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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO CRIMINAL OFFENSES -- CHILDREN

Introduced By: Representatives Diaz, Caldwell, Alzate, Serpa, and Casimiro

Date Introduced: January 09, 2020

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-9-13, 11-9-13.4, 11-9-13.6, 11-9-13.7, 11-9-13.8, 11-9-13.10,
2 11-9-13.11 and 11-9-14 of the General Laws in Chapter 11-9 entitled "Children" are hereby
3 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 to persons under~~**
6 **~~twenty-one -- Posting notice of law.~~**

7 No person under ~~eighteen (18)~~ twenty-one (21) years of age shall purchase, nor shall any
8 person sell, give, or deliver to any person under ~~eighteen (18)~~ twenty-one (21) years of age, any
9 tobacco in the form of cigarettes, bidi cigarettes, cigars, little cigars, flavored cigars known as
10 "blunts," unflavored "blunts," flavored and unflavored blunt wraps, cigarette rolling papers of any
11 size or composition, cigarillos and tiparillos, pipe tobacco, chewing tobacco, electronic nicotine-
12 delivery systems, electronic nicotine-delivery system liquids, liquid nicotine containers, or snuff.
13 Any person, firm, or corporation that owns, manages, or operates a place of business in which
14 tobacco products are sold, including sales through cigarette vending machines, shall post notice
15 of this law conspicuously in the place of business in letters at least three-eighths of an inch (3/8")
16 high.

17 **11-9-13.4. Definitions.**

18 As used in this chapter:

19 (1) "Bidi cigarette" means any product that (i) contains tobacco that is wrapped in

1 temburni or tender leaf, or that is wrapped in any other material identified by rules of the
2 Department of Health that is similar in appearance or characteristics to the temburni or tender
3 leaf, and (ii) does not contain a smoke filtering device.

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

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

6 (4) "Department of behavioral healthcare, developmental disabilities and hospitals "
7 means the state of Rhode Island behavioral healthcare, developmental disabilities and hospitals
8 department, its employees, agents or assigns.

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

11 (6) "License" is synonymous with the term "retail tobacco products dealer license" or
12 "electronic nicotine-delivery system license."

13 (7) "License holder" is synonymous with the term "retail tobacco products dealer" or
14 "electronic nicotine-delivery system license."

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

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

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

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

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

26 (13) "Underage individual" or "underage individuals" means any child under the age of
27 ~~eighteen (18)~~ twenty-one (21) years of age.

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

34 (15) "Electronic nicotine-delivery system" means an electronic device that may be used

1 to simulate smoking in the delivery of nicotine or other substance to a person inhaling from the
2 device, and includes, but is not limited to, an electronic cigarette, electronic cigar, electronic
3 cigarillo, electronic pipe, or electronic hookah and any related device and any cartridge or other
4 component of such device.

5 **11-9-13.6. Duties of the department of behavioral healthcare, developmental**
6 **disabilities and hospitals.**

7 The department of behavioral healthcare, developmental disabilities and hospitals shall:

8 (1) Coordinate and promote the enforcement of the provisions of this chapter and serve as
9 the primary liaison from this department to other state or local agencies, departments, or divisions
10 on issues pertaining to stopping children's access to tobacco and electronic nicotine-delivery
11 system dealers.

12 (2) Provide retail tobacco products dealers and electronic nicotine-delivery system
13 dealers signs concerning the prohibition of sales to children under ~~eighteen (18)~~ twenty-one (21)
14 years of age. The signs, conforming to the requirements of this chapter, shall be sold at cost. This
15 sign, or an exact duplicate of it made privately, shall be displayed in all locations where tobacco
16 products and/or electronic nicotine-delivery systems are sold.

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

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

31 (ii) In fulfilling the requirement of unannounced statewide compliance checks, the
32 department of behavioral healthcare, developmental disabilities and hospitals shall maintain
33 complete records of the unannounced compliance checks, detailing, at least, the date of the
34 compliance check; the name and address of the retail establishment checked or the mail order

1 company; the results of the compliance check (sale/no sale); whether the sale was made as an
2 over-the-counter sale, a mail-order purchase or a tobacco and/or or electronic nicotine-delivery
3 systems vending machine sale; and if a citation was issued for any violation found. The records
4 shall be subject to public disclosure. Further, the department of behavioral healthcare,
5 developmental disabilities and hospitals shall report to the owner of each retail establishment
6 checked or mail-order company the results of any compliance check (sale/no sale) whether the
7 sale was made as an over-the-counter sale, a mail-order purchase, or a tobacco and/or electronic
8 nicotine-delivery systems vending machine sale, and if a citation was issued for any violation
9 found.

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

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

14 **11-9-13.7. ~~Signs concerning sales to individuals under age eighteen (18).~~ Signs**
15 **concerning sales to individuals under age twenty-one (21).**

16 Signs provided by the department of behavioral healthcare, developmental disabilities
17 and hospitals, or an exact duplicate of it made privately, shall:

18 (1) Contain in red bold lettering a minimum of three-eighths (3/8") inch high on a white
19 background the following wording in both English and Spanish:

20 THE SALE OF CIGARETTES,
21 TOBACCO AND ELECTRONIC NICOTINE-DELIVERY SYSTEM
22 PRODUCTS
23 TO PERSONS UNDER THE AGE OF ~~18~~ 21
24 IS AGAINST RHODE ISLAND LAW
25 (§ 11-9-13.8(1), Rhode Island Statutes)
26 PHOTO ID FOR PROOF OF AGE IS
27 REQUIRED FOR PURCHASE.

