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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINAL OFFENSES - CHILDREN - TAXATION - CIGARETTE TAX

Introduced By: Representatives Melo, McNamara, Corvese, Gallison, and Johnston

Date Introduced: March 13, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-9-13, 11-9-13.4, 11-9-13.5, 11-9-13.6, 11-9-13.7, 11-9-13.8,
2 11-9-13.10, 11-9-13.11, 11-9-13.13 and 11-9-13.15 of the General Laws in Chapter 11-9 entitled
3 "Children" are hereby amended to read as follows:
4 **~~11-9-13. Purchase, sale or delivery of tobacco products to persons under eighteen --~~**
5 **~~Posting notice of law~~ Purchase, sale or delivery of tobacco products, tobacco-derived**
6 **~~products and vapor products to persons under eighteen -- Posting notice of law. --~~ (a) No**
7 **~~person under eighteen (18) years of age shall purchase, nor shall any person sell, give or deliver~~**
8 **~~to any person under eighteen (18) years of age, any tobacco in the form of cigarettes, bidi~~**
9 **~~cigarettes, cigars, little cigars, flavored cigars known as "blunts" unflavored "blunts", flavored~~**
10 **~~and unflavored blunt wraps, cigarette rolling papers of any size or composition, cigarillos, and~~**
11 **~~tiparillos, pipe tobacco, chewing tobacco, or snuff. Any person, firm, or corporation that owns,~~**
12 **~~manages, or operates a place of business in which tobacco products are sold, including sales~~**
13 **~~through cigarette vending machines, shall post notice of this law conspicuously in the place of~~**
14 **~~business in letters at least three eighths of an inch (3/8") high~~ or attempt to purchase; possess or**
15 **~~attempt to possess; use or attempt to use any tobacco in the form of cigarettes, bidi cigarettes,~~**
16 **~~cigars, little cigars, flavored cigars know as "blunts," unflavored "blunts," flavored and~~**
17 **~~unflavored blunt wraps, cigarette rolling papers of any size or composition, cigarillos, and~~**
18 **~~tiparillos, pipe tobacco, chewing tobacco, or snuff; tobacco-derived products or vapor products.~~**
19 **~~Any person violating this subsection shall be required to perform up to thirty (30) hours of~~**

1 [community service or shall be required to enter into a tobacco treatment program approved by](#)
2 [any local substance abuse prevention task force, at the option of the minor charged with a](#)
3 [violation of this subsection.](#)

4 [\(b\) No person shall sell, give or deliver to any person under eighteen \(18\) years of age,](#)
5 [any tobacco in the form of cigarettes, bidi cigarettes, cigars, little cigars, flavored cigars known as](#)
6 ["blunts," unflavored "blunts," flavored and unflavored blunt wraps, cigarette rolling papers of any](#)
7 [size or composition, cigarillos, and tiparillos, pipe tobacco, chewing tobacco, or snuff; tobacco-](#)
8 [derived products or vapor products.](#)

9 [\(c\) Any person, firm, or corporation that owns, manages or operates a place of business in](#)
10 [which tobacco products, tobacco-derived products or vapor products are sold, including sales](#)
11 [through cigarette vending machines, shall post notice of this law conspicuously in the place of](#)
12 [business in letters at least three-eighths of an inch \(3/8"\) high.](#)

13 **11-9-13.4. Definitions.** -- As used in this chapter:

14 (1) "Bidi cigarette" means any product that (i) contains tobacco that is wrapped in
15 temburni or tender leaf or that is wrapped in any other material identified by rules of the
16 Department of Health that is similar in appearance or characteristics to the temburni or tender leaf
17 and (ii) does not contain a smoke filtering device.

18 (2) "Court" means any appropriate district court of the state of Rhode Island.

19 (3) "Dealer" is synonymous with the term "retail tobacco products dealer".

20 (4) "Department of mental health, retardation and hospitals" means the state of Rhode
21 Island mental health, retardation and hospitals department, its employees, agents or assigns.

22 (5) "Department of taxation" means the state of Rhode Island taxation division, its
23 employees, agents, or assigns.

24 (6) "License" is synonymous with the term "retail tobacco products dealer license."

25 (7) "License holder" is synonymous with the term "retail tobacco products dealer."

26 (8) "Person" means any individual person, firm, association, or corporation licensed as a
27 retail dealer to sell tobacco products, [tobacco-derived products or vapor products](#) within the state.

