

2014 -- S 3095

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LC005910
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO CRIMINAL OFFENSES - ELECTRONIC NICOTINE DELIVERY SYSTEMS

Introduced By: Senators Ruggerio, Goodwin, Pearson, Ottiano, and Lynch

Date Introduced: June 11, 2014

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-9-13, 11-9-13.1, 11-9-13.4, 11-9-13.6, 11-9-13.7, 11-9-13.8,
2 11-9-13.10, 11-9-13.13 and 11-9-14 of the General Laws in Chapter 11-9 entitled "Children" are
3 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. --** No person under eighteen (18) years of age shall purchase, nor shall any
6 person sell, give or deliver to any person under eighteen (18) years of age, any tobacco in the
7 form of cigarettes, bidi cigarettes, cigars, little cigars, flavored cigars known as "blunts"
8 unflavored "blunts", flavored and unflavored blunt wraps, cigarette rolling papers of any size or
9 composition, cigarillos, and tiparillos, pipe tobacco, chewing tobacco, [electronic nicotine delivery](#)
10 [systems](#) or snuff. Any person, firm, or corporation that owns, manages, or operates a place of
11 business in which tobacco products are sold, including sales through cigarette vending machines,
12 shall post notice of this law conspicuously in the place of business in letters at least three-eighths
13 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 [nor electronic nicotine delivery system 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 [nor](#)
19 [electronic nicotine delivery system product](#) be sold from any device or vending machine which is

1 in an area supervised by such an authorized person unless the device or vending machine is
2 equipped with an electronic locking device which will not allow the device or vending machine to
3 dispense a pack of cigarettes, or any other tobacco product, [nor electronic nicotine delivery](#)
4 [system product](#) unless it is electronically unlocked from a secured position inaccessible to the
5 public and under the supervision of an authorized person employed by the person, firm, or
6 corporation that owns the business occupying the premises in which the device or vending
7 machine is located. "Direct line of sight" means that the vending machine and the purchaser of
8 cigarettes [or electronic nicotine delivery systems](#) must be visible to the authorized person
9 pressing the unlock button while the unlock button is being activated. Provided, a locking device
10 shall not be required in an establishment licensed to sell alcoholic beverages which limits access
11 to persons over the age of twenty-one (21) years.

12 (b) No cigarettes nor any other tobacco product [nor electronic nicotine delivery system](#)
13 [product](#) shall be sold from any device or vending machine from which non-tobacco products are
14 sold.

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

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

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

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

33 (g) Severability. - If any provision of this section or the application of it to any person or
34 circumstance is held invalid, that invalidity shall not affect other provisions or applications of this

1 section, which can be given effect without the invalid provision or application, and to this end the
2 provisions of this section are declared to be severable.

3 **11-9-13.4. Definitions.** -- As used in this chapter:

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

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

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

10 (4) "Department of ~~mental health, retardation and hospitals~~ [behavioral healthcare,](#)
11 [developmental disabilities and hospitals](#)" means the state of Rhode Island ~~mental health,~~
12 ~~retardation~~ [behavioral healthcare, developmental disabilities](#) and hospitals department, its
13 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" [or](#)
17 ["electronic nicotine delivery system license."](#)

18 (7) "License holder" is synonymous with the term "retail tobacco products dealer" [or](#)
19 ["electronic nicotine delivery system license."](#)

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

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

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

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

28 (12) "Tobacco product(s)" means any product containing tobacco, including bidi
29 cigarettes, as defined in subdivision (1) of this section, which can be used for, but whose use is
30 not limited to, smoking, sniffing, chewing or spitting of the product.

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

33 (14) "Little cigars" means and includes any roll, made wholly or in part of tobacco,
34 irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or

1 mixed with any other ingredient, where such roll has a wrapper or cover made of tobacco
2 wrapped in leaf tobacco or any substance containing tobacco paper or any other material, except
3 where such wrapper is wholly or in greater part made of tobacco and such roll weighs over three
4 (3) pounds per thousand (1,000).

