

CHAPTER 175

AN ACT concerning county identification cards, amending P.L.2000, c.87, P.L.1987, c.228, R.S.33:1-77, and P.L.1968, c.313 and repealing sections 2 through 5 of P.L.1968, c.313.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.2000, c.87 (C.2A:170-51.4) is amended to read as follows:

C.2A:170-51.4 Sale, distribution of tobacco to persons underage 18, prohibited; civil penalties.

1. a. No person, either directly or indirectly by an agent or employee, or by a vending machine owned by the person or located in the person's establishment, shall sell, offer for sale, distribute for commercial purpose at no cost or minimal cost or with coupons or rebate offers, give or furnish, to a person under 18 years of age, any cigarettes made of tobacco or of any other matter or substance which can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco.

b. The establishment of all of the following shall constitute a defense to any prosecution brought pursuant to subsection a. of this section:

(1) that the purchaser of the tobacco product or the recipient of the promotional sample falsely represented, by producing either a driver's license or non-driver identification card issued by the New Jersey Motor Vehicle Commission in the Department of Transportation, or a similar card issued pursuant to the laws of another state or the federal government of Canada, that the purchaser or recipient was of legal age to make the purchase or receive the sample;

(2) that the appearance of the purchaser of the tobacco product or the recipient of the promotional sample was such that an ordinary prudent person would believe the purchaser or recipient to be of legal age to make the purchase or receive the sample; and

(3) that the sale or distribution of the tobacco product was made in good faith, relying upon the production of the identification set forth in paragraph (1) of this subsection, the appearance of the purchaser or recipient, and in the reasonable belief that the purchaser or recipient was of legal age to make the purchase or receive the sample.

c. A person who violates the provisions of subsection a. of this section shall be liable to a civil penalty of not less than \$250 for the first violation, not less than \$500 for the second violation, and \$1,000 for the third and each subsequent violation. The civil penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. An official authorized by statute or ordinance to enforce the State or local health codes or a law enforcement officer having enforcement authority in that municipality may issue a summons for a violation of the provisions of subsection a. of this section, and may serve and execute all process with respect to the enforcement of this section consistent with the Rules of Court. A penalty recovered under the provisions of this subsection shall be recovered by and in the name of the State by the local health agency. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

d. In addition to the provisions of subsection c. of this section, upon the recommendation of the municipality, following a hearing by the municipality, the Division of Taxation in the Department of the Treasury may suspend or, after a second or subsequent violation of the provisions of subsection a. of this section, revoke the license issued under section 202 of P.L.1948, c. 65 (C.54:40A-4) of a retail dealer. The licensee shall be subject to administrative charges, based on a schedule issued by the Director of the Division of Taxation, which may provide for a monetary penalty in lieu of a suspension.

e. A penalty imposed pursuant to this section shall be in addition to any penalty that may be imposed pursuant to section 3 of P.L.1999, c. 90 (C.2C:33-13.1).

2. Section 4 of P.L.1987, c.228 (C.2C:39-9.1) is amended to read as follows:

C.2C:39-9.1 Sale of knives to minors; crime of the fourth degree; exceptions.

4. A person who sells any hunting, fishing, combat or survival knife having a blade length of five inches or more or an overall length of 10 inches or more to a person under 18 years of age commits a crime of the fourth degree; except that the establishment by a preponderance of the evidence of all of the following facts by a person making the sale shall constitute an

affirmative defense to any prosecution therefor: a. that the purchaser falsely represented his age by producing a driver's license bearing a photograph of the licensee, or by producing a photographic identification card issued pursuant to section 2 of P.L.1980, c. 47 (C.39:3-29.3), or by producing a similar card purporting to be a valid identification card indicating that he was 18 years of age or older, and b. that the appearance of the purchaser was such that an ordinary prudent person would believe him to be 18 years of age or older, and c. that the sale was made in good faith relying upon the indicators of age listed in a. and b. above.

3. R.S.33:1-77 is amended to read as follows:

Defenses of sellers.

33:1-77. Anyone who sells any alcoholic beverage to a person under the legal age for purchasing alcoholic beverages is a disorderly person; provided, however, that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the purchaser falsely represented in writing, or by producing a driver's license bearing a photograph of the licensee, or by producing a photographic identification card issued pursuant to section 2 of P.L.1980, c. 47 (C.39:3-29.3), or a similar card issued pursuant to the laws of this State, another state or the federal government that he or she was of legal age to make the purchase, (b) that the appearance of the purchaser was such that an ordinary prudent person would believe him or her to be of legal age to make the purchase, and (c) that the sale was made in good faith relying upon such written representation, or production of a driver's license bearing a photograph of the licensee, or production of a photographic identification card issued pursuant to section 2 of P.L.1980, c. 47 (C.39:3-29.3), or a similar card issued pursuant to the laws of this State, another state or the federal government and appearance and in the reasonable belief that the purchaser was actually of legal age to make the purchase.

4. Section 1 of P.L.1968, c.313 (C.33:1-81.2) is amended to read as follows:

C.33:1-81.2 Identification card; contents.

1. The county clerk in any county shall before the effective date of P.L.2003, c.175 issue, upon application of any resident of that county who shall have attained the age of 21 years, and who shall have supplied the clerk with the necessary information required by rules and regulations made by the Director of Alcoholic Beverage Control, an identification card bearing the applicant's date of birth, physical description, photograph, signature, and such other information, as said regulation may require, attesting to the age of the applicant. The identification card shall be signed by the applicant in the clerk's presence. Such cards shall be numbered and a permanent record thereof maintained by the clerk. No further cards shall be issued on or after the effective date of P.L.2003, c.175 and cards issued prior to that date shall have no validity on or after the effective date of P.L.2003, c.175; provided however, that the county clerk shall continue to maintain the permanent record of each card previously issued pursuant to the authority of this section.

Repealer.

5. Sections 2 through 5 of P.L.1968, c.313 (C.33:1-81.3 through 33:1-81.6) are hereby repealed.

6. This act shall take effect immediately.

Approved September 10, 2003.