28 (9) "Retail tobacco products dealer" means the holder of a license to sell tobacco
29 products, [tobacco-derived products or vapor products](#) at retail.

30 (10) "Retail tobacco products dealer license" means a license to sell tobacco products,
31 [tobacco-derived products or vapor products](#) at retail as issued by the department of taxation.

32 (11) "Spitting tobacco" also means snuff, powdered tobacco, chewing tobacco, dipping
33 tobacco, pouch tobacco or smokeless tobacco.

34 (12) "Tobacco product(s)" means any product containing tobacco, including bidi

1 cigarettes, as defined in subdivision (1) of this section, which can be used for, but whose use is
2 not limited to, smoking, sniffing, chewing or spitting of the product, but does not include any
3 tobacco-derived products or vapor products.

4 (13) "Underage individual" or "underage individuals" means any child under the age of
5 eighteen (18) years of age.

6 (14) "Little cigars" means and includes any roll, made wholly or in part of tobacco,
7 irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or
8 mixed with any other ingredient, where such roll has a wrapper or cover made of tobacco
9 wrapped in leaf tobacco or any substance containing tobacco paper or any other material, except
10 where such wrapper is wholly or in greater part made of tobacco and such roll weighs over three
11 (3) pounds per thousand (1,000).

12 (15) "Tobacco-derived product" means any non-combustible product derived from
13 tobacco that contains nicotine and is intended for human consumption, whether chewed,
14 absorbed, dissolved or ingested by any other means, but does not include a vapor product or any
15 product regulated by the United States food and drug administration under chapter V of the food,
16 drug and cosmetic act.

17 (16) "Vapor product" means any non-combustible tobacco-derived product containing
18 nicotine, such as an electronic cigarette, that employs a mechanical heating element, battery or
19 electronic circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution
20 contained in a vapor cartridge as well as any vapor cartridge containing liquid nicotine solution
21 that can be used with or in a vapor product. "Vapor product" does not include any product
22 regulated by the United States food and drug administration under chapter V of the food, drug
23 and cosmetic act.

24 **11-9-13.5. Responsibility for tobacco or health issues.** -- The Rhode Island department
25 of mental health, retardation and hospitals shall develop, monitor and aggressively enforce health
26 rules and regulations pertaining to stopping the illegal sale of tobacco products, tobacco-derived
27 products or vapor products to children.

28 **11-9-13.6. Duties of the department of mental health, retardation and hospitals.** --

29 The department of mental health, retardation and hospitals shall:

30 (1) Coordinate and promote the enforcement of the provisions of this chapter and serve
31 as the primary liaison from this department to other state or local agencies, departments, or
32 divisions on issues pertaining to stopping children's access to tobacco, tobacco-derived products
33 or vapor products.

34 (2) Provide retail tobacco products dealers signs concerning the prohibition of sales to

1 children under eighteen (18) years of age. The signs, conforming to the requirements of this
2 chapter, shall be sold at cost. This sign, or an exact duplicate of it made privately, shall be
3 displayed in all locations where tobacco products, [tobacco-derived products or vapor products](#) are
4 sold.

5 (3) Investigate concurrently with other state and local officials violations of this chapter.

6 (4) (i) Utilize unannounced statewide compliance checks of tobacco product, [tobacco-](#)
7 [derived products or vapor product](#) sales including retail tobacco, [tobacco-derived products or](#)
8 [vapor product](#) over-the-counter sales, mail order sales initiated via mail, facsimile, telephone or
9 internet ordering or other types of electronic communications, and tobacco vending machine sales
10 as part of investigating compliance with the provisions of this chapter. Underage individuals,
11 acting as agents for the department of mental health, retardation and hospitals and with the
12 written permission of a parent or guardian, may purchase, with impunity from prosecution,
13 tobacco products, [tobacco-derived products or vapor products](#) for the purposes of law
14 enforcement or government research involving monitoring compliance with this chapter,
15 provided that the underage individuals are supervised by an adult law enforcement official. Any
16 individual participating in an unannounced compliance check of over-the-counter or vending
17 machine sales, must state his or her accurate age if asked by the sales representative of the retail
18 establishment being checked.

