

HB1732



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1732

Introduced 1/28/2025, by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

720 ILCS 675/1
720 ILCS 675/2

from Ch. 23, par. 2357
from Ch. 23, par. 2358

Specifies that the amendatory Act may be referred to as the Stop Underage Vaping Law. Amends the Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act. Provides that a person under 21 years of age may not possess any tobacco product, electronic cigarette, or alternative nicotine product. Provides that a violation is a petty offense. Provides that for the first offense in a 24-month period, the person shall be fined \$200; for the second offense in a 24-month period, the person shall be fined \$400; for the third offense in a 24-month period, the person shall be fined \$600; and for the fourth or subsequent offense in a 24-month period, the person shall be fined \$800. Provides that for the purposes of this provision, the 24-month period shall begin with the person's first violation of the Act. Provides for distribution of the fines for violations.

LRB104 10443 RLC 20518 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. References to Act. This Act may be referred to
5 as the Stop Underage Vaping Law.

6 Section 5. The Prevention of Tobacco Use by Persons under
7 21 Years of Age and Sale and Distribution of Tobacco Products
8 Act is amended by changing Sections 1 and 2 as follows:

9 (720 ILCS 675/1) (from Ch. 23, par. 2357)

10 Sec. 1. Prohibition on sale of tobacco products,
11 electronic cigarettes, and alternative nicotine products to
12 persons under 21 years of age; prohibition on the distribution
13 of tobacco product samples, electronic cigarette samples, and
14 alternative nicotine product samples to any person; use of
15 identification cards; vending machines; lunch wagons;
16 out-of-package sales.

17 (a) No person shall sell, buy for, distribute samples of
18 or furnish any tobacco product, electronic cigarette, or
19 alternative nicotine product to any person under 21 years of
20 age.

21 (a-5) No person under 16 years of age may sell any tobacco
22 product, electronic cigarette, or alternative nicotine product

1 at a retail establishment selling tobacco products, electronic
2 cigarettes, or alternative nicotine products. This subsection
3 does not apply to a sales clerk in a family-owned business
4 which can prove that the sales clerk is in fact a son or
5 daughter of the owner.

6 (a-5.1) Before selling, offering for sale, giving, or
7 furnishing a tobacco product, electronic cigarette, or
8 alternative nicotine product to another person, the person
9 selling, offering for sale, giving, or furnishing the tobacco
10 product, electronic cigarette, or alternative nicotine product
11 shall verify that the person is at least 21 years of age by:

12 (1) examining from any person that appears to be under
13 30 years of age a government-issued photographic
14 identification that establishes the person to be 21 years
15 of age or older; or

16 (2) for sales of tobacco products, electronic
17 cigarettes, or alternative nicotine products made through
18 the Internet or other remote sales methods, performing an
19 age verification through an independent, third party age
20 verification service that compares information available
21 from public records to the personal information entered by
22 the person during the ordering process that establishes
23 the person is 21 years of age or older.

24 (a-5.2) No person shall cause electronic cigarettes
25 ordered or purchased by mail, through the Internet, or other
26 remote sale methods, to be shipped to anyone under 21 years of

1 age in the State other than (i) a distributor, as defined in
2 Section 1 of the Cigarette Tax Act, Section 1 of the Cigarette
3 Use Tax Act, Section 10-5 of the Tobacco Products Tax Act of
4 1995, and Section 5 of the Preventing Youth Vaping Act, or (ii)
5 a retailer, as defined in Section 1 of the Cigarette Tax Act,
6 Section 10-5 of the Tobacco Products Tax Act of 1995, and
7 Section 5 of the Preventing Youth Vaping Act.

8 (a-6) No person under 21 years of age in the furtherance or
9 facilitation of obtaining any tobacco product, electronic
10 cigarette, or alternative nicotine product shall display or
11 use a false or forged identification card or transfer, alter,
12 or deface an identification card.

13 (a-7) (Blank).

