

1 INTRODUCED BY

2 *John Bishop, Wilson, Burnett, Hellyer, Wells, Tiss*  
3 *Samuel House, Billie, Miller, Wilson, Wilson, Bill*  
4 *Dr. Anne Poyach, Cary, David, Salvie, Rose, Kell*  
5 *Reed, Clark, Hay*  
6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE YOUTH ACCESS TO TOBACCO PRODUCTS  
7 CONTROL ACT; RESTRICTING THE PLACEMENT FOR SALE OF INDIVIDUALLY PACKAGED TOBACCO  
8 PRODUCTS; PROHIBITING SALE OF TOBACCO PRODUCTS THROUGH VENDING MACHINES; PROVIDING  
9 FOR HEARINGS PURSUANT TO CERTAIN RULES; AND AMENDING SECTIONS 16-11-305, 16-11-306,  
10 AND 16-11-308, MCA."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 Section 1. Section 16-11-305, MCA, is amended to read:

15 "16-11-305. Sale or distribution of tobacco products to persons under 18 years of age prohibited  
16 -- placement for sale of individually packaged tobacco products. (1) A person may not sell or distribute a  
tobacco product to an individual under 18 years of age, ~~whether over the counter, by vending machine,~~  
or otherwise.

17 (2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of  
18 a driver's license or other generally accepted identification that includes a picture of the individual.

19 (3) Individual packages of cigarettes and other individually packaged tobacco products must be  
20 placed behind a sales counter and may not be sold or distributed other than in a direct, face-to-face  
21 exchange between a retail sales clerk and an adult consumer."

22

23 Section 2. Section 16-11-306, MCA, is amended to read:

24 "16-11-306. Sales from of tobacco through vending machines prohibited. Tobacco products may

25 not be sold through a vending machine only in:

26 (1) ~~factories, businesses, offices, and other places not open to the general public;~~  
27 (2) ~~places to which individuals under 18 years of age are not permitted access;~~  
28 (3) ~~places where alcoholic beverages are sold and consumed on the premises; and~~  
29 (4) ~~places where the vending machine is under the direct supervision of the owner or an employee~~  
30 ~~of the establishment. The sale of tobacco products from a vending machine under direct supervision of the~~

HB331

INTRODUCED BILL

1 ~~owner or an employee of the establishment is considered a sale of tobacco products by that person for~~  
2 ~~purposes of 16-11-305.~~"

3

4 **Section 3.** Section 16-11-308, MCA, is amended to read:

5 **"16-11-308. Tobacco education fee.** (1) Failure to obtain a license, as required by 16-11-303, or  
6 to post signs, as provided in 16-11-304, is punishable by a civil penalty of \$100. The department may  
7 collect the penalty in the manner provided for the collection of other debts.

8 (2) A person who violates 16-11-305(1) or 16-11-307 at any one location within a 3-year period  
9 shall be punished as follows:

10 (a) A first through third offense is punishable by a verbal notification of violation.

11 (b) A fourth offense is punishable by a written notice of violation to be sent by the department of  
12 public health and human services to the owner of the establishment.

13 (c) A fifth offense is punishable by assessment against the owner of the establishment of a tobacco  
14 education fee of \$500. The employee or other person who sold the tobacco product, the establishment  
15 manager, and the establishment owner, if the owner is a sole proprietor or partner, shall read and view the  
16 tobacco education material.

17 (d) A sixth offense is punishable by suspension of the licenses required by 16-11-120 and  
18 16-11-303 for 3 months.

19 (e) A seventh and subsequent offense is punishable by suspension of the licenses required by  
20 16-11-120 and 16-11-303 for 1 year.

21 (3) After 2 years from the first violation, if a person has not received notice of any further  
22 violations, a second violation is considered a first violation for the purposes of subsection (2).

23 (4) A license may not be reissued after suspension under subsection (2)(d) or (2)(e) unless tobacco  
24 education fees are paid in full.

