

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

805T0545

HOUSE BILL NO. 1273

Introduced by: Representatives Haggar, Abdallah, Conzet, Gosch, Hansen (Jon), Magstadt, Turbiville, and Wick and Senators Holien, Brown, Novstrup (Al), and Rave

1 FOR AN ACT ENTITLED, An Act to prohibit the sale of loose leaf incense to minors, to
2 prohibit certain marketing techniques, to regulate the sale of certain types of incense, and
3 to provide penalties therefor.

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

5 Section 1. For purposes of this Act, a retailer is any person who sells merchandise at retail.

6 Section 2. No retailer may sell, in a single transaction, more than one ounce of loose leaf
7 incense. Any person who sells loose leaf incense in violation of this section is guilty of a Class
8 1 misdemeanor.

9 Section 3. No retailer may willfully and knowingly supply, deliver, give possession, or sell
10 any amount of loose leaf incense to a person under twenty-one years of age. A violation of this
11 is a Class 1 misdemeanor.

12 Section 4. Any retailer who offers loose leaf incense for sale shall display and offer the
13 product for sale behind the counter or in a locked case so that a customer wanting access to the
14 product must ask a store employee for assistance. A violation of this section is a Class 1
15 misdemeanor.



1 Section 5. If offering for sale loose leaf incense, a retailer shall, before making such a sale,
2 require and make a record of the identification of the person purchasing the product. For
3 purposes of this Act, the term, identification, means a document issued by a governmental
4 agency which contains a description of the person or a photograph of the person, or both, and
5 gives the person's date of birth, such as a driver license, passport, or military identification card.
6 The retailer shall maintain the record of identification, including the purchaser's name and date
7 of birth. On August 1, 2012, and no later than the fifth day of every month thereafter, the retailer
8 shall send any such records to the Office of the Attorney General. No retailer may use or
9 maintain the record for any private or commercial purpose or disclose the record to any person,
10 except as authorized by law. The retailer shall disclose the record, upon request, to a law
11 enforcement agency for a law enforcement purpose.

12 Section 6. No manufacturer, distributor, or retailer may advertise to the public, directly or
13 indirectly, that loose leaf incense can be ingested. A violation of this section is a Class 1
14 misdemeanor.

15 Section 7. A retailer shall label each package of loose leaf incense sold in this state with a
16 warning label that reads as follows: "This product is not meant to be ingested. The side effects
17 of ingesting this product are unknown." A violation of this section is a Class 1 misdemeanor.