5 (15) "Electronic nicotine delivery system" means an electronic device that may be used to
6 simulate smoking in the delivery of nicotine or other substance to a person inhaling from the
7 device, and includes, but is not limited to, an electronic cigarette, electronic cigar, electronic
8 cigarillo, electronic pipe or electronic hookah and any related device and any cartridge or other
9 component of such device.

10 ~~**11-9-13.6. Duties of the department of mental health, retardation and hospitals**~~
11 **Duties of the department of behavioral healthcare, developmental disabilities and hospitals.**

12 ~~==~~ The department of ~~mental health, retardation and hospitals~~ behavioral healthcare,
13 developmental disabilities and hospitals shall:

14 (1) Coordinate and promote the enforcement of the provisions of this chapter and serve
15 as the primary liaison from this department to other state or local agencies, departments, or
16 divisions on issues pertaining to stopping children's access to tobacco and electronic nicotine
17 delivery systems.

18 (2) Provide retail tobacco products dealers signs concerning the prohibition of sales to
19 children under eighteen (18) years of age. The signs, conforming to the requirements of this
20 chapter, shall be sold at cost. This sign, or an exact duplicate of it made privately, shall be
21 displayed in all locations where tobacco products are sold.

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

23 (4)(i) Utilize unannounced statewide compliance checks of tobacco product sales
24 including retail tobacco over-the-counter sales, mail order sales initiated via mail, facsimile,
25 telephone or internet ordering or other types of electronic communications, and tobacco and/or
26 electronic nicotine delivery systems vending machine sales as part of investigating compliance
27 with the provisions of this chapter. Underage individuals, acting as agents for the department of
28 ~~mental health, retardation and hospitals~~ behavioral healthcare, developmental disabilities and
29 hospitals and with the written permission of a parent or guardian, may purchase, with impunity
30 from prosecution, tobacco products for the purposes of law enforcement or government research
31 involving monitoring compliance with this chapter, provided that the underage individuals are
32 supervised by an adult law enforcement official. Any individual participating in an unannounced
33 compliance check of over-the-counter or vending machine sales, must state his or her accurate
34 age if asked by the sales representative of the retail establishment being checked.

1 (ii) In fulfilling the requirement of unannounced statewide compliance checks, the
2 department of ~~mental health, retardation and hospitals~~ behavioral healthcare, developmental
3 disabilities and hospitals shall maintain complete records of the unannounced compliance checks,
4 detailing, at least, the date of the compliance check, the name and address of the retail
5 establishment checked or the mail order company, the results of the compliance check (sale/no
6 sale), whether the sale was made as an over-the-counter sale, a mail order purchase or a tobacco
7 and/or or electronic nicotine delivery systems vending machine sale, and if a citation was issued
8 for any violation found. The records shall be subject to public disclosure. Further, the department
9 of ~~mental health, retardation and hospitals~~ behavioral healthcare, developmental disabilities and
10 hospitals shall report to the owner of each retail establishment checked or mail order company,
11 the results of any compliance check (sale/no sale) whether the sale was made as an over-the-
12 counter sale, a mail order purchase or a tobacco and/or electronic nicotine delivery systems
13 vending machine sale, and if a citation was issued for any violation found.

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

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

18 **11-9-13.7. Signs concerning sales to individuals under age eighteen (18).** -- Signs
19 provided by the department of behavioral healthcare, developmental disabilities and hospitals, or
20 an exact duplicate of it made privately, shall: (1) Contain in red bold lettering a minimum of
21 three-eighths (3/8") inch high on a white background the following wording in both English and
22 Spanish:

23 THE SALE OF CIGARETTES, ~~AND OTHER~~ TOBACCO AND ELECTRONIC
24 NICOTINE DELIVERY SYSTEM PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS
25 AGAINST RHODE ISLAND LAW (Section 11-9-13.8(1), Rhode Island Statutes) PHOTO ID
26 FOR PROOF OF AGE IS REQUIRED FOR PURCHASE.

27 (2) Contain the phone number at the department of behavioral healthcare, developmental
28 disabilities and hospitals, where violations of sections 11-9-13.2 -- 11-9-13.19 can be reported, in
29 addition to any other information required by the department of behavioral healthcare,
30 developmental disabilities and hospitals.