25 (5) Tobacco education fees must be assessed and collected by the department of public health and  
26 human services. Notice of an assessment pursuant to subsection (2) and this subsection must be made  
27 by the department of public health and human services within 30 days of the alleged violation by certified  
28 letter addressed to the establishment owner or manager. The notice of assessment against the owner of  
29 the establishment must provide an opportunity for a hearing at the offices of the department of public  
30 health and human services in Helena or by electronic equipment, to be held pursuant to the provisions of

1     the ~~Montana Administrative Procedure Act~~ fair hearing rules of the department of public health and human  
2     services. Within 30 days from the date on which the notice of assessment was mailed, the owner or  
3     manager shall notify the department of public health and human services that the owner or manager objects  
4     to the assessment and request a hearing pursuant to this subsection.

5                 (6) In addition to the penalty provided for in subsection (2), a first and subsequent violation of  
6     16-11-305(1) or 16-11-307 is punishable by an assessment of a tobacco education fee of \$25 against the  
7     employee who sold the tobacco product if the employee is not the owner of the establishment. The tobacco  
8     education fee must be assessed and collected by the department of public health and human services.  
9     Within 30 days of the alleged violation, notice of assessment pursuant to this subsection must be made  
10    by the department of public health and human services by certified letter addressed to the employee. The  
11    notice of assessment must provide an opportunity for a hearing at the offices of the department of public  
12    health and human services in Helena or by electronic equipment, to be held pursuant to the provisions of  
13    the Montana Administrative Procedure Act fair hearing rules of the department of public health and human  
14    services. Within 30 days from the date on which the notice of assessment was mailed, the employee shall  
15    notify the department of public health and human services that the employee objects to the assessment  
16    and requests a hearing pursuant to this subsection.

17                 (7) The tobacco education material referred to in this section must be provided by the department  
18    of public health and human services in the form of written and video self-teaching materials. The education  
19    materials may be used only for the purposes provided in this section. Upon completion of the self-teaching  
20    materials, the establishment owner or manager shall execute a written statement on a form provided by  
21    the department of public health and human services verifying that the employee, owner, or manager, as  
22    appropriate, has read and viewed the self-teaching material and shall return the statement and the  
23    self-teaching video to the department of public health and human services.

24                 (8) Upon the sixth and subsequent violation of this section, the department of public health and  
25    human services shall notify the department of revenue in writing to initiate suspension of the licenses  
26    required by 16-11-120 and 16-11-303 and shall notify the licensee in writing of the alleged violation and  
27    of the referral of the licensee's record of violations to the department of revenue for suspension of the  
28    licenses pursuant to 16-11-144 and this section. The department of revenue shall review the record of  
29    violations and may initiate license suspension proceedings in accordance with 16-11-144. If, upon a review  
30    of the record of violations, the department of revenue declines to initiate suspension proceedings, the

1 violation may not be charged against the licensee for the purposes of this section.

2 (9) Fees assessed pursuant to this section must be deposited in an account in the state special  
3 revenue fund. One-half of the money in the account is statutorily appropriated, as provided in 17-7-502,  
4 to the department of public health and human services to defray the costs of the tobacco education  
5 program. One-half of the money in the account is statutorily appropriated, as provided in 17-7-502, to the  
6 department of revenue to defray the department's costs of implementing its duties pursuant to 16-11-144  
7 and this section."

8 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0331, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill amending the youth access to tobacco products control act.

#### FISCAL IMPACT:

Passage of HB0331 will have no fiscal impact on the state.

