

ASSEMBLY BILL

No. 1830

Introduced by Assembly Members Frommer and Thomson

January 22, 2002

An act to add Section 22963 to the Business and Professions Code, relating to tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

AB 1830, as introduced, Frommer. Tobacco products: sales to minors.

Existing law creates the Stop Tobacco Access to Kids Enforcement (STAKE) Act. The STAKE Act is designed to reduce the availability of tobacco products to minors through specified sales restrictions and enforcement activities. Existing law authorizes the State Department of Health Services to assess civil penalties against any person, firm, or corporation that furnishes a tobacco product to a minor.

This bill would prohibit any person from distributing or selling tobacco products via the United States Postal Service, or any other public or private postal or package delivery service, to any purchaser who is a minor. This bill would require a specified distributor or seller, among other things, to verify that a purchaser of tobacco products is 18 years of age or older.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22963 is added to the Business and
- 2 Professions Code, to read:

1 22963. (a) The distribution or sale of tobacco products
2 directly to any person under the age of 18 years through the United
3 States Postal Service or through any other public or private postal
4 or package delivery service is prohibited.

5 (b) Any person selling or distributing tobacco products directly
6 to a consumer in the state through the United States Postal Service
7 or by any other public or private postal or package delivery
8 service, including orders placed by mail, telephone, facsimile
9 transmission, or the Internet, shall comply with the following
10 provisions:

11 (1) (A) Before distributing or selling the tobacco product
12 through any of these means, the distributor or seller shall verify
13 that the purchaser is 18 years of age or older. The distributor or
14 seller shall attempt to match the name, address, and date of birth
15 provided by the customer to information contained in records in
16 a data base of individuals whose age has been verified to be 18
17 years or older. An appropriate data base may include information
18 based on public records kept by the distributor, a direct marketing
19 firm, or any other entity.

20 (B) If the distributor or seller is unable to verify that the
21 purchaser is 18 years of age or older pursuant to subparagraph (A),
22 he or she shall require the customer to submit an age-verification
23 kit consisting of an attestation signed by the customer that he or she
24 is 18 years of age or older and a copy of a valid form of government
25 identification. For the purposes of this section, a valid form of
26 government identification includes a driver's license, state
27 identification card, passport, or military identification.

28 (2) The distributor or seller shall impose a two-carton
29 minimum on each order of cigarettes or cigars, and shall require
30 payment for the purchase of any tobacco product to be made by
31 personal check of the purchaser or the purchaser's credit card. No
32 money order or cash payment shall be received or permitted.

33 (3) The distributor or seller shall deliver the tobacco product to
34 the address of the purchaser shown on the check or the billing
35 address for the credit card used for payment, or to the address
36 displayed on the valid form of government identification provided
37 by the purchaser. The distributor or seller shall deliver the tobacco
38 product by a postal or package delivery service method that either
39 limits delivery to the purchaser and requires the purchaser to sign
40 personally to receive the delivery or requires the signature of an



1 adult at the purchaser's address in order to deliver the package. No
2 delivery described under this section shall be permitted to any post
3 office box.

4 (c) For the purposes of the enforcement of this section pursuant
5 to Section 22958, the acts of the United States Postal Service or
6 other common carrier when engaged in the business of
7 transporting and delivering packages for others, and the acts of a
8 person, whether compensated or not, who transports or delivers a
9 package for another person without any reason to know of the
10 package's contents, are not unlawful and are not subject to civil
11 penalties.

