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ASSEMBLY BILL NO. 25—ASSEMBLYMAN CARPENTER

PREFILED JANUARY 17, 2001

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Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning minor who falsely represents his age to purchase tobacco products. (BDR 5-60)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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AN ACT relating to tobacco; providing that a minor who falsely represents his age to purchase tobacco products is in need of supervision; authorizing a merchant to detain such a minor for the purpose of informing a peace officer; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     **Section 1.** Chapter 62 of NRS is hereby amended by adding thereto  
2 the provisions set forth as sections 2 and 3 of this act.

3     **Sec. 2. 1. *A child under the age of 18 years shall not falsely***  
4 ***represent that he is 18 years of age or older to purchase or obtain***  
5 ***cigarettes, cigarette paper, tobacco of any description or products made***  
6 ***from tobacco.***

7     **2. *A child who is found to have engaged in an act that is prohibited***  
8 ***by subsection 1 must be treated in the manner set forth in NRS 62.212***  
9 ***and, in addition to any other action ordered pursuant to NRS 62.212,***  
10 ***may be ordered to pay a fine of not more than \$100.***

11     **Sec. 3. 1. *A merchant who has reason to believe that a child has***  
12 ***falsely represented his age in violation of section 2 of this act on the***  
13 ***premises of the merchant may take the child into custody and detain him,***  
14 ***on the premises, in a reasonable manner and for a reasonable length of***  
15 ***time, for the purpose of informing a peace officer of the circumstances of***  
16 ***such detention. Except as otherwise provided in subsection 2, such a***  
17 ***taking into custody and detention by a merchant does not render the***  
18 ***merchant criminally or civilly liable for false arrest, false imprisonment,***

1 *slander or unlawful detention unless the taking into custody and*  
2 *detention are unreasonable under all the circumstances.*

3 2. *A merchant is entitled to the immunity from liability provided for*  
4 *in this section only if there is displayed in a conspicuous place on his*  
5 *premises a notice in boldface type which is clearly legible and in*  
6 *substantially the following form:*

7  
8 *A merchant or his agent who has reason to believe that a child*  
9 *under the age of 18 years has falsely represented that he is 18 years*  
10 *of age or older to purchase or obtain cigarettes, cigarette paper,*  
11 *tobacco of any description or products made from tobacco may*  
12 *detain the child on the premises of the merchant for the purpose of*  
13 *notifying a peace officer. Section 3 of this act.*

14  
15 3. *The notice set forth in subsection 2 must be prepared and copies*  
16 *thereof supplied on demand by the superintendent of the state printing*  
17 *division of the department of administration. The superintendent may*  
18 *charge a fee based on the cost for each copy of the notice supplied to a*  
19 *person.*

20 4. *As used in this section:*

21 (a) *"Merchant" means an owner or operator, and the agent,*  
22 *consignee, employee, lessee, or officer of an owner or operator, of any*  
23 *premises of a merchant.*

24 (b) *"Premises" means any establishment or part thereof wherein*  
25 *cigarettes, cigarette paper, tobacco of any description or products made*  
26 *from tobacco are displayed, held or offered for sale.*

27 **Sec. 4.** NRS 62.040 is hereby amended to read as follows:

28 62.040 1. Except if the child involved is subject to the exclusive  
29 jurisdiction of an Indian tribe, and except as otherwise provided in this  
30 chapter, the court has exclusive original jurisdiction in proceedings:

31 (a) Concerning any child living or found within the county who is in  
32 need of supervision because he:

33 (1) Is a child who is subject to compulsory school attendance and is a  
34 habitual truant from school;

35 (2) *Engages in an act described in subsection 1 of section 2 of this*  
36 *act;*

37 (3) Habitually disobeys the reasonable and lawful demands of his  
38 parents, guardian or other custodian, and is unmanageable; or

39 ~~[(3)]~~ (4) Deserts, abandons or runs away from his home or usual  
40 place of abode,  
41 and is in need of care or rehabilitation. The child must not be considered a  
42 delinquent.

43 (b) Concerning any child living or found within the county who has  
44 committed a delinquent act. A child commits a delinquent act if he violates  
45 a county or municipal ordinance or any rule or regulation having the force  
46 of law, or he commits an act designated a crime under the law of the State  
47 of Nevada.

48 (c) Concerning any child in need of commitment to an institution for the  
49 mentally retarded.

2. For the purposes of subsection 1, each of the following acts shall be deemed not to be a delinquent act, and the court does not have jurisdiction of a person who is charged with committing such an act:

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense.

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(d) A felony resulting in death or substantial bodily harm to the victim and any other related offense arising out of the same facts as the felony, regardless of the nature of the related offense, if:

(1) The felony was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties; and

(2) The person intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person.

(e) Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

3. If a child is charged with a minor traffic offense, the court may transfer the case and record to a justice's or municipal court if the judge determines that it is in the best interest of the child. If a case is so transferred:

(a) The restrictions set forth in subsection 6 of NRS 62.170 are applicable in those proceedings; and

(b) The child must be accompanied at all proceedings by a parent or legal guardian.

With the consent of the judge of the juvenile division, the case may be transferred back to the juvenile court.

1       4. As used in this section, “school bus” has the meaning ascribed to it  
2 in NRS 483.160.

3       **Sec. 5.** The amendatory provisions of this act do not apply to a false  
4 representation made by a child who is under 18 years of age to purchase or  
5 obtain cigarettes, cigarette paper, tobacco of any description or products  
6 made from tobacco that occurred before October 1, 2001.

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