Dane Lewis 1-29-97

DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

LOREN SOFT: PRIMARY SPONSOR

DATE

Fiscal Note for HB0331, as introduced

Fiscal Note for HB331

## 1 HOUSE BILL NO. 331

2 INTRODUCED BY SOFT, GROSFIELD, MCGEE, KITZENBERG, GRIMES, BOHLINGER, GILLAN, BAER,  
3 THOMAS, BISHOP, WILSON, BURNETT, HALLIGAN, MILLS, WELLS, TUSS, R. JOHNSON, RYAN, ECK,  
4 CAREY, DOWELL, GALVIN, PEASE, KOTTEL, AHNER, EWER, OHS, CLARK, CHRISTIAENS, HARPER  
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7 CONTROL ACT; RESTRICTING THE ~~PLACEMENT FOR SALE OF INDIVIDUALLY PACKAGED TOBACCO~~  
8 ~~PRODUCTS; PROHIBITING SALE OF TOBACCO PRODUCTS THROUGH VENDING MACHINES; PROVIDING~~  
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16 ~~placement for sale of individually packaged tobacco products.~~ (1) A person may not sell or distribute a  
17 tobacco product to an individual under 18 years of age, whether over the counter, by vending machine,  
18 or otherwise.

19 ~~(2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of~~  
20 ~~a driver's license or other generally accepted identification that includes a picture of the individual.~~

21 ~~(3) Individual packages of cigarettes and other individually packaged tobacco products must be~~  
22 ~~placed behind a sales counter and may not be sold or distributed other than in a direct, face to face~~  
23 ~~exchange between a retail sales clerk and an adult consumer."~~

24

25 ~~Section 1. Section 16-11-306, MCA, is amended to read:~~

26 ~~"16-11-306. Sales from of tobacco through vending machines prohibited RESTRICTED.~~ Tobacco  
27 products may ~~not~~ be sold through a vending machine ~~only in:~~ ONLY IN:

28 ~~(1) VENDING MACHINES THAT DO NOT CONTAIN NONTOBACCO PRODUCTS OF ANY KIND;~~  
29 ~~(2) PLACES WHERE ALCOHOLIC BEVERAGES ARE SOLD AND CONSUMED ON THE PREMISES;~~  
30 ~~(3) A LOCATION WHERE THE VENDING MACHINE IS UNDER THE DIRECT LINE-OF-SIGHT~~

SECOND READING

HB 331

1        SUPERVISION OF THE OWNER OR AN EMPLOYEE OF THE ESTABLISHMENT; AND

2            (4) A RESTAURANT IF THE RESTAURANT HAS A BAR AND THE RESTAURANT AREA SHARES

3        SEATING WITH THE BAR AREA

4            ~~(1) factories, businesses, offices, and other places not open to the general public;~~

5            ~~(2) places to which individuals under 18 years of age are not permitted access;~~

6            ~~(3) places where alcoholic beverages are sold and consumed on the premises; and~~

7            ~~(4) places where the vending machine is under the direct supervision of the owner or an employee~~

8            ~~of the establishment. The sale of tobacco products from a vending machine under direct supervision of the~~  
9            ~~owner or an employee of the establishment is considered a sale of tobacco products by that person for~~  
10            ~~purposes of 16-11-305."~~

11

12            **Section 2.** Section 16-11-308, MCA, is amended to read:

13            **"16-11-308. Tobacco education fee.** (1) Failure to obtain a license, as required by 16-11-303, or

14            to post signs, as provided in 16-11-304, is punishable by a civil penalty of \$100. The department may

15            collect the penalty in the manner provided for the collection of other debts.

16            (2) A person who violates 16-11-305(1) or 16-11-307 at any one location within a 3-year period

17            shall be punished as follows:

18            (a) A first through third offense is punishable by a verbal notification of violation.

19            (b) A fourth offense is punishable by a written notice of violation to be sent by the department of

20            public health and human services to the owner of the establishment.

21            (c) A fifth offense is punishable by assessment against the owner of the establishment of a tobacco

22            education fee of \$500. The employee or other person who sold the tobacco product, the establishment

23            manager, and the establishment owner, if the owner is a sole proprietor or partner, shall read and view the

24            tobacco education material.

25            (d) A sixth offense is punishable by suspension of the licenses required by 16-11-120 and

26            16-11-303 for 3 months.