19 (ii) In fulfilling the requirement of unannounced statewide compliance checks, the
20 department of mental health, retardation and hospitals shall maintain complete records of the
21 unannounced compliance checks, detailing, at least, the date of the compliance check, the name
22 and address of the retail establishment checked or the mail order company, the results of the
23 compliance check (saleo sale), whether the sale was made as an over-the-counter sale, a mail
24 order purchase or a tobacco vending machine sale, and if a citation was issued for any violation
25 found. The records shall be subject to public disclosure. Further, the department of mental health,
26 retardation and hospitals shall report to the owner of each retail establishment checked or mail
27 order company, the results of any compliance check (saleo sale) whether the sale was made as an
28 over-the-counter sale, a mail order purchase or a tobacco vending machine sale, and if a citation
29 was issued for any violation found.

30 (5) Seek enforcement, concurrently with other state and local officials, of the penalties as
31 detailed in this chapter.

32 (6) Develop and disseminate community health education information and materials
33 relating to this chapter.

34 **11-9-13.7. Signs concerning sales to individuals under age eighteen (18).** -- Signs

1 provided by the department of mental health, retardation and hospitals, or an exact duplicate of it
2 made privately, shall:

3 (1) Contain in red bold lettering a minimum of three-eighths (3/8") inch high on a white
4 background the following wording:

5 THE SALE OF CIGARETTES, ~~AND OTHER~~ TOBACCO PRODUCTS, TOBACCO-
6 DERIVED PRODUCTS OR VAPOR PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS
7 AGAINST RHODE ISLAND LAW (Section 11-9-13.8(1), Rhode Island Statutes) PHOTO ID
8 FOR PROOF OF AGE IS REQUIRED FOR PURCHASE.

9 (2) Contain the phone number at the department of mental health, retardation and
10 hospitals, where violations of sections 11-9-13.2 -- 11-9-13.19 can be reported, in addition to any
11 other information required by the department of mental health, retardation and hospitals.

12 (3) Be displayed prominently for public view at each cash register, each tobacco vending
13 machine, or any other place from which tobacco products, tobacco-derived products or vapor
14 products are sold.

15 **11-9-13.8. Prohibitions applicable to license holders and their employees and agents.**

16 -- A person that holds a license issued under chapter 20 of title 44, or an employee or agent of
17 that person, is prohibited from selling, distributing or delivering a tobacco product, tobacco-
18 derived products or vapor product:

- 19 (1) To any individual that is under eighteen (18) years of age; or
20 (2) In any form other than an original factory-wrapped package; or
21 (3) As a single cigarette sale (section 44-20-31), or as a sale of cigarettes by the
22 individual piece, known as "loosies."

23 **11-9-13.10. ~~Prohibition on the distribution of free tobacco products~~ Prohibition on**
24 **the distribution of free tobacco products, tobacco-derived products or vapor products to**

25 **minors.** -- The distribution of free tobacco products, tobacco-derived products or vapor products
26 or coupons or vouchers redeemable for free tobacco products, tobacco-derived products or vapor
27 products to any person under eighteen (18) years of age shall be prohibited. Further, the
28 distribution of free tobacco products or coupons or vouchers redeemable for free tobacco
29 products shall be prohibited, regardless of the age of the person to whom the products, coupons,
30 or vouchers are distributed, within five hundred (500) feet of any school. The attorney general
31 shall bring an action for any violation of this section. Every separate free tobacco product,
32 tobacco-derived products or vapor product or coupon or voucher redeemable for a free tobacco
33 product, tobacco-derived products or vapor product in violation of this section shall constitute a
34 separate offense subject to a fine of five hundred dollars (\$500). The penalty shall be assessed

1 against the business or individual responsible for initiating the Rhode Island distribution of the
2 free tobacco products, [tobacco-derived products or vapor products](#) or coupons or vouchers
3 redeemable for free tobacco products.

4 ~~**11-9-13.11. Prohibition on the sale or distribution of tobacco products through the**~~
5 ~~**mail conveyance of tobacco products through the mail to children under eighteen (18) --**~~

6 ~~**Proof of age of purchaser required -- General rule**~~ **Prohibition on the sale or distribution of**
7 **tobacco products, tobacco-derived products or vapor products through the mail conveyance**
8 **of tobacco products through the mail to children under eighteen (18) -- Proof of age of**
9 **purchaser required -- General rule. --**

(a) The distribution, or sale or conveyance of tobacco
10 products, [tobacco-derived products or vapor products](#) to children under the age of eighteen (18)
11 via the United States Postal Service, or by any other public or private postal or package delivery
12 service, shall be prohibited.

