

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1058

Introduced by Crawford, 45.

Read first time January 20, 2016

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-1419 and 28-1427, Revised Statutes Cumulative Supplement, 2014;
- 3 to change provisions relating to enforcement of certain tobacco
- 4 restriction provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1419, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 28-1419 (1) Whoever shall sell, give, or furnish, in any way, any
4 tobacco in any form whatever, or any cigars, cigarettes, cigarette paper,
5 vapor products, or alternative nicotine products, to any minor under
6 eighteen years of age, is guilty of a Class III misdemeanor for each
7 offense.

8 (2)(a) In order to further the public policy of deterring licensees
9 or other persons from violating subsection (1) of this section, persons
10 at least fourteen years of age but under eighteen years of age may be
11 authorized to assist peace officers or private contractors hired as part
12 of a licensee-organized, self-compliance check in determining compliance
13 with such subsection. Persons under eighteen years of age may be so
14 authorized if:

15 (i) The person is an employee, a volunteer, or an intern with:

16 (A) A state or local law enforcement agency;

17 (B) The Department of Health and Human Services or a tobacco
18 prevention coalition that receives grant funding under section 71-5714;

19 (C) The United States Food and Drug Administration; or

20 (D) A licensee;

21 (ii) The person is acting within the scope of his or her assigned
22 duties as part of an authorized law enforcement investigation, a
23 compliance check under subdivision (2)(b) of this section, or a licensee-
24 organized self-compliance check; and

25 (iii) The person does not use or consume a tobacco product.

26 (b)(i) This subdivision applies only to compliance checks conducted
27 by a private contractor for the purpose of conducting licensee education
28 or assessing compliance with federal or state law. Compliance checks
29 shall be conducted, at a minimum, as follows:

30 (A) Compliance checks shall only be conducted in consultation with
31 the law enforcement agency providing primary police services to the

1 political subdivision in which the compliance check is being conducted;

2 (B) No person under eighteen years of age shall be authorized to
3 participate or assist peace officers in such compliance checks without
4 the written consent of his or her parents or legal guardian; and

5 (C) A licensee that does not violate subsection (1) of this section
6 during a compliance check shall be notified in writing of the compliance
7 check and the outcome of the compliance check.

8 (ii) A private contractor shall conduct a compliance check under
9 this subdivision no more than once every thirty days at any one licensee
10 location. This subdivision shall not preclude any law enforcement agency
11 from otherwise enforcing subsection (1) of this section.

12 (c) Any person under the age of eighteen years acting in accordance
13 with and under the authority of this subsection shall not be in violation
14 of section 28-1427.

15 Sec. 2. Section 28-1427, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 28-1427 Except as provided in subsection (2) of section 28-1419,
18 any Any person under the age of eighteen years who shall obtain cigars,
19 tobacco, cigarettes, cigarette material, vapor products, or alternative
20 nicotine products from a licensee by representing that he or she is of
21 the age of eighteen years or over is guilty of a Class V misdemeanor.

22 Sec. 3. Original sections 28-1419 and 28-1427, Revised Statutes
23 Cumulative Supplement, 2014, are repealed.