27            (e) A seventh and subsequent offense is punishable by suspension of the licenses required by

28            16-11-120 and 16-11-303 for 1 year.

29            (3) After 2 years from the first violation, if a person has not received notice of any further

30            violations, a second violation is considered a first violation for the purposes of subsection (2).

1                   (4) A license may not be reissued after suspension under subsection (2)(d) or (2)(e) unless tobacco  
2 education fees are paid in full.

3                   (5) Tobacco education fees must be assessed and collected by the department of public health and  
4 human services. Notice of an assessment pursuant to subsection (2) and this subsection must be made  
5 by the department of public health and human services within 30 days of the alleged violation by certified  
6 letter addressed to the establishment owner or manager. The notice of assessment against the owner of  
7 the establishment must provide an opportunity for a hearing ~~at the offices of the department of public~~  
8 ~~health and human services in Helena or by electronic equipment, to be held pursuant to the provisions of~~  
9 ~~the Montana Administrative Procedure Act fair hearing rules of the department of public health and human~~  
10 ~~services. THE HEARING MAY BE CONDUCTED USING ELECTRONIC EQUIPMENT AND MUST COMPLY~~  
11 ~~WITH THE PROVISIONS OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT.~~ Within 30 days from  
12 the date on which the notice of assessment was mailed, the owner or manager shall notify the department  
13 of public health and human services that the owner or manager objects to the assessment and request a  
14 hearing pursuant to this subsection.

15                   (6) In addition to the penalty provided for in subsection (2), a first and subsequent violation of  
16 16-11-305(1) or 16-11-307 is punishable by an assessment of a tobacco education fee of \$25 against the  
17 employee who sold the tobacco product if the employee is not the owner of the establishment. The tobacco  
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1 materials may be used only for the purposes provided in this section. Upon completion of the self-teaching  
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10 licenses pursuant to 16-11-144 and this section. The department of revenue shall review the record of  
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16 to the department of public health and human services to defray the costs of the tobacco education  
17 program. One-half of the money in the account is statutorily appropriated, as provided in 17-7-502, to the  
18 department of revenue to defray the department's costs of implementing its duties pursuant to 16-11-144  
19 and this section."

20

-END-

HOUSE BILL NO. 331

2 INTRODUCED BY SOFT, GROSFIELD, MCGEE, KITZENBERG, GRIMES, BOHLINGER, GILLAN, BAER,  
3 THOMAS, BISHOP, WILSON, BURNETT, HALLIGAN, MILLS, WELLS, TUSS, R. JOHNSON, RYAN, ECK,  
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18 ~~or otherwise.~~

19 (2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of  
20 a driver's license or other generally accepted identification that includes a picture of the individual.

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1 SUPERVISION OF THE OWNER OR AN EMPLOYEE OF THE ESTABLISHMENT; AND  
2 (4) A RESTAURANT IF THE RESTAURANT HAS A BAR AND THE RESTAURANT AREA SHARES  
3 SEATING WITH THE BAR AREA PLACES WHERE ALCOHOLIC BEVERAGES ARE SOLD AND CONSUMED  
4 ON THE PREMISES AND WHERE THE VENDING MACHINE IS UNDER THE DIRECT LINE-OF-SIGHT  
5 SUPERVISION OF THE OWNER OR AN EMPLOYEE OF THE ESTABLISHMENT. THE TOBACCO PRODUCTS  
6 MUST BE IN A VENDING MACHINE THAT CONTAINS ONLY TOBACCO PRODUCTS.

7 (2) TOBACCO PRODUCTS MAY NOT BE SOLD THROUGH A VENDING MACHINE THAT IS  
8 LOCATED IN A RESTAURANT UNLESS THE RESTAURANT HAS A BAR, THE RESTAURANT AREA SHARES  
9 SEATING WITH THE BAR AREA, AND THE VENDING MACHINE MEETS THE REQUIREMENTS OF  
10 SUBSECTION (1)

11 ~~(1) factories, businesses, offices, and other places not open to the general public;~~  
12 ~~(2) places to which individuals under 18 years of age are not permitted access;~~  
13 ~~(3) places where alcoholic beverages are sold and consumed on the premises; and~~  
14 ~~(4) places where the vending machine is under the direct supervision of the owner or an employee~~  
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20 **"16-11-308. Tobacco education fee.** (1) Failure to obtain a license, as required by 16-11-303, or  
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1 tobacco education material.