(b) Any person selling or distributing tobacco products in the form of cigars, pipe
14 tobacco, chewing tobacco, or snuff, [tobacco-derived products or vapor products](#) directly to a
15 consumer via the United States Postal Service, or by any other public or private postal or package
16 delivery service, including orders placed by mail, telephone, facsimile, or internet, shall: (1)
17 before distributing or selling the tobacco product, [tobacco-derived products or vapor product](#)
18 through any of these means, receive both a copy of a valid form of government identification
19 showing date of birth to verify the purchaser is age eighteen (18) years or over and an attestation
20 from the purchaser certifying that the information on the government identification truly and
21 correctly identifies the purchaser and the purchaser's current address, and (2) deliver the tobacco
22 product, [tobacco-derived products or vapor product](#) to the address of the purchaser given on the
23 valid form of government identification and by a postal or package delivery service method that
24 either limits delivery to that purchaser and requires the purchaser to sign personally to receive the
25 delivery or requires a signature of an adult at the purchaser's address to deliver the package.

(c) The attorney general shall bring an action for any violation of this chapter. Any
27 distribution, or sale or conveyance of a tobacco product, [tobacco-derived products or vapor](#)
28 [product](#) to a child under eighteen (18) years of age via the United States Postal Service, or by any
29 other public or private postal or package delivery service, shall be subject to an action against the
30 distributor, or seller or conveyor by the attorney general of the state of Rhode Island. A minimum
31 fine of one thousand dollars (\$1,000) shall be assessed against any distributor, or seller or
32 conveyor convicted of distributing, or selling or conveying tobacco products, [tobacco-derived](#)
33 [products or vapor products](#) via the United States postal service, or by any other public or private
34 postal or package delivery service, for each delivery, or sale or conveyance of a tobacco product,

1 [tobacco-derived products or vapor product](#) to a child under eighteen (18) years of age.

2 (d) For the purpose of this section, "distribution," "distributing," "selling" and "sale" do
3 not include the acts of the United States Postal Service or other common carrier when engaged in
4 the business of transporting and delivering packages for others or the acts of a person, whether
5 compensated or not, who transports or delivers a package for another person without any reason
6 to know of the package's contents.

7 (e) Any delivery sale of cigarettes shall be made pursuant to the provisions of chapter
8 20.1 of title 44. The provisions of this section shall apply to each tobacco product, [tobacco-](#)
9 [derived products or vapor product](#) listed in subsection (b) herein, but shall not apply to any
10 delivery sale of cigarettes.

11 **11-9-13.13. Nature and size of penalties.** -- (a) Any person or individual that violates a
12 requirement of section 11-9-13.6(2), display of specific signage, shall be subject to a fine in court
13 of not less than thirty-five dollars (\$35.00) nor more than five hundred dollars (\$500) per civil
14 violation.

15 (b) The license holder is responsible for all violations of this section that occur at the
16 location for which the license is issued. Any license holder that violates the prohibition of section
17 11-9-13.8(1) and/or (2) shall be subject to civil fines as follows:

18 (1) A fine of two hundred fifty dollars (\$250) for the first violation within any thirty-six
19 (36) month period;

20 (2) A fine of five hundred dollars (\$500) for the second violation within any thirty-six
21 (36) month period;

22 (3) A fine of one thousand dollars (\$1,000) and a fourteen (14) day suspension of the
23 license to sell tobacco products, [tobacco-derived products or vapor products](#) for the third violation
24 within any thirty-six (36) month period;

25 (4) A fine of one thousand five hundred dollars (\$1,500) and a ninety (90) day
26 suspension of the license to sell tobacco products, [tobacco-derived products or vapor products](#) for
27 each violation in excess of three (3).

28 (c) Any person that violates a prohibition of section 11-9-13.8(3), sale of single
29 cigarettes; section 11-9-13.8(2), regarding factory-wrapped packs; shall be subject to a penalty of
30 five hundred dollars (\$500) for each violation.

31 (d) The department of taxation shall not issue a license to any individual, business, firm,
32 association, or corporation the license of which has been revoked or suspended, to any
33 corporation an officer of which has had his or her license revoked or suspended, or to any
34 individual who is or has been an officer of a corporation the license of which has been revoked or

1 suspended so long as such revocations or suspensions are in effect.