14 (a-7.5) A person under 21 years of age may not possess any
15 tobacco product, electronic cigarette, or alternative nicotine
16 product.

17 (a-8) A person shall not distribute without charge samples
18 of any tobacco product, alternative nicotine product, or
19 electronic cigarette to any other person, regardless of age,
20 except for smokeless tobacco in an adult-only facility.

21 This subsection (a-8) does not apply to the distribution
22 of a tobacco product, electronic cigarette, or alternative
23 nicotine product sample in any adult-only facility.

24 (a-9) For the purpose of this Section:

25 "Adult-only facility" means a facility or restricted
26 area (whether open-air or enclosed) where the operator

1 ensures or has a reasonable basis to believe (such as by
2 checking identification as required under State law, or by
3 checking the identification of any person appearing to be
4 under the age of 30) that no person under legal age is
5 present. A facility or restricted area need not be
6 permanently restricted to persons under 21 years of age to
7 constitute an adult-only facility, provided that the
8 operator ensures or has a reasonable basis to believe that
9 no person under 21 years of age is present during the event
10 or time period in question.

11 "Alternative nicotine product" means a product or
12 device not consisting of or containing tobacco that
13 provides for the ingestion into the body of nicotine,
14 whether by chewing, smoking, absorbing, dissolving,
15 inhaling, snorting, sniffing, or by any other means.
16 "Alternative nicotine product" does not include:
17 cigarettes as defined in Section 1 of the Cigarette Tax
18 Act and tobacco products as defined in Section 10-5 of the
19 Tobacco Products Tax Act of 1995; tobacco product and
20 electronic cigarette as defined in this Section; or any
21 product approved by the United States Food and Drug
22 Administration for sale as a tobacco cessation product, as
23 a tobacco dependence product, or for other medical
24 purposes, and is being marketed and sold solely for that
25 approved purpose.

26 "Electronic cigarette" means:

(1) any device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(2) any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or

(3) any solution or substance, whether or not it contains nicotine intended for use in the device.

"Electronic cigarette" includes, but is not limited to, any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, any components or parts that can be used to build the product or device, and any component, part, or accessory of a device used during the operation of the device, even if the part or accessory was sold separately. "Electronic cigarette" does not include: cigarettes as defined in Section 1 of the Cigarette Tax Act; tobacco product and alternative nicotine product as defined in this Section; any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose; any asthma inhaler prescribed by a physician for that condition and is being marketed and sold solely for that approved purpose; any device that

1 meets the definition of cannabis paraphernalia under
2 Section 1-10 of the Cannabis Regulation and Tax Act; or
3 any cannabis product sold by a dispensing organization
4 pursuant to the Cannabis Regulation and Tax Act or the
5 Compassionate Use of Medical Cannabis Program Act.

6 "Lunch wagon" means a mobile vehicle designed and
7 constructed to transport food and from which food is sold
8 to the general public.

9 "Nicotine" means any form of the chemical nicotine,
10 including any salt or complex, regardless of whether the
11 chemical is naturally or synthetically derived.

12 "Tobacco product" means any product containing or made
13 from tobacco that is intended for human consumption,
14 whether smoked, heated, chewed, absorbed, dissolved,
15 inhaled, snorted, sniffed, or ingested by any other means,
16 including, but not limited to, cigarettes, cigars, little
17 cigars, chewing tobacco, pipe tobacco, snuff, snus, and
18 any other smokeless tobacco product which contains tobacco
19 that is finely cut, ground, powdered, or leaf and intended
20 to be placed in the oral cavity. "Tobacco product"
21 includes any component, part, or accessory of a tobacco
22 product, whether or not sold separately. "Tobacco product"
23 does not include: an alternative nicotine product as
24 defined in this Section; or any product that has been
25 approved by the United States Food and Drug Administration
26 for sale as a tobacco cessation product, as a tobacco

1 dependence product, or for other medical purposes, and is
2 being marketed and sold solely for that approved purpose.

