

SENATE BILL NO. 336  
INTRODUCED BY G. LIND

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE SALE OF TOBACCO PRODUCTS COMMONLY REFERRED TO AS "BIDIS" AND TOBACCO PRODUCTS COMMONLY REFERRED TO AS "FLAVORED CIGARETTES OR CIGARS" OR "FLAVORED TOBACCO PRODUCTS"; PROVIDING PENALTIES FOR THE SALE OF BIDIS, FLAVORED CIGARETTES OR CIGARS, OR FLAVORED TOBACCO PRODUCTS AND PENALTIES FOR THEIR PURCHASE BY PERSONS UNDER 18 YEARS OF AGE; AND AMENDING SECTION 45-5-637, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 and 2] and 45-5-637, the following definitions apply:

(1) "Bidis" means a product containing tobacco that is wrapped in temburni leaf, also known as "Diospyros melanoxylon", or tendu leaf, also known as "Diospyros exculpra", or any other product offered to consumers as bidis or beedies.

(2) (a) "Flavored cigarette or cigar" means any cigarette or cigar or component of a cigarette or cigar, including but not limited to tobacco, paper, roll, or filter, that contains a natural or artificial constituent or additive that causes the cigarette or cigar or its smoke to have a characterizing flavor other than tobacco or menthol, and the characterizing flavor includes but is not limited to candy or fruit flavors.

(b) For the purposes of this subsection (2), candy flavors include the flavors of confections made from sugar or sugar substitute and the brand names of any of those confections and also include chocolate, cocoa, mocha, vanilla, honey, maple, cinnamon, licorice, and mint flavors.

(3) (a) "Flavored tobacco product" means smokeless or chewing tobacco and loose tobacco that contains a natural or artificial constituent or additive that causes the tobacco to have a characterizing flavor other than tobacco or menthol, and the characterizing flavor includes but is not limited to candy or fruit flavors.

(b) For the purposes of this subsection (3), candy flavors include the flavors of confections made from sugar or sugar substitute and the brand names of any of those confections and also include chocolate, cocoa, mocha, vanilla, honey, maple, cinnamon, and licorice flavors.

**NEW SECTION. Section 2. Sale of bidis, flavored cigarettes or cigars, or flavored tobacco products prohibited -- penalty.** (1) It is unlawful for a person to sell bidis, flavored cigarettes or cigars, or flavored tobacco products.

(2) (a) A person who sells bidis, flavored cigarettes or cigars, or flavored tobacco products is subject to a fine of up to \$500 for each sale.

(b) A person under 18 years of age who purchases bidis, flavored cigarettes or cigars, or flavored tobacco products is subject to the provisions of 45-5-637.

(3) Fines assessed pursuant to this section must be deposited in the state general fund.

**Section 3.** Section 45-5-637, MCA, is amended to read:

**"45-5-637. Tobacco possession or consumption by persons under 18 years of age prohibited -- unlawful attempt to purchase -- penalties.** (1) A person under 18 years of age who knowingly possesses or consumes a tobacco product, as defined in 16-11-302 or listed in [section 2], commits the offense of possession or consumption of a tobacco product.

(2) A person convicted of possession or consumption of a tobacco product:

(a) shall be fined \$50 for a first offense, ~~no~~ not less than \$75 or more than \$100 for a second offense, and ~~no~~ not less than \$100 or more than \$250 for a third or subsequent offense; or

(b) may be adjudicated on a petition alleging the person to be a youth in need of intervention under the provisions of the Montana Youth Court Act provided for in Title 41, chapter 5.

(3) A person convicted of possession or consumption of a tobacco product may also be required to perform community service or to attend a tobacco cessation program.

(4) A person under 18 years of age commits the offense of attempt to purchase a tobacco product if the person knowingly attempts to purchase a tobacco product, as defined in 16-11-302 or listed in [section 2]. A person convicted of attempt to purchase a tobacco product:

(a) for a first offense, shall be fined \$50 and may be ordered to perform community service;

(b) for a second or subsequent offense, shall be fined an amount not to exceed \$100 and may be ordered to perform community service.

(5) The fines collected under subsections (2) and (4) must be deposited to the credit of the general fund of the local government that employs the arresting officer, or if the arresting officer is an officer of the highway patrol, the fines must be credited to the county general fund in the county in which the arrest was made."

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 16, chapter 11, and the provisions of Title 16, chapter 11, apply to [sections 1 and 2].

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