

ORDINANCE NO. __

AN ORDINANCE TO AMEND SECTION 14-39 OF THE GILLETTE CITY CODE TO PROVIDE THAT ELECTRONIC CIGARETTES MAY NOT BE SOLD, GIVEN OR DELIVERED TO OR POSSESSED OR USED BY MINORS UNDER THE AGE OF 18 WHETHER OR NOT THEY CONTAIN ANY PRODUCT MADE OR DERIVED FROM TOBACCO THAT CONTAINS NICOTINE

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GILLETTE, WYOMING:

SECTION ONE. Section 14-39 of the Gillette City Code is amended to read as follows

§14-39 Smoking Regulations Concerning People Below the Age of 18.

A. Legislative Finding and declaration.

- (1) The City of Gillette expressly finds and declares that:
 - (a) Cigarette smoking is dangerous to human health;
 - (b) There exists substantial scientific evidence that the use of tobacco products causes cancer, heart disease and other medical disorders;
 - (c) The Surgeon General of the United States has declared that nicotine addiction from tobacco is similar to addiction to cocaine, and is the most widespread example of drug dependence in this country;
 - (d) The Director of the National Institute on Drug Abuse concluded that the majority of the three hundred twenty thousand (320,000) Americans who die each year from cigarette smoking became addicted to nicotine as adolescents before the age of legal consent;
 - (e) The National Institute on Drug Abuse found that cigarette smoking precedes and may be predictive of adolescent illicit drug use; and,
 - (f) The present legislative scheme has proven ineffective in preventing persons under the age of eighteen (18) from using tobacco products.
- (2) The enactment of this Ordinance directly pertains to and is in furtherance of the health, welfare and safety of the residents of the City of Gillette, particularly those residents under eighteen (18) years of age. (Ord. No. 1801 08/19/91)

B. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:

"tobacco products" means any substance containing tobacco leaf, or any product made or derived from tobacco that contains nicotine, including, but not limited to, cigarettes, electronic cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

"vending machine" means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses ~~tobacco products~~ tobacco products or electronic cigarettes.

"Electronic cigarette" means a product that employs any mechanical heating element, battery or electronic circuit, regardless of shape or size, that can be used to deliver doses of nicotine vapor by means of heating a liquid nicotine solution contained in a cartridge or other delivery system. (Ord. No. 1801 08/19/91; Ord. 3815, 3-3-2014)

C Prohibited sales, or delivery

(1) No person shall sell, offer for sale, give away or deliver ~~tobacco products~~ tobacco products or electronic cigarettes to any person under the age of eighteen (18) years .

(2) It is a defense to a prosecution under subsection (1) of this section if:

(a) In the case of a sale, the person who sold the tobacco product was presented with, and reasonably relied upon, an identification card which identified the person buying or receiving the tobacco product as being over eighteen (18) years of age. (Ord. No. 1801, 08/19/91; Ord. 3815, 3-3-2014)

D. Posted notice required; location of vending machines.

(1) Any person who sells tobacco products shall post signs informing the public of the age restrictions provided for herein, at or near every display of ~~tobacco products~~ tobacco products or electronic cigarettes and on or upon every vending machine which offers ~~tobacco products~~ tobacco products or electronic cigarettes for sale. Each such sign shall be plainly visible and shall state:

"THE SALE OF ~~TOBACCO PRODUCT~~TOBACCO PRODUCTS OR ELECTRONIC CIGARETTES TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW."

The text of such signs shall be in red letters on a white background, said letters to be at least one inch (1") high.

(2) No person shall sell or offer ~~tobacco product~~tobacco products or electronic cigarettes for sale by use of a vending machine unless the vending machine is located in a business premises where alcoholic or malt beverages are sold or dispensed and where entry by persons under eighteen (18) years is prohibited, or where access by persons under the age of eighteen (18) years is prohibited by law, or businesses, factories, offices or other places not open to the general public.

E. Purchase by minors prohibited.

No person under the age of eighteen (18) years may purchase ~~tobacco product~~tobacco products or electronic cigarettes, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing ~~tobacco product~~tobacco products or electronic cigarettes.

F. Possession or use by minors prohibited.

1. It is unlawful for any person under the age of eighteen (18) years to possess or use any ~~tobacco product~~tobacco products or electronic cigarettes. ~~provided that the possession or use by a person under the age of eighteen (18) years under the direct supervision of the parent or guardian of such person or in the privacy of the parent's or guardian's home shall not be prohibited.~~

G. Fines and Costs.

(1) Any violation of any part of this ordinance, § 14-39, G.C.C., shall be a misdemeanor punishable by a fine, to which may be added court costs, as follows:

(a) For a violation of § 14-39 E, upon conviction, a person shall receive a fine of not to exceed \$25.00.

(b) For a violation of § 14-39 F, upon conviction, a person shall receive a fine of not to exceed \$25.00.

(c) For a violation of § 14-39 C or D, upon conviction, a person shall receive a fine of not to exceed \$50.00.

(d) Each violator shall be required to complete an educational course as designated by the City Judge.

(e) For a first conviction of a violation of either section 14-39 E or F, the fine and costs shall be suspended upon the completion of community service approved by the Municipal Judge, at the rate of one hour of community service for each \$5 of fine plus costs.

(f) For a second or subsequent conviction of a violation of either section 14-39 E or F, a person shall receive a fine of between \$25 and \$200, all or part of which may be suspended upon the completion of a tobacco program approved by the Municipal Judge and/or community service approved by the Municipal Judge, at the rate of one hour of community service for each \$5 of fine plus costs. (Ord. 2084, 1-6-97)

(2) Each day or part thereof on which a violation continues shall constitute a separate violation.

(3) Any excess of fines over the cost of enforcement, as determined by the City Court, shall be placed in an account for the support of the DARE program. (Ord. No. 1764 07/16/90; Ord. No. 1801 08/19/91)

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2014.

John Opseth, Mayor

(S E A L)
ATTEST:

Karlene Abelseth, City Clerk
Published: