

2014 -- H 7021 SUBSTITUTE A

LC003029/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO CRIMINAL OFFENSES -- SALE OF TOBACCO PRODUCTS TO THOSE  
UNDER EIGHTEEN (18)

Introduced By: Representative Helio Melo

Date Introduced: January 08, 2014

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-9-13, 11-9-13.1 and 11-9-13.4 of the General Laws in Chapter  
2 11-9 entitled "Children" are hereby amended to read as follows:

3 **11-9-13. Purchase, sale or delivery of tobacco products to persons under eighteen --**  
4 **Posting notice of law. --** No person under eighteen (18) years of age shall purchase, nor shall any  
5 person sell, give or deliver to any person under eighteen (18) years of age, any [vapor product, or](#)  
6 [alternative nicotine product, or](#) tobacco [product](#) in ~~the any~~ form ~~of including, but not limited to,~~  
7 cigarettes, bidi cigarettes, cigars, little cigars, flavored cigars known as "blunts" unflavored  
8 "blunts", flavored and unflavored blunt wraps, cigarette rolling papers of any size or composition,  
9 cigarillos, and tiparillos, pipe tobacco, chewing tobacco, or snuff. Any person, firm, or  
10 corporation that owns, manages, or operates a place of business in which tobacco products, [vapor](#)  
11 [products or alternative nicotine products](#) are sold, including sales through cigarette vending  
12 machines, shall post notice of this law conspicuously in the place of business in letters at least  
13 three-eighths of an inch (3/8") high.

14 **11-9-13.1. Cigarette and tobacco vending machines. --** (a) No cigarettes nor any other  
15 tobacco product, [vapor product or alternative nicotine product](#), shall be sold from any device or  
16 vending machine which is in an area not continuously supervised and in direct line of sight of an  
17 authorized person employed by the person, firm, or corporation that owns the business occupying  
18 the premises in which the device or vending machine is located, nor shall any tobacco product,

1 [vapor product or alternative nicotine product](#), be sold from any device or vending machine which  
2 is in an area supervised by such an authorized person unless the device or vending machine is  
3 equipped with an electronic locking device which will not allow the device or vending machine to  
4 dispense a pack of cigarettes, or any other tobacco product, [vapor product or alternative nicotine](#)  
5 [product](#), unless it is electronically unlocked from a secured position inaccessible to the public and  
6 under the supervision of an authorized person employed by the person, firm, or corporation that  
7 owns the business occupying the premises in which the device or vending machine is located.  
8 "Direct line of sight" means that the vending machine and the purchaser of cigarettes, [or any](#)  
9 [other tobacco products, vapor products or alternative nicotine products](#), must be visible to the  
10 authorized person pressing the unlock button while the unlock button is being activated.  
11 Provided, a locking device shall not be required in an establishment licensed to sell alcoholic  
12 beverages which limits access to persons over the age of twenty-one (21) years.

13 (b) No cigarettes nor any other tobacco product, [vapor product or alternative nicotine](#)  
14 [product](#), shall be sold from any device or vending machine from which non-tobacco products are  
15 sold.

16 (c) No cigarettes shall be sold in packs which contain less than twenty (20) cigarettes.

17 (d) Any person, firm, or corporation who owns a business occupying the premises in  
18 which a device or vending machine which dispenses cigarettes or any other tobacco product,  
19 [vapor product or alternative nicotine products](#) is located who shall violate any of the provisions of  
20 subsections (a) and (b) of this section shall for the first offense be subject to a fine of seventy-five  
21 dollars (\$75.00), for the second offense, be subject to a fine of one hundred fifty dollars (\$150),  
22 and for the third and any subsequent offense, be subject to a fine of five hundred dollars (\$500);  
23 provided, that in the event that there are no offenses in three (3) successive years from the date of  
24 the last offense, then the next offense shall be treated as the first offense.

25 (e) Any person, firm or corporation who shall violate subsection (c) of this section shall  
26 for the first offense be subject to a fine of seventy-five dollars (\$75.00), for the second offense, be  
27 subject to a fine of one hundred fifty dollars (\$150), and for the third and any subsequent offense,  
28 be subject to a fine of five hundred dollars (\$500); provided, that in the event that there are no  
29 offenses in three (3) successive years from the date of the last offense, then the next offense shall  
30 be treated as the first offense.

31 (f) One-half (1/2) of all the fines collected pursuant to this section shall be transferred to  
32 the municipalities in which the citations originated. One-half (1/2) of all the fines collected  
33 pursuant to this section shall be transferred to the general fund.

34 (g) Severability. - If any provision of this section or the application of it to any person or

1 circumstance is held invalid, that invalidity shall not affect other provisions or applications of this  
2 section, which can be given effect without the invalid provision or application, and to this end the  
3 provisions of this section are declared to be severable.

4 **11-9-13.4. Definitions.** -- As used in this chapter:

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

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

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

11 (4) "Department of ~~mental health, retardation~~ behavioral healthcare, developmental  
12 disabilities and hospitals " means the state of Rhode Island ~~mental health, retardation~~ behavioral  
13 healthcare, developmental disabilities and hospitals department , its employees, agents or assigns.

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

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

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

18 (8) "Person" means any individual person, firm, association, or corporation licensed as a  
19 retail dealer to sell tobacco products within the state.

20 (9) "Retail tobacco products dealer" means the holder of a license to sell tobacco  
21 products at retail.

22 (10) "Retail tobacco products dealer license" means a license to sell tobacco products at  
23 retail as issued by the department of taxation.

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

26 (12) "Tobacco product(s)" means any product containing and made from tobacco; that is  
27 intended for human consumption, including, but not limited to, cigarettes, cigars, little cigars,  
28 pipe tobacco, spitting tobacco, snus, or bidi cigarettes, as defined in subdivision (1) of this  
29 section, which can be used for, but whose use is not limited to, smoking, sniffing, chewing,  
30 inhaling, absorbing, dissolving, or spitting or ingestion by any other means of the product.  
31 "Tobacco product(s)" does not include vapor products, alternative nicotine products or any  
32 product that has been approved by the United States Food and Drug Administration for sale as a  
33 tobacco cessation product and is being marketed and sold solely for the approved purpose.

34 (13) "Underage individual" or "underage individuals" means any child under the age of

1 eighteen (18) years of age.

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

8 (15) "Vapor product(s)" means any non-combustible product containing nicotine that  
9 employs a heating element, power source, electronic circuit, or other electronic, chemical or  
10 mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in  
11 a solution or other form. "Vapor product" includes any vapor cartridge or other container of  
12 nicotine in a solution or other form that is intended to be used with or in an electronic cigarette,  
13 electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor  
14 product" does not include any product regulated as a drug or device by the United States Food  
15 and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

16 (16) "Alternative nicotine product(s)" means any non-combustible product containing  
17 nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or  
18 ingested by any other means. "Alternative nicotine product" does not include any vapor product,  
19 tobacco product, or any product regulated as a drug or device by the United States Food and Drug  
20 Administration under Chapter V of the Food, Drug and Cosmetic Act.

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

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- 1           This act would amend the definition of tobacco products to include vapor products and
- 2 alternative nicotine products for the purpose of prohibiting access by minors.
- 3           This act would take effect upon passage.

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