient to record all statements made by the minor and the seller
42 of the tobacco product;

43 (6) The minor shall carry his or her own identification showing the
44 minor's correct date of birth and shall, upon request, produce such identification
45 to the seller of the tobacco product, alternative nicotine product, or vapor product;

46 (7) The minor shall answer truthfully any questions about his or her age
47 and shall not remain silent when asked questions regarding his or her age;

48 (8) The minor shall not lie to the seller of the tobacco product, alternative
49 nicotine product, or vapor product to induce a sale of tobacco products;

50 (9) The minor shall not be employed by the state, county, municipal or
51 other local law enforcement agency on an incentive or quota basis;

52 (10) The state, county, municipal or other local law enforcement agency
53 shall, within forty-eight hours, contact or take all reasonable steps to contact the
54 owner or manager of the establishment if a violation occurs;

55 (11) The state, county, municipal or other local law enforcement agency
56 shall maintain records of each visit to an establishment where a minor is used by
57 the state, county, municipal or other local law enforcement agency for a period of
58 at least one year following the incident, regardless of whether a violation occurs
59 at each visit, and such records shall, at a minimum, include the following
60 information:

61 (a) The signed consent form of the minor's parent or legal guardian **if the**
62 **minor is under eighteen years of age;**

63 (b) A [Polaroid] photograph of the minor;

64 (c) A photocopy of the minor's valid identification, showing the minor's
65 correct date of birth;

66 (d) An information sheet completed by the minor on a form approved by
67 the supervisor; and

68 (e) The name of each establishment visited by the minor, and the date and
69 time of each visit.

70 6. If the state, county, municipal or other local law enforcement authority
71 uses minors in investigations or in enforcing or determining violations of this
72 chapter or any local ordinance and does not comply with the mandatory
73 guidelines established by the supervisor of [liquor] **alcohol and tobacco** control
74 in subsection 5 of this section, the supervisor of [liquor] **alcohol and tobacco**
75 control shall not take any disciplinary action against the establishment or seller
76 pursuant to this chapter based on an alleged violation discovered when using a
77 minor and shall not cooperate in any way with the state, county, municipal or
78 other local law enforcement authority in prosecuting any alleged violation
79 discovered when using a minor.

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