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

32 (3) Be displayed prominently for public view, wherever tobacco products are sold at each
33 cash register, each tobacco and/or electronic nicotine-delivery systems vending machine, or any
34 other place from which tobacco products are sold. The signs shall be electronically available in

1 both English and Spanish online at the department of behavioral healthcare, developmental
2 disabilities and hospitals' website.

3 **11-9-13.8. Prohibitions applicable to license holders and their employees and agents.**

4 A person holding a license issued under chapter 20 of title 44 and/or § 23-1-56, or an
5 employee or agent of that person, is prohibited from selling, distributing, or delivering a tobacco
6 and/or electronic nicotine-delivery system product:

- 7 (1) To any individual who is under ~~eighteen (18)~~ twenty-one (21) years of age; or
8 (2) In any form other than an original, factory-wrapped package; or
9 (3) As a single-cigarette sale (§ 44-20-31) or as a sale of cigarettes by the individual piece
10 known as "loosies."

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

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

27 ~~**11-9-13.11. Prohibition on the sale or distribution of tobacco products through the**~~
28 ~~**mail conveyance of tobacco products through the mail to children under eighteen (18) --**~~
29 ~~**Proof of age of purchaser required -- General rule. Prohibition on the sale or distribution of**~~
30 ~~**tobacco products through the mail conveyance of tobacco products through the mail to**~~
31 ~~**children under twenty-one (21) -- Proof of age of purchaser required -- General rule.**~~

32 (a) The distribution, or sale or conveyance of tobacco products to children under the age
33 of ~~eighteen (18)~~ twenty-one (21) via the United States Postal Service, or by any other public or
34 private postal or package delivery service, shall be prohibited.

1 (b) Any person selling or distributing tobacco products in the form of cigars, pipe
2 tobacco, chewing tobacco, or snuff directly to a consumer via the United States Postal Service, or
3 by any other public or private postal or package delivery service, including orders placed by mail,
4 telephone, facsimile, or internet, shall: (1) before distributing or selling the tobacco product
5 through any of these means, receive both a copy of a valid form of government identification
6 showing date of birth to verify the purchaser is age ~~eighteen (18)~~ twenty-one (21) years or over
7 and an attestation from the purchaser certifying that the information on the government
8 identification truly and correctly identifies the purchaser and the purchaser's current address, and
9 (2) deliver the tobacco product to the address of the purchaser given on the valid form of
10 government identification and by a postal or package delivery service method that either limits
11 delivery to that purchaser and requires the purchaser to sign personally to receive the delivery or
12 requires a signature of an adult at the purchaser's address to deliver the package.

13 (c) The attorney general shall bring an action for any violation of this chapter. Any
14 distribution, or sale or conveyance of a tobacco product to a child under ~~eighteen (18)~~ twenty-one
15 (21) years of age via the United States Postal Service, or by any other public or private postal or
16 package delivery service, shall be subject to an action against the distributor, or seller or conveyor
17 by the attorney general of the state of Rhode Island. A minimum fine of one thousand dollars
18 (\$1,000) shall be assessed against any distributor, or seller or conveyor convicted of distributing,
19 or selling or conveying tobacco products via the United States postal service, or by any other
20 public or private postal or package delivery service, for each delivery, or sale or conveyance of a
21 tobacco product to a child under ~~eighteen (18)~~ twenty-one (21) years of age.

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

27 (e) Any delivery sale of cigarettes shall be made pursuant to the provisions of chapter
28 20.1 of title 44. The provisions of this section shall apply to each tobacco product listed in
29 subsection (b) herein, but shall not apply to any delivery sale of cigarettes.

30 **~~11-9-14. Use of tobacco by minors~~ Use of tobacco by individuals under twenty-one**
31 **(21) years.**

32 No person under ~~eighteen (18)~~ twenty-one (21) years of age shall use or possess, when
33 such possession is clearly visible, tobacco in any public street, place, or resort, any tobacco and/or
34 electronic nicotine delivery system and/or liquid nicotine container in any form whatsoever. Any

1 person under ~~eighteen (18)~~ twenty-one (21) years of age violating the provisions of this section
2 shall be required to perform up to thirty (30) hours of community service or shall be required to
3 enter into a tobacco treatment program, approved by any local substance abuse prevention task
4 force, at the option of a minor charged with a violation of this section.

5 SECTION 2. Chapter 11-9 of the General Laws entitled "Children" is hereby amended by
6 adding thereto the following section:

7 **11-9-14.1. Compliance with Food and Drug Administration regulations.**

8 (a) The provisions of §§ 11-9-13, 11-9-13.4, 11-9-13.6, 11-9-13.7, 11-9-13.8, 11-9-13.10,
9 11-9-13.11, and 11-9-14 shall be deemed and interpreted so as to be consistent and in compliance
10 with any regulations promulgated or updated by the United States Food and Drug Administration
11 or the Secretary of Health and Human Services to comply with the provisions of the Federal
12 Food, Drug, and Cosmetic Act, 21 U.S.C. 387f(d), in regard to prohibiting the sale of tobacco and
13 electronic nicotine-delivery system products to persons under the age of twenty-one (21) years.
14 In the event of any question as to the applicability with federal regulations, §§ 11-9-13, 11-9-
15 13.4, 11-9-13.6, 11-9-13.7, 11-9-13.8, 11-9-13.10, 11-9-13.11, and 11-9-14 shall be deemed and
16 interpreted to conform with applicable federal requirements to obtain federal funding regarding
17 tobacco, the use and cessation of tobacco, and electronic nicotine-delivery system products.

18 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 -- CHILDREN

1 This act would raise the legal age for persons to purchase or be sold or delivered certain
2 tobacco products, electronic nicotine delivery systems and liquid nicotine containers from
3 eighteen (18) years of age to twenty-one (21) years of age.

4 This act would take effect upon passage.

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