3 (b) Tobacco products, electronic cigarettes, and
4 alternative nicotine products may be sold through a vending
5 machine only if such tobacco products, electronic cigarettes,
6 and alternative nicotine products are not placed together with
7 any non-tobacco product, other than matches, in the vending
8 machine and the vending machine is in any of the following
9 locations:

10 (1) (Blank).

11 (2) Places to which persons under 21 years of age are
12 not permitted access at any time.

13 (3) Places where alcoholic beverages are sold and
14 consumed on the premises and vending machine operation is
15 under the direct supervision of the owner or manager.

16 (4) (Blank).

17 (5) (Blank).

18 (c) (Blank).

19 (d) The sale or distribution by any person of a tobacco
20 product as defined in this Section, including, but not limited
21 to, a single or loose cigarette, that is not contained within a
22 sealed container, pack, or package as provided by the
23 manufacturer, which container, pack, or package bears the
24 health warning required by federal law, is prohibited.

25 (e) It is not a violation of this Act for a person under 21
26 years of age to purchase a tobacco product, electronic

1 cigarette, or alternative nicotine product if the person under
2 the age of 21 purchases or is given the tobacco product,
3 electronic cigarette, or alternative nicotine product in any
4 of its forms from a retail seller of tobacco products,
5 electronic cigarettes, or alternative nicotine products or an
6 employee of the retail seller pursuant to a plan or action to
7 investigate, patrol, or otherwise conduct a "sting operation"
8 or enforcement action against a retail seller of tobacco
9 products, electronic cigarettes, or alternative nicotine
10 products or a person employed by the retail seller of tobacco
11 products, electronic cigarettes, or alternative nicotine
12 products or on any premises authorized to sell tobacco
13 products, electronic cigarettes, or alternative nicotine
14 products to determine if tobacco products, electronic
15 cigarettes, or alternative nicotine products are being sold or
16 given to persons under 21 years of age if the "sting operation"
17 or enforcement action is approved by, conducted by, or
18 conducted on behalf of the Illinois State Police, the county
19 sheriff, a municipal police department, the Department of
20 Revenue, the Department of Public Health, or a local health
21 department. The results of any sting operation or enforcement
22 action, including the name of the clerk, shall be provided to
23 the retail seller within 7 business days.

24 (f) No person shall honor or accept any discount, coupon,
25 or other benefit or reduction in price that is inconsistent
26 with 21 CFR 1140, subsequent United States Food and Drug

1 Administration industry guidance, or any rules adopted under
2 21 CFR 1140.

3 (g) Any peace officer or duly authorized member of the
4 Illinois State Police, a county sheriff's department, a
5 municipal police department, the Department of Revenue, the
6 Department of Public Health, a local health department, or the
7 Department of Human Services, upon discovering a violation of
8 subsection (a), (a-5), (a-5.1), (a-8), (b), or (d) of this
9 Section or a violation of the Preventing Youth Vaping Act, may
10 seize any tobacco products, alternative nicotine products, or
11 electronic cigarettes of the specific type involved in that
12 violation that are located at that place of business. The
13 tobacco products, alternative nicotine products, or electronic
14 cigarettes so seized are subject to confiscation and
15 forfeiture.

16 (h) If, within 60 days after any seizure under subsection
17 (g), a person having any property interest in the seized
18 property is charged with an offense under this Section or a
19 violation of the Preventing Youth Vaping Act, the court that
20 renders judgment upon the charge shall, within 30 days after
21 the judgment, conduct a forfeiture hearing to determine
22 whether the seized tobacco products or electronic cigarettes
23 were part of the inventory located at the place of business
24 when a violation of subsection (a), (a-5), (a-5.1), (a-8),
25 (b), or (d) of this Section or a violation of the Preventing
26 Youth Vaping Act occurred and whether any seized tobacco

