

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

912Q0469

SENATE STATE AFFAIRS

ENGROSSED NO. **SB 100** - 2/20/2009

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Knudson, Gray, Heidepriem, Hunhoff (Jean), Maher, and Miles and Representatives Rausch, Cutler, Dennert, Engels, Faehn, Hunhoff (Bernie), Kirkeby, Krebs, Lust, Noem, Putnam, Steele, Tidemann, and Turbiville

1 FOR AN ACT ENTITLED, An Act to revise the method of sale of certain tobacco products.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 34-46-1 be amended to read as follows:

4 34-46-1. Terms used in this chapter mean:

5 (1) "Proof of age," a driver's license, nondriver identification card, or other generally
6 accepted means of identification that contains a picture of the individual and appears
7 on its face to be valid;

8 (2) "Sample," tobacco products distributed to members of the general public at no cost
9 for purposes of promoting the product;

10 (3) "Sampling," the distribution of samples to members of the general public in a public
11 place;

12 (4) "Self-service display," a display that contains cigarettes or smokeless tobacco, or
13 both, and is located in an area openly accessible to the merchant's consumers, and



1 from which such consumers can readily access cigarettes or smokeless tobacco, or
2 both, without the assistance of the merchant or an employee or agent of the merchant.

3 A display case that holds tobacco products behind locked doors does not constitute
4 a self-service display;

5 (5) "Tobacco product," any item made of tobacco intended for human consumption,
6 including cigarettes, cigars, pipe tobacco, and smokeless tobacco;

7 (6) "Tobacco speciality store," a business that derives at least seventy-five percent of its
8 revenue from the sale of tobacco products.

9 Section 2. That § 34-46-2 be amended to read as follows:

10 34-46-2. The following actions are unlawful:

11 (1) To knowingly sell or distribute a tobacco product to a person under the age of
12 eighteen;

13 (2) To purchase or attempt to purchase, to receive or attempt to receive, to possess, or
14 to consume a tobacco product if a person is under the age of eighteen;

15 (3) To purchase a tobacco product on behalf of, or to give a tobacco product to, any
16 person under the age of eighteen;

17 (4) To sell cigarettes other than in an unopened package originating with the
18 manufacturer and depicting the warning labels required by federal law;

19 (5) To sell tobacco products through a vending machine located in a place other than the
20 following:

21 (a) A factory, business, office, or other place not open to the general public;

22 (b) A place that is open to the public but to which persons under the age of
23 eighteen are denied access; ~~or~~

24 (c) An establishment licensed under chapter 35-4 to sell alcoholic beverages for

1 consumption on the premises where sold;

2 (6) To sell cigarettes or smokeless tobacco, or both, through a self-service display other
3 than a display that is:

4 (a) A vending machine permitted under subdivision (5) of this section; or

5 (b) Located in a tobacco speciality store; or

6 (7) To distribute tobacco product samples in or on a public street, sidewalk, or park that
7 is within five hundred feet of a playground, school, or other facility when the facility
8 is being used primarily by persons under the age of eighteen.