2 (e) The court shall suspend the imposition of a license suspension of the license secured
3 from the Rhode Island tax administrator for violation of subdivisions (b)(3) and (b)(4) of this
4 section if the court finds that the license holder has taken measures to prevent the sale of tobacco,
5 tobacco-derived products or vapor products to minors and the license holder can demonstrate to
6 the court that those measures have been taken and that employees have received training. No
7 person shall sell tobacco products, tobacco-derived products or vapor products, at retail, without
8 first being trained in the legal sale of tobacco products, tobacco-derived products or vapor
9 products. Training shall teach employees what constitutes a tobacco product, tobacco-derived
10 products or vapor products, legal age of purchase, acceptable identification, how to refuse a direct
11 sale to a minor or secondary sale to an adult, and all applicable laws on ~~tobacco~~ sales and
12 distribution of tobacco, tobacco-derived products or vapor products. Dealers shall maintain
13 records indicating that the provisions of this section were reviewed with all employees who
14 conduct or will conduct ~~tobacco~~ sales of tobacco, tobacco-derived products or vapor products.
15 Each employee who sells or will sell tobacco products, tobacco-derived products or vapor
16 products shall sign an acknowledgement form attesting that the provisions of this section were
17 reviewed with him/her. Each form shall be maintained by the retailer for as long as the employee
18 is so employed and for no less than one year after termination of employment. The measures to
19 prevent the sale of tobacco, tobacco-derived products or vapor products to minors shall be
20 defined by the department of mental health, retardation and hospitals in rules and regulations.

21 **11-9-13.15. Penalty for operating without a dealer license.** -- (a) Any individual or
22 business who violates this chapter by selling or conveying a tobacco product without a retail
23 tobacco products, tobacco-derived products or vapor products dealer license shall be cited for that
24 violation and shall be required to appear in court for a hearing on the citation.

25 (b) Any individual or business cited for a violation under this section of this chapter
26 shall:

27 (1) Either post a five hundred dollar (\$500) bond with the court within ten (10) days of
28 the citation; or

29 (2) Sign and accept the citation indicating a promise to appear in court.

30 (c) An individual or business who has accepted the citation may:

31 (1) Pay the five hundred dollar (\$500) fine, either by mail or in person, within ten (10)
32 days after receiving the citation; or

33 (2) If that individual or business has posted a bond, forfeit the bond by not appearing at
34 the scheduled hearing. If the individual or business cited pays the five hundred dollar (\$500) fine

1 or forfeits the bond, that individual or business is deemed to have admitted the cited violation and
2 to have waived the right to a hearing on the issue of commission on the violation.

3 (d) The court after a hearing on a citation shall make a determination as to whether a
4 violation has been committed. If it is established that the violation did occur, the court shall
5 impose a five hundred dollar (\$500) fine, in addition to any court costs or other court fees.

6 SECTION 2. Section 11-9-13.14 of the General Laws in Chapter 11-9 entitled "Children"
7 is hereby repealed.

8 ~~11-9-13.14. Notification to the Department of Taxation of fines imposed. -- The court~~
9 ~~shall maintain records of any penalty, fine or suspension imposed under this chapter and notify~~
10 ~~within sixty (60) days the tax administrator of the penalty, fine or suspension imposed.~~

11 SECTION 3. Sections 44-20-1, 44-20-2, 44-20-3, 44-20-4.1 and 44-20-8 of the General
12 Laws in Chapter 44-20 entitled "Cigarette Tax" are hereby amended to read as follows:

13 **44-20-1. Definitions.** -- Whenever used in this chapter, unless the context requires
14 otherwise:

15 (1) "Administrator" means the tax administrator;

16 (2) "Cigarettes" means and includes any cigarettes suitable for smoking in cigarette
17 form, and each sheet of cigarette rolling paper;

18 (3) "Dealer" means any person whether located within or outside of this state, who sells
19 or distributes cigarettes, [tobacco-derived products or vapor products](#) to a consumer in this state;

20 (4) "Distributor" means any person:

21 (A) Whether located within or outside of this state, other than a dealer, who sells or
22 distributes cigarettes within or into this state. Such term shall not include any cigarette
23 manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C.
24 section 5712, if such person sells or distributes cigarettes in this state only to licensed distributors,
25 or to an export warehouse proprietor or another manufacturer with a valid permit under 26 U.S.C.
26 section 5712;

27 (B) Selling cigarettes directly to consumers in this state by means of at least twenty-five
28 (25) cigarette vending machines;