1 products or electronic cigarettes were of a type involved in
2 that violation. The hearing shall be commenced by a written
3 petition by the State, which shall include material
4 allegations of fact, the name and address of every person
5 determined by the State to have any property interest in the
6 seized property, a representation that written notice of the
7 date, time, and place of the hearing has been mailed to every
8 such person by certified mail at least 10 days before the date,
9 and a request for forfeiture. Every such person may appear as a
10 party and present evidence at the hearing. The quantum of
11 proof required shall be a preponderance of the evidence, and
12 the burden of proof shall be on the State. If the court
13 determines that the seized property was subject to forfeiture,
14 an order of forfeiture and disposition of the seized property
15 shall be entered and the property shall be received by the
16 prosecuting office, who shall effect its destruction.

17 (i) If a seizure under subsection (g) is not followed by a
18 charge under subsection (a), (a-5), (a-5.1), (a-8), (b), or
19 (d) of this Section or under the Preventing Youth Vaping Act,
20 or if the prosecution of the charge is permanently terminated
21 or indefinitely discontinued without any judgment of
22 conviction or acquittal:

23 (1) the prosecuting office may commence in the circuit
24 court an in rem proceeding for the forfeiture and
25 destruction of any seized tobacco products or electronic
26 cigarettes; and

(2) any person having any property interest in the seized tobacco products or electronic cigarettes may commence separate civil proceedings in the manner provided by law.

(j) After the Department of Revenue has seized any tobacco product, nicotine product, or electronic cigarette as provided in subsection (g) and a person having any property interest in the seized property has not been charged with an offense under this Section or a violation of the Preventing Youth Vaping Act, the Department of Revenue must hold a hearing and determine whether the seized tobacco products, alternative nicotine products, or electronic cigarettes were part of the inventory located at the place of business when a violation of subsection (a), (a-5), (a-5.1), (a-8), (b), or (d) of this Section or a violation of the Preventing Youth Vaping Act occurred and whether any seized tobacco product, alternative nicotine product, or electronic cigarette was of a type involved in that violation. The Department of Revenue shall give not less than 20 days' notice of the time and place of the hearing to the owner of the property, if the owner is known, and also to the person in whose possession the property was found if that person is known and if the person in possession is not the owner of the property. If neither the owner nor the person in possession of the property is known, the Department of Revenue must cause publication of the time and place of the hearing to be made at least once each week for 3 weeks

1 successively in a newspaper of general circulation in the
2 county where the hearing is to be held.

3 If, as the result of the hearing, the Department of
4 Revenue determines that the tobacco products, alternative
5 nicotine products, or the electronic cigarettes were part of
6 the inventory located at the place of business when a
7 violation of subsection (a), (a-5), (a-5.1), (a-8), (b), or
8 (d) of this Section or a violation of the Preventing Youth
9 Vaping Act at the time of seizure, the Department of Revenue
10 must enter an order declaring the tobacco product, alternative
11 nicotine product, or electronic cigarette confiscated and
12 forfeited to the State, to be held by the Department of Revenue
13 for disposal by it as provided in Section 10-58 of the Tobacco
14 Products Tax Act of 1995. The Department of Revenue must give
15 notice of the order to the owner of the property, if the owner
16 is known, and also to the person in whose possession the
17 property was found if that person is known and if the person in
18 possession is not the owner of the property. If neither the
19 owner nor the person in possession of the property is known,
20 the Department of Revenue must cause publication of the order
21 to be made at least once each week for 3 weeks successively in
22 a newspaper of general circulation in the county where the
23 hearing was held.

24 (Source: P.A. 102-538, eff. 8-20-21; 102-575, eff. 1-1-22;
25 102-813, eff. 5-13-22; 103-937, eff. 1-1-25.)

(720 ILCS 675/2) (from Ch. 23, par. 2358)

Sec. 2. Penalties.