31 (3) Be displayed prominently for public view wherever tobacco products are sold at each
32 cash register, each tobacco and/or electronic nicotine delivery systems vending machine, or any
33 other place from which tobacco products are sold. The signs shall be electronically available in
34 both English and Spanish online at the department of behavioral healthcare, developmental

1 disabilities and hospitals' website.

2 **11-9-13.8. Prohibitions applicable to license holders and their employees and agents.**

3 -- A person that holds a license issued under chapter 20 of title 44, or an employee or agent of
4 that person, is prohibited from selling, distributing or delivering a tobacco [and/or electronic](#)
5 [nicotine delivery system](#) product:

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

10 **11-9-13.10. Prohibition on the distribution of free tobacco products.** -- The

11 distribution of free tobacco products [and electronic nicotine delivery systems](#) or coupons or
12 vouchers redeemable for free tobacco [or electronic nicotine delivery system](#) products to any
13 person under eighteen (18) years of age shall be prohibited. Further, the distribution of free
14 tobacco products or [electronic nicotine delivery systems or](#) coupons or vouchers redeemable for
15 free tobacco [or electronic nicotine delivery system](#) products shall be prohibited, regardless of the
16 age of the person to whom the products, coupons, or vouchers are distributed, within five hundred
17 (500) feet of any school. The attorney general shall bring an action for any violation of this
18 section. Every separate free tobacco product or [electronic nicotine delivery system or](#) coupon or
19 voucher redeemable for a free tobacco [or electronic nicotine delivery system](#) product in violation
20 of this section shall constitute a separate offense subject to a fine of five hundred dollars (\$500).
21 The penalty shall be assessed against the business or individual responsible for initiating the
22 Rhode Island distribution of the free tobacco products [or electronic nicotine delivery systems](#) or
23 coupons or vouchers redeemable for free tobacco products [or electronic nicotine delivery](#)
24 [systems](#).

25 **11-9-13.13. Nature and size of penalties.** -- (a) Any person or individual that violates a
26 requirement of section 11-9-13.6(2), display of specific signage, shall be subject to a fine in court
27 of not less than thirty-five dollars (\$35.00) nor more than five hundred dollars (\$500) per civil
28 violation.

29 (b) The license holder is responsible for all violations of this section that occur at the
30 location for which the license is issued. Any license holder that violates the prohibition of section
31 11-9-13.8(1) and/or (2) shall be subject to civil fines as follows:

- 32 (1) A fine of two hundred fifty dollars (\$250) for the first violation within any thirty-six
33 (36) month period;
34 (2) A fine of five hundred dollars (\$500) for the second violation within any thirty-six

1 (36) month period;

2 (3) A fine of one thousand dollars (\$1,000) and a fourteen (14) day suspension of the
3 license to sell tobacco products [or electronic nicotine delivery systems](#) for the third violation
4 within any thirty-six (36) month period;

5 (4) A fine of one thousand five hundred dollars (\$1,500) and a ninety (90) day
6 suspension of the license to sell tobacco products [or electronic nicotine delivery systems](#) for each
7 violation in excess of three (3).

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

11 (d) The department of taxation shall not issue a license to any individual, business, firm,
12 association, or corporation the license of which has been revoked or suspended, to any
13 corporation an officer of which has had his or her license revoked or suspended, or to any
14 individual who is or has been an officer of a corporation the license of which has been revoked or
15 suspended so long as such revocations or suspensions are in effect.

16 (e) The court shall suspend the imposition of a license suspension of the license secured
17 from the Rhode Island tax administrator for violation of subdivisions (b)(3) and (b)(4) of this
18 section if the court finds that the license holder has taken measures to prevent the sale of tobacco
19 [and/or electronic nicotine delivery systems](#) to minors and the license holder can demonstrate to
20 the court that those measures have been taken and that employees have received training. No
21 person shall sell tobacco products [and/or electronic nicotine delivery system products](#), at retail,
22 without first being trained in the legal sale of tobacco [and/or electronic nicotine delivery system](#)
23 products. Training shall teach employees what constitutes a tobacco [and/or electronic nicotine](#)
24 [delivery system](#) product, legal age of purchase, acceptable identification, how to refuse a direct
25 sale to a minor or secondary sale to an adult, and all applicable laws on tobacco sales and
26 distribution. Dealers shall maintain records indicating that the provisions of this section were
27 reviewed with all employees who conduct or will conduct tobacco [and/or electronic nicotine](#)
28 [delivery systems](#) sales. Each employee who sells or will sell tobacco [and/or electronic nicotine](#)
29 [delivery system](#) products shall sign an acknowledgement form attesting that the provisions of this
30 section were reviewed with him/her. Each form shall be maintained by the retailer for as long as
31 the employee is so employed and for no less than one year after termination of employment. The
32 measures to prevent the sale of tobacco [and/or electronic nicotine delivery systems](#) to minors
33 shall be defined by the department of ~~mental health, retardation and hospitals~~ [behavioral](#)
34 [healthcare, developmental disabilities and hospitals](#) in rules and regulations.

1 **11-9-14. Use of tobacco by minors.** -- No person under eighteen (18) years of age shall
2 ~~smoke or chew~~ use or possess when such possession is clearly visible tobacco and/or electronic
3 nicotine delivery system in any public street, place or resort, any tobacco and/or electronic
4 nicotine delivery system in any form whatsoever. Any person under eighteen (18) years of age
5 violating the provisions of this section shall be required to perform up to thirty (30) hours of
6 community service or shall be required to enter into a tobacco treatment program approved by
7 any local substance abuse prevention task force, at the option of a minor charged with a violation
8 of this section.

9 SECTION 2. Chapter 23-1 of the General Laws entitled "Department of Health" is
10 hereby amended by adding thereto the following sections:

11 **23-1-55. Electronic nicotine delivery system distributor, and dealer licenses required**

12 **-- Definitions.** – (a) Definitions. – Whenever used in §§ 23-1-56 to 23-1-58, unless the context
13 requires otherwise:

14 (1) "Dealer" means any person whether located within or outside of this state who sells or
15 distributes electronic nicotine delivery system products to a consumer in this state;

16 (2) "Distributor" means any person:

17 (i) Whether located within or outside of this state, other than a dealer, who sells or
18 distributes electronic nicotine delivery system products within or into this state. Such term shall
19 not include any electronic nicotine delivery system products manufacturer, export warehouse
20 proprietor, or importer with a valid permit, if such person sells or distributes electronic nicotine
21 delivery system products in this state only to licensed distributors, or to an export warehouse
22 proprietor or another manufacturer with a valid permit;

23 (ii) Selling electronic nicotine delivery system products directly to consumers in this state
24 by means of at least twenty-five (25) electronic nicotine delivery system product vending
25 machines;

26 (iii) Engaged in this state in the business of manufacturing electronic nicotine delivery
27 system products or any person engaged in the business of selling electronic nicotine delivery
28 system products to dealers, or to other persons, for the purpose of resale only; provided that
29 seventy-five percent (75%) of all electronic nicotine delivery system products sold by that person
30 in this state are sold to dealers or other persons for resale and selling electronic nicotine delivery
31 system products directly to at least forty (40) dealers or other persons for resale; or

32 (iv) Maintaining one or more regular places of business in this state for that purpose;
33 provided, that seventy-five percent (75%) of the sold electronic nicotine delivery system products
34 are purchased directly from the manufacturer and selling electronic nicotine delivery system

1 products directly to at least forty (40) dealers or other persons for resale:

2 (3) "Electronic nicotine delivery system" means the products as defined in § 11-9-
3 13.4(15).

4 **23-1-56. License.** – (a) Each person engaging in the business of selling electronic
5 nicotine delivery system products in the state, including any distributor or dealer, shall secure a
6 license annually from the department before engaging in that business, or continuing to engage in
7 it. A separate application and license is required for each place of business operated by a
8 distributor or dealer. If the applicant for a license does not have a place of business in this state,
9 the license shall be issued for such applicant's principal place of business, wherever located. A
10 licensee shall notify the department within thirty (30) days in the event that it changes its
11 principal place of business. A separate license is required for each class of business if the
12 applicant is engaged in more than one of the activities required to be licensed by this section. No
13 person shall maintain or operate or cause to be operated a vending machine for electronic nicotine
14 delivery systems without procuring a dealer's license for each machine.