29 (C) Engaged in this state in the business of manufacturing cigarettes or any person
30 engaged in the business of selling cigarettes to dealers, or to other persons, for the purpose of
31 resale only; provided, that seventy-five percent (75%) of all cigarettes sold by that person in this
32 state are sold to dealers or other persons for resale and selling cigarettes directly to at least forty
33 (40) dealers or other persons for resale; or

34 (D) Maintaining one or more regular places of business in this state for that purpose;

1 provided, that seventy-five percent (75%) of the sold cigarettes are purchased directly from the
2 manufacturer and selling cigarettes directly to at least forty (40) dealers or other persons for
3 resale;

4 (5) "Importer" means any person who imports into the United States, either directly or
5 indirectly, a finished cigarette for sale or distribution;

6 (6) "Licensed", when used with reference to a manufacturer, importer, distributor or
7 dealer, means only those persons who hold a valid and current license issued under section 44-20-
8 2 for the type of business being engaged in. When the term "licensed" is used before a list of
9 entities, such as "licensed manufacturer, importer, wholesale dealer, or retailer dealer," such term
10 shall be deemed to apply to each entity in such list;

11 (7) "Manufacturer" means any person who manufactures, fabricates, assembles,
12 processes, or labels a finished cigarette;

13 (8) "Person" means any individual, including an employee or agent, firm, fiduciary,
14 partnership, corporation, trust, or association, however formed;

15 (9) "Place of business" means and includes any place where cigarettes are sold or where
16 cigarettes are stored or kept for the purpose of sale or consumption, including any vessel, vehicle,
17 airplane, train, or vending machine;

18 (10) "Sale" or "sell" includes and applies to gifts, exchanges, and barter;

19 (11) "Stamp" means the impression, device, stamp, label, or print manufactured, printed,
20 or made as prescribed by the administrator to be affixed to packages of cigarettes, as evidence of
21 the payment of the tax provided by this chapter or to indicate that the cigarettes are intended for a
22 sale or distribution in this state that is exempt from state tax under the provisions of state law; and
23 also includes impressions made by metering machines authorized to be used under the provisions
24 of this chapter.

25 (12) "Tobacco-derived product" means any non-combustible product derived from
26 tobacco that contains nicotine and is intended for human consumption, whether chewed,
27 absorbed, dissolved or ingested by any other means, but does not include a vapor product or any
28 product regulated by the United States food and drug administration under chapter V of the food,
29 drug and cosmetic act.

30 (13) "Tobacco product" means any product containing tobacco that can be used for, but
31 whose use is not limited to, smoking, sniffing, chewing or spitting of the product, but does not
32 include any tobacco-derived product or vapor product.

33 (14) "Vapor product" means any non-combustible tobacco-derived product containing
34 nicotine, such as an electronic cigarette, that employs a mechanical heating element, battery or

1 [electronic circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution](#)
2 [contained in a vapor cartridge as well as any vapor cartridge containing liquid nicotine solution](#)
3 [that can be used with or in a vapor product. "Vapor product" does not include any product](#)
4 [regulated by the United States food and drug administration under chapter V of the food, drug](#)
5 [and cosmetic act.](#)

6 **44-20-2. Importer, distributor, and dealer licenses required -- Licenses required. --**

7 Each person engaging in the business of selling ~~cigarettes and/or any~~ tobacco products, [tobacco-](#)
8 [derived products or vapor products](#) in this state, including any distributor or dealer, shall secure a
9 license from the administrator before engaging in that business, or continuing to engage in it. A
10 separate application and license is required for each place of business operated by a distributor or
11 dealer; provided, that an operator of vending machines for cigarette products is not required to
12 obtain a distributor's license for each machine. If the applicant for a license does not have a place
13 of business in this state, the license shall be issued for such applicant's principal place of business,
14 wherever located. A licensee shall notify the administrator within thirty (30) days in the event that
15 it changes its principal place of business. A separate license is required for each class of business
16 if the applicant is engaged in more than one of the activities required to be licensed by this
17 section. No person shall maintain or operate or cause to be operated a vending machine for
18 cigarette products without procuring a dealer's license for each machine.

19 **44-20-3. Penalties for unlicensed business. --** Any distributor or dealer who sells, offers

20 for sale, or possesses with intent to sell, ~~cigarettes and/or any~~ tobacco products, [tobacco-derived](#)
21 [products or vapor products](#) without a license as provided in section 44-20-2, shall be fined in
22 accordance with the provisions of and the penalties contained in section 11-9-13.15.

