

LEGISLATIVE BILL 48

Approved by the Governor March 6, 1989

Introduced by Dierks, 40; Chambers, 11; Nelson, 35;
Schellpeper, 18; Hefner, 19; Lamb, 43;
Crosby, 29; Hartnett, 45

AN ACT relating to smokeless tobacco products; to state intent; to define terms; to prohibit promotional distribution; to provide for an injunction; and to provide civil penalties.
Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature hereby finds that the state prohibits the use of smokeless tobacco products by minors and the furnishing of smokeless tobacco products to minors and that the enforcement of an age-related restriction on the promotional distribution of smokeless tobacco products is impractical and ineffective. It is the intent of the Legislature to control the distribution of these products and discourage illegal activity by prohibiting all promotional distribution.

Sec. 2. For purposes of sections 1 to 4 of this act:

(1) Distribute shall mean to give smokeless tobacco products to the general public at no cost or at nominal cost or to give coupons or rebate offers with the products; and

(2) Smokeless tobacco product shall mean (a) loose tobacco or a flat compressed cake of tobacco that may be chewed or held in the mouth or (b) a small amount of shredded, powdered, or pulverized tobacco that may be inhaled through the nostrils, chewed, or held in the mouth.

Sec. 3. (1) Manufacturers, wholesalers, or retailers, or their representatives, of smokeless tobacco products shall not distribute for promotional purposes.

(2) Evidence of distribution of smokeless tobacco products to the general public shall be prima facie evidence of distribution for promotional purposes.

Sec. 4. (1) The Attorney General shall apply for an injunction in the district court in the county in which any violation of section 3 of this act occurs to enjoin the defendant from engaging in any practice which violates such section. Notice shall be given by

certified mail to the defendant at least five days prior to the hearing on such injunction.

(2) The Attorney General may bring a civil action against any person violating section 3 of this act. A civil penalty shall be imposed on such person in an amount of five hundred dollars for the first offense and in an amount of not less than six hundred dollars nor more than three thousand dollars for a second or subsequent offense. Each distribution of a single package to an individual member of the general public shall be considered a separate violation under section 3 of this act.