2 (d) A sixth offense is punishable by suspension of the licenses required by 16-11-120 and  
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 ~~Section 1. Section 16-11-305, MCA, is amended to read:~~

15 ~~"16-11-305. Sale or distribution of tobacco products to persons under 18 years of age prohibited~~  
16 ~~placement for sale of individually packaged tobacco products.~~ (1) A person may not sell or distribute a  
17 tobacco product to an individual under 18 years of age, whether over the counter, by vending machine,  
18 or otherwise.

19 (2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of  
20 a driver's license or other generally accepted identification that includes a picture of the individual.

21 (3) Individual packages of cigarettes and other individually packaged tobacco products must be  
22 placed behind a sales counter and may not be sold or distributed other than in a direct, face to face  
23 exchange between a retail sales clerk and an adult consumer."

24

25 ~~Section 1. Section 16-11-306, MCA, is amended to read:~~

26 ~~"16-11-306. Sales from of tobacco through vending machines prohibited RESTRICTED.~~ (1)  
27 Tobacco products may not be sold through a vending machine only in: ONLY IN:  
28 (1) VENDING MACHINES THAT DO NOT CONTAIN NONTOBACCO PRODUCTS OF ANY KIND;  
29 (2) PLACES WHERE ALCOHOLIC BEVERAGES ARE SOLD AND CONSUMED ON THE PREMISES;  
30 (3) A LOCATION WHERE THE VENDING MACHINE IS UNDER THE DIRECT LINE OF SIGHT

1        **SUPERVISION OF THE OWNER OR AN EMPLOYEE OF THE ESTABLISHMENT; AND**  
2        **(4) A RESTAURANT IF THE RESTAURANT HAS A BAR AND THE RESTAURANT AREA SHARES**  
3        **SEATING WITH THE BAR AREA PLACES WHERE ALCOHOLIC BEVERAGES ARE SOLD AND CONSUMED**  
4        **ON THE PREMISES AND WHERE THE VENDING MACHINE IS UNDER THE DIRECT LINE-OF-SIGHT**  
5        **SUPERVISION OF THE OWNER OR AN EMPLOYEE OF THE ESTABLISHMENT. THE TOBACCO PRODUCTS**  
6        **MUST BE IN A VENDING MACHINE THAT CONTAINS ONLY TOBACCO PRODUCTS.**

7        **(2) TOBACCO PRODUCTS MAY NOT BE SOLD THROUGH A VENDING MACHINE THAT IS**  
8        **LOCATED IN A RESTAURANT UNLESS THE RESTAURANT HAS A BAR, THE RESTAURANT AREA SHARES**  
9        **SEATING WITH THE BAR AREA, AND THE VENDING MACHINE MEETS THE REQUIREMENTS OF**  
10      **SUBSECTION (1).**

11      **(3) THE SALE OF TOBACCO PRODUCTS FROM A VENDING MACHINE UNDER THE DIRECT**  
12      **LINE-OF-SIGHT SUPERVISION OF AN OWNER OR EMPLOYEE IS CONSIDERED A SALE OF TOBACCO**  
13      **PRODUCTS BY THE OWNER OR EMPLOYEE FOR THE PURPOSES OF 16-11-305.**

14      ~~(1) factories, businesses, offices, and other places not open to the general public;~~  
15      ~~(2) places to which individuals under 18 years of age are not permitted access;~~  
16      ~~(3) places where alcoholic beverages are sold and consumed on the premises; and~~  
17      ~~(4) places where the vending machine is under the direct supervision of the owner or an employee~~  
18      ~~of the establishment. The sale of tobacco products from a vending machine under direct supervision of the~~  
19      ~~owner or an employee of the establishment is considered a sale of tobacco products by that person for~~  
20      ~~purposes of 16-11-305."~~

21

22      **Section 2.** Section 16-11-308, MCA, is amended to read:

23      **"16-11-308. Tobacco education fee.** (1) Failure to obtain a license, as required by 16-11-303, or  
24      to post signs, as provided in 16-11-304, is punishable by a civil penalty of \$100. The department may  
25      collect the penalty in the manner provided for the collection of other debts.