23 **44-20-4.1. License availability. --** (a) No license under this chapter may be granted,

24 maintained or renewed if the applicant, or any combination of persons owning directly or
25 indirectly any interests in the applicant:

- 26 (1) Owes five hundred dollars (\$500) or more in delinquent cigarette taxes;
- 27 (2) Is delinquent in any tax filings for one month or more;
- 28 (3) Had a license under this chapter revoked by the administrator within the past two (2)
29 years;
- 30 (4) Has been convicted of a crime relating to cigarettes stolen or counterfeit cigarettes;
- 31 (5) Is a cigarette manufacturer or importer that is neither: (i) a participating manufacturer
32 as defined in subsection II (jj) of the "Master Settlement Agreement" as defined in section 23-71-
33 2; nor (ii) in full compliance with chapter 20.2 of this title and section 23-71-3;
- 34 (6) Has imported, or caused to be imported, into the United States any cigarette in

1 violation of 19 U.S.C. section 1681a; or

2 (7) Has imported, or caused to be imported into the United States, or manufactured for
3 sale or distribution in the United States any cigarette that does not fully comply with the Federal
4 Cigarette Labeling and Advertising Act (15 U.S.C. section 1331, et. seq).

5 (b) (1) No person shall apply for a new license or permit (as defined in section 44-19-1)
6 or renewal of a license or permit, and no license or permit shall be issued or renewed for any
7 person, unless all outstanding fines, fees or other charges relating to any license or permit held by
8 that person have been paid.

9 (2) No license or permit shall be issued relating to a business at any specific location
10 until all prior licenses or permits relating to that location have been officially terminated and all
11 fines, fees or charges relating to the prior licenses have been paid or otherwise resolved or the
12 administrator has found that the person applying for the new license or permit is not acting as an
13 agent for the prior licensee or permit holder who is subject to any such related fines, fees or
14 charges that are still due. Evidence of such agency status includes, but is not limited to, a direct
15 familial relationship and/or an employment, contractual or other formal financial or business
16 relationship with the prior licensee or permit holder.

17 (3) No person shall apply for a new license or permit pertaining to a specific location in
18 order to evade payment of any fines, fees or other charges relating to a prior license or permit for
19 that location.

20 (4) No new license or permit shall be issued for a business at a specific location for
21 which a license or permit already has been issued unless there is a bona fide, good faith change in
22 ownership of the business at that location.

23 (5) No license or permit shall be issued, renewed or maintained for any person, including
24 the owners of the business being licensed or having applied and received a permit, that has been
25 convicted of violating any criminal law relating to tobacco products, [tobacco-derived products or](#)
26 [vapor products](#), the payment of taxes or fraud or has been ordered to pay civil fines of more than
27 twenty-five thousand dollars (\$25,000) dollars for violations of any civil law relating to tobacco
28 products, [tobacco-derived products or vapor products](#), the payment of taxes or fraud.

29 **44-20-8. Suspension or revocation of license.** -- The tax administrator may suspend or
30 revoke any license under this chapter for failure of the licensee to comply with any provision of
31 this chapter or with any provision of any other law or ordinance relative to the sale of cigarettes,
32 [tobacco-derived products or vapor products](#); and the tax administrator may also suspend or
33 revoke any license for failure of the licensee to comply with any provision of chapter 13 of title 6,
34 and, for the purpose of determining whether the licensee is complying with any provision of

1 chapter 13 of title 6, the tax administrator and his or her authorized agents are empowered, in
2 addition to authority conferred by section 44-20-40, to examine the books, papers, and records of
3 any licensee. The administrator shall revoke the license of any person who would be ineligible to
4 obtain a new or renew a license by reason of any of the conditions for licensure provided in
5 section 44-20-4.1. Any person aggrieved by the suspension or revocation may apply to the
6 administrator for a hearing as provided in section 44-20-47, and may further appeal to the district
7 court as provided in section 44-20-48.

8 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES - CHILDREN - TAXATION - CIGARETTE TAX

1 This act would amend the criminal and tax laws on cigarettes and tobacco to include all
2 tobacco-derived products and vapor products among those items that are subject to taxation and
3 those items that are prohibited to persons under the age of eighteen (18).

4 This act would take effect upon passage.

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