

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

717D0717

## SENATE BILL NO. 179

Introduced by: Senators Daugaard, Brown (Arnold), and Lawler and Representatives Fischer-Clemens, Davis, Fiegen, Lockner, McCoy, and Wilson

1 FOR AN ACT ENTITLED, An Act to raise the minimum age regulating the purchase and sale  
2 of tobacco products.

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

4 Section 1. That § 34-46-2 be amended to read as follows:

5 34-46-2. The following actions are unlawful:

6 (1) To knowingly sell or distribute a tobacco product to a person under the age of  
7 ~~eighteen~~ nineteen;

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

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

12 (4) To sell tobacco products through a vending machine located in a place other than the  
13 following:

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

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

1 (c) An establishment licensed under chapter 35-4 to sell alcoholic beverages for  
2 consumption on the premises where sold; or

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

6 Section 2. That § 34-46-3 be amended to read as follows:

7 34-46-3. Each county state's attorney or a local law enforcement officer designated by the  
8 state's attorney shall annually conduct unannounced, random inspections at various locations  
9 where tobacco products are sold or distributed to ensure compliance with this chapter. Persons  
10 under the age of ~~eighteen~~ nineteen may be enlisted to test compliance with this chapter. Such  
11 persons may be used to test compliance with this chapter only if the testing is conducted under  
12 the supervision of the county state's attorney or a local law enforcement officer designated by  
13 the state's attorney and written parental consent has been provided. Any other use of persons  
14 under the age of ~~eighteen~~ nineteen to test compliance with this chapter is unlawful and the  
15 persons responsible for such use are subject to the penalties prescribed in § 34-46-5.

16 Section 3. That § 34-46-5 be amended to read as follows:

17 34-46-5. A violation of § 34-46-2 is a Class 2 misdemeanor. A person is not liable for more  
18 than one violation of subdivision 34-46-2(4) on a single day. Reasonable reliance upon proof of  
19 age of the purchaser or the recipient of a tobacco product is a complete defense to any action  
20 brought against a person for the sale or distribution of a tobacco product to a person under the  
21 age of ~~eighteen~~ nineteen.