26      (2) A person who violates 16-11-305(1) or 16-11-307 at any one location within a 3-year period  
27      shall be punished as follows:

28      (a) A first through third offense is punishable by a verbal notification of violation.  
29      (b) A fourth offense is punishable by a written notice of violation to be sent by the department of  
30      public health and human services to the owner of the establishment.

1 (c) A fifth offense is punishable by assessment against the owner of the establishment of a tobacco  
2 education fee of \$500. The employee or other person who sold the tobacco product, the establishment  
3 manager, and the establishment owner, if the owner is a sole proprietor or partner, shall read and view the  
4 tobacco education material.

(d) A sixth offense is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 3 months.

(3) After 2 years from the first violation, if a person has not received notice of any further violations, a second violation is considered a first violation for the purposes of subsection (2).

11 (4) A license may not be reissued after suspension under subsection (2)(d) or (2)(e) unless tobacco  
12 education fees are paid in full.

25 (6) In addition to the penalty provided for in subsection (2), a first and subsequent violation of  
26 16-11-305(1) or 16-11-307 is punishable by an assessment of a tobacco education fee of \$25 against the  
27 employee who sold the tobacco product if the employee is not the owner of the establishment. The tobacco  
28 education fee must be assessed and collected by the department of public health and human services.  
29 Within 30 days of the alleged violation, notice of assessment pursuant to this subsection must be made  
30 by the department of public health and human services by certified letter addressed to the employee. The

1 notice of assessment must provide an opportunity for a hearing ~~at the offices of the department of public~~  
2 ~~health and human services in Helena or by electronic equipment, to be held pursuant to the provisions of~~  
3 ~~the Montana Administrative Procedure Act fair hearing rules of the department of public health and human~~  
4 ~~services. THE HEARING MAY BE CONDUCTED USING ELECTRONIC EQUIPMENT AND MUST COMPLY~~  
5 ~~WITH THE PROVISIONS OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT.~~ Within 30 days from  
6 the date on which the notice of assessment was mailed, the employee shall notify the department of public  
7 health and human services that the employee objects to the assessment and requests a hearing pursuant  
8 to this subsection.

9 (7) The tobacco education material referred to in this section must be provided by the department  
10 of public health and human services in the form of written and video self-teaching materials. The education  
11 materials may be used only for the purposes provided in this section. Upon completion of the self-teaching  
12 materials, the establishment owner or manager shall execute a written statement on a form provided by  
13 the department of public health and human services verifying that the employee, owner, or manager, as  
14 appropriate, has read and viewed the self-teaching material and shall return the statement and the  
15 self-teaching video to the department of public health and human services.

16 (8) Upon the sixth and subsequent violation of this section, the department of public health and  
17 human services shall notify the department of revenue in writing to initiate suspension of the licenses  
18 required by 16-11-120 and 16-11-303 and shall notify the licensee in writing of the alleged violation and  
19 of the referral of the licensee's record of violations to the department of revenue for suspension of the  
20 licenses pursuant to 16-11-144 and this section. The department of revenue shall review the record of  
21 violations and may initiate license suspension proceedings in accordance with 16-11-144. If, upon a review  
22 of the record of violations, the department of revenue declines to initiate suspension proceedings, the  
23 violation may not be charged against the licensee for the purposes of this section.