(a) Any person who violates subsection (a), (a-5), (a-5.1), (a-5.2), (a-8), (b), or (d) of Section 1 of this Act is guilty of a petty offense. For the first offense in a 24-month period, the person shall be fined \$200 if his or her employer has a training program that facilitates compliance with minimum-age tobacco laws. For the second offense in a 24-month period, the person shall be fined \$400 if his or her employer has a training program that facilitates compliance with minimum-age tobacco laws. For the third offense in a 24-month period, the person shall be fined \$600 if his or her employer has a training program that facilitates compliance with minimum-age tobacco laws. For the fourth or subsequent offense in a 24-month period, the person shall be fined \$800 if his or her employer has a training program that facilitates compliance with minimum-age tobacco laws. For the purposes of this subsection, the 24-month period shall begin with the person's first violation of the Act. The penalties in this subsection are in addition to any other penalties prescribed under the Cigarette Tax Act and the Tobacco Products Tax Act of 1995.

(a-1) Any person who violates subsection (a-7.5) of Section 1 is guilty of a petty offense. For the first offense in a 24-month period, the person shall be fined \$200. For the second offense in a 24-month period, the person shall be fined

1 \$400. For the third offense in a 24-month period, the person
2 shall be fined \$600. For the fourth or subsequent offense in a
3 24-month period, the person shall be fined \$800. For the
4 purposes of this subsection, the 24-month period shall begin
5 with the person's first violation of the Act.

6 (a-5) Any retailer who violates subsection (a), (a-5),
7 (a-5.1), (a-5.2), (a-8), (b), or (d) of Section 1 of this Act
8 is guilty of a petty offense. For the first offense in a
9 24-month period, the retailer shall be fined \$200 if it does
10 not have a training program that facilitates compliance with
11 minimum-age tobacco laws. For the second offense in a 24-month
12 period, the retailer shall be fined \$400 if it does not have a
13 training program that facilitates compliance with minimum-age
14 tobacco laws. For the third offense within a 24-month period,
15 the retailer shall be fined \$600 if it does not have a training
16 program that facilitates compliance with minimum-age tobacco
17 laws. For the fourth or subsequent offense in a 24-month period,
18 the retailer shall be fined \$800 if it does not have a
19 training program that facilitates compliance with minimum-age
20 tobacco laws. For the purposes of this subsection, the
21 24-month period shall begin with the person's first violation
22 of the Act. The penalties in this subsection are in addition to
23 any other penalties prescribed under the Cigarette Tax Act and
24 the Tobacco Products Tax Act of 1995.

25 (a-6) For the purpose of this Act, a training program that
26 facilitates compliance with minimum-age tobacco laws must

1 include at least the following elements: (i) it must explain
2 that only individuals displaying valid identification
3 demonstrating that they are 21 years of age or older shall be
4 eligible to purchase tobacco products, electronic cigarettes,
5 or alternative nicotine products and (ii) it must explain
6 where a clerk can check identification for a date of birth. The
7 training may be conducted electronically. Each retailer that
8 has a training program shall require each employee who
9 completes the training program to sign a form attesting that
10 the employee has received and completed tobacco training. The
11 form shall be kept in the employee's file and may be used to
12 provide proof of training.

13 (b) If a person under 21 years of age violates subsection
14 (a-6) of Section 1, he or she is guilty of a Class A
15 misdemeanor.

16 (c) (Blank).

17 (d) (Blank).

18 (e) (Blank).

19 (f) (Blank).

20 (g) (Blank).

21 (h) All moneys collected as fines for violations of
22 subsection (a), (a-5), (a-5.1), (a-6), (a-7.5), (a-8), (b), or
23 (d) of Section 1 shall be distributed in the following manner:

24 (1) one-half of each fine shall be distributed to the
25 unit of local government or other entity that successfully
26 prosecuted the offender; and

(2) one-half shall be remitted to the State to be used for enforcing this Act.

Any violation of subsection (a) or (a-5) of Section 1 shall be reported to the Department of Revenue within 7 business days.

6 (Source: P.A. 102-558, eff. 8-20-21; 103-937, eff. 1-1-25.)