

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 313**

Introduced by Redfield, 12; Preister, 5; Quandahl, 31; Smith, 48;  
Suttle, 10; Thompson, 14

Read first time January 12, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to public health; to amend sections 28-1425,  
2 28-1426, 28-1429.01, and 28-1429.02, Reissue Revised  
3 Statutes of Nebraska, and section 28-1422, Revised  
4 Statutes Supplement, 1998; to change provisions relating  
5 to the sale, display, and storage of cigarettes; to  
6 provide intent; to harmonize provisions; and to repeal  
7 the original sections.

8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-1422, Revised Statutes Supplement,  
2 1998, is amended to read:

3           28-1422. Every person, partnership, limited liability  
4 company, or corporation desiring a license under sections 28-1420  
5 to ~~28-1429~~ 28-1429.02 shall file with the clerk or finance  
6 department of the city, town, or village where his, her, their, or  
7 its place of business is located, if within the limits of a city,  
8 town, or village or with the clerk of the county where such place  
9 of business is located if outside the limits of any city, town, or  
10 village a written application stating the name of the person,  
11 partnership, limited liability company, or corporation for whom  
12 such license is desired and the exact location of the place of  
13 business and shall deposit with such application the amount of the  
14 license fee provided in section 28-1423. If the applicant is an  
15 individual, the application shall include the applicant's social  
16 security number.

17           Sec. 2. Section 28-1425, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           28-1425. Any licensee who shall sell, give, or furnish  
20 in any way to any person under the age of eighteen years, or who  
21 shall willingly allow to be taken from his or her place of business  
22 by any person under the age of eighteen years, any cigars, tobacco,  
23 cigarettes, or cigarette material, shall be guilty of a Class III  
24 misdemeanor. Any officer, director, or manager having charge or  
25 control either separately or jointly with others, of the business  
26 of any corporation which violates the provisions of sections  
27 28-1420 to ~~28-1429~~ 28-1429.02, if he or she has ~~have~~ knowledge of  
28 the same, shall be subject to the penalties provided in this

1 section. In addition to the penalties provided in this section,  
2 such licensee shall be subject to the additional penalty of a  
3 revocation and forfeiture of his, her, their, or its license, at  
4 the discretion of the court before whom the complaint for violation  
5 of ~~said~~ the sections may be heard. If such license be revoked and  
6 forfeited, all rights under such license shall at once cease and  
7 terminate.

8 Sec. 3. Section 28-1426, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 28-1426. All money collected as license fees under the  
11 provisions of sections 28-1420 to ~~28-1429~~ 28-1429.02, shall be paid  
12 over by the clerk or finance director receiving it to the treasurer  
13 of the school fund for the particular city, town, village, or  
14 county, as the case may be.

15 Sec. 4. Section 28-1429.01, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 28-1429.01. The Legislature finds that the incumbent  
18 health risks associated with smoking tobacco products have been  
19 scientifically proven. The Legislature further finds that the  
20 growing number of minors who start smoking is staggering and even  
21 more abhorrent are the ages at which such children begin this  
22 deadly habit. The Legislature has established an age restriction  
23 on the use of tobacco products by minors. To ensure that the use  
24 of tobacco products among minors is discouraged to the maximum  
25 extent possible, it is the intent of the Legislature to ban the use  
26 of vending machines and similar devices to dispense tobacco  
27 products in facilities, buildings, or areas which are open to the  
28 general public within Nebraska and to regulate the sale, storage,

1 and display of cigarettes to limit access to minors.

2           Sec. 5. Section 28-1429.02, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           28-1429.02. (1) Except as provided in subsection ~~(2)~~ (3)  
5 of this section, it shall be unlawful to dispense cigarettes or  
6 other tobacco products from a vending machine or similar device.  
7 Any person violating this section shall be guilty of a Class III  
8 misdemeanor. In addition, upon conviction for a second offense,  
9 the court shall order a six-month suspension of the offender's  
10 license to sell tobacco if any and, upon conviction for a third or  
11 subsequent offense, the court shall order the permanent revocation  
12 of the offender's license to sell tobacco if any.

13           (2) Except as provided in subsection (3) of this section,  
14 it shall be unlawful to sell, store, or display cigarettes in  
15 packages of less than two hundred cigarettes other than in areas  
16 located behind a counter or from a locked container and such sale,  
17 storage, or display requires the assistance of a tobacco licensee  
18 or his or her employee to gain access to such cigarette packages.

19           (3) Cigarettes or other tobacco products may be dispensed  
20 from a vending machine or similar device when such machine or  
21 device is located in an area, office, business, plant, or factory  
22 which is not open to the general public or on the licensed premises  
23 of any establishment having a license issued under the Nebraska  
24 Liquor Control Act for the sale of alcoholic liquor for consumption  
25 on the premises when such machine or device is located in the same  
26 room in which the alcoholic liquor is dispensed.

27           ~~(3)~~ (4) Nothing in this section shall be construed to  
28 restrict or prohibit a governing body of a city or village from

1 establishing and enforcing ordinances at least as stringent as or  
2 more stringent than the provisions of this section.

3           Sec. 6. Original sections 28-1425, 28-1426, 28-1429.01,  
4 and 28-1429.02, Reissue Revised Statutes of Nebraska, and section  
5 28-1422, Revised Statutes Supplement, 1998, are repealed.