24 (9) Fees assessed pursuant to this section must be deposited in an account in the state special  
25 revenue fund. One-half of the money in the account is statutorily appropriated, as provided in 17-7-502,  
26 to the department of public health and human services to defray the costs of the tobacco education  
27 program. One-half of the money in the account is statutorily appropriated, as provided in 17-7-502, to the  
28 department of revenue to defray the department's costs of implementing its duties pursuant to 16-11-144  
29 and this section."

30

-END-

HOUSE BILL NO. 331

2 INTRODUCED BY SOFT, GROSFIELD, MCGEE, KITZENBERG, GRIMES, BOHLINGER, GILLAN, BAER,  
3 THOMAS, BISHOP, WILSON, BURNETT, HALLIGAN, MILLS, WELLS, TUSS, R. JOHNSON, RYAN, ECK,  
4 CAREY, DOWELL, GALVIN, PEASE, KOTTEL, AHNER, EWER, OHS, CLARK, CHRISTIAENS, HARPER

6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE YOUTH ACCESS TO TOBACCO PRODUCTS  
7 CONTROL ACT; RESTRICTING THE ~~PLACEMENT FOR SALE OF INDIVIDUALLY PACKAGED TOBACCO~~  
8 ~~PRODUCTS; PROHIBITING SALE OF TOBACCO PRODUCTS THROUGH VENDING MACHINES; PROVIDING~~  
9 FOR HEARINGS PURSUANT TO CERTAIN RULES; AND AMENDING SECTIONS ~~16-11-305, 16-11-306,~~  
10 ~~AND 16-11-308, MCA."~~

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16 placement for sale of individually packaged tobacco products. (1) A person may not sell or distribute a  
17 tobacco product to an individual under 18 years of age, whether over the counter, by vending machine,  
18 or otherwise.

19 (2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of  
20 a driver's license or other generally accepted identification that includes a picture of the individual.

21        (3) Individual packages of cigarettes and other individually packaged tobacco products must be  
22        placed behind a sales counter and may not be sold or distributed other than in a direct, face-to-face  
23        exchange between a retail sales clerk and an adult consumer."

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3        SEATING WITH THE BAR AREA PLACES WHERE ALCOHOLIC BEVERAGES ARE SOLD AND CONSUMED  
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6        MUST BE IN A VENDING MACHINE THAT CONTAINS ONLY TOBACCO PRODUCTS.

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9        SEATING WITH THE BAR AREA, AND THE VENDING MACHINE MEETS THE REQUIREMENTS OF  
10        SUBSECTION (1).

11        (3) THE SALE OF TOBACCO PRODUCTS FROM A VENDING MACHINE UNDER THE DIRECT  
12        LINE-OF-SIGHT SUPERVISION OF AN OWNER OR EMPLOYEE IS CONSIDERED A SALE OF TOBACCO  
13        PRODUCTS BY THE OWNER OR EMPLOYEE FOR THE PURPOSES OF 16-11-305.

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16        ~~(3) places where alcoholic beverages are sold and consumed on the premises; and~~  
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18        ~~of the establishment. The sale of tobacco products from a vending machine under direct supervision of the~~  
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25        collect the penalty in the manner provided for the collection of other debts.

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27        shall be punished as follows:

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30        public health and human services to the owner of the establishment.

1 (c) A fifth offense is punishable by assessment against the owner of the establishment of a tobacco  
2 education fee of \$500. The employee or other person who sold the tobacco product, the establishment  
3 manager, and the establishment owner, if the owner is a sole proprietor or partner, shall read and view the  
4 tobacco education material.

(d) A sixth offense is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 3 months.

7 (e) A seventh and subsequent offense is punishable by suspension of the licenses required by  
8 16-11-120 and 16-11-303 for 1 year.

9 (3) After 2 years from the first violation, if a person has not received notice of any further  
10 violations, a second violation is considered a first violation for the purposes of subsection (2).

(4) A license may not be reissued after suspension under subsection (2)(d) or (2)(e) unless tobacco education fees are paid in full.

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