15 (b) The director shall have authority to set a reasonable fee not to exceed twenty five
16 dollars (\$25.00) for the issuance of the license.

17 (c) Each issued license shall be prominently displayed on the premises, if any, covered by
18 the license.

19 (d) The director shall create and maintain a website setting forth the identity of all
20 licensed persons under this section, itemized by type of license possessed, and shall update the
21 site no less frequently than six (6) times per year.

22 (e) A manufacturer or importer may sell or distribute electronic nicotine delivery systems
23 to a person located or doing business within the state, only if such person is a licensed distributor.
24 An importer may obtain electronic nicotine delivery systems only from a licensed manufacturer.
25 A distributor may sell or distribute electronic nicotine delivery systems to a person located or
26 doing business within this state, only if such person is a licensed distributor or dealer. A
27 distributor may obtain electronic nicotine delivery systems only from a licensed manufacturer,
28 importer, or distributor. A dealer may obtain electronic nicotine delivery systems only from a
29 licensed distributor.

30 (f)(1) No license under this chapter may be granted, maintained or renewed if the
31 applicant, or any combination of persons owning directly or indirectly any interests in the
32 applicant:

33 (i) Is delinquent in any tax filings for one month or more; or

34 (ii) Had a license under this chapter revoked within the past two (2) years.

1 (2) No person shall apply for a new license or renewal of a license and no license shall be
2 issued or renewed for any person, unless all outstanding fines, fees or other charges relating to
3 any license held by that person have been paid.

4 (3) No license shall be issued relating to a business at any specific location until all prior
5 licenses relating to that location have been officially terminated and all fines, fees or charges
6 relating to the prior licenses have been paid or otherwise resolved or if the director has found that
7 the person applying for the new license is not acting as an agent for the prior licensee who is
8 subject to any such related fines, fees or charges that are still due. Evidence of such agency status
9 includes, but is not limited to, a direct familial relationship and/or unemployment, contractual or
10 other formal financial or business relationship with the prior licensee.

11 (4) No person shall apply for a new license pertaining to a specific location in order to
12 evade payment of any fines, fees or other charges relating to a prior license for that location.

13 (5) No new license shall be issued for a business at a specific location for which a license
14 has already issued unless there is a bona fide, good faith change in ownership of the business at
15 that location.

16 (6) No license or permit shall be issued, renewed or maintained for any person, including
17 the owners of the business being licensed that has been convicted of violating any criminal law
18 relating to tobacco products and/or electronic nicotine delivery system products, the payment of
19 taxes or fraud or has been ordered to pay civil fines of more than twenty-five thousand dollars
20 (\$25,000) for violations of any civil law relating to tobacco products and/or electronic nicotine
21 delivery system products, the payment of taxes or fraud.

22 **23-1-57. Penalties for unlicensed business. --** Any distributor or dealer who sells, offers
23 for sale, or possesses with intent to sell, electronic nicotine delivery system products, without a
24 license as provided in § 23-1-56, shall be fined in accordance with the provisions of and the
25 penalties contained in § 23-1-58.

26 **23-1-58. Penalty for operating without a dealer license. –** (a) Any individual or
27 business who violates this chapter by selling or conveying an electronic nicotine delivery system
28 product without a retail license shall be cited for that violation and shall be required to appear in
29 district court for a hearing on the citation.

30 (b) Any individual or business cited for a violation hereunder shall:

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

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

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

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

3 (2) If that individual or business has posted a bond, forfeit the bond by not appearing at
4 the scheduled hearing. If the individual or business cited pays the five hundred dollar (\$500) fine
5 or forfeits the bond, that individual or business is deemed to have admitted the cited violation and
6 to have waived the right to a hearing on the issue of commission on the violation.

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

10 SECTION 3. 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 - ELECTRONIC NICOTINE DELIVERY SYSTEMS

1 This act would prohibit the sale of electronic nicotine delivery systems to persons under
2 eighteen (18), and would require a business selling, dealing or distributing an electronic nicotine
3 delivery system to obtain a license from the department of health.

4 This act would take effect upon passage.

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