

2016 -- H 7427

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL OFFENSES -- CHILDREN

Introduced By: Representatives Melo, Craven, Shekarchi, McNamara, and Solomon

Date Introduced: January 29, 2016

Referred To: House Health, Education & Welfare

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-9 of the General Laws entitled "Children" is hereby amended by
2 adding thereto the following section:

3 **11-9-22. Packaging of electronic delivery system liquid. --** (a) No liquid, whether or
4 not such liquid contains nicotine, that is intended for human consumption and use in an electronic
5 nicotine-delivery system, as defined in §11-9-13.4, shall be sold unless the liquid is contained in
6 child-resistant packaging.

7 (b) All licensees under §23-1-56 shall ensure that any liquid intended for human
8 consumption and use in an electronic nicotine-delivery system, as defined in §11-9-13.4, is sold
9 in child-resistant packaging.

10 (c)(l) For the purposes of this section, "child-resistant packaging" means packaging that
11 is designed or constructed to be significantly difficult for children under five (5) years of age to
12 open or obtain a toxic or harmful amount of the substance contained therein within a reasonable
13 time and not difficult for normal adults to use properly, but does not mean packaging which all
14 such children cannot open or obtain a toxic or harmful amount within a reasonable time. A liquid,
15 as referred to in subsection (a) of this section, enclosed in a package, cartridge, or other container
16 that is prefilled and sealed by the manufacturer and not intended to be opened by the consumer
17 shall qualify as child-resistant packaging.

18 (2) For purposes of this section, all regulations prescribing standards for "special
19 packaging" of household substances per chapter 24.1 of title 23 now or hereafter adopted under

1 the authority of the federal poison prevention packaging act are the regulatory standards in this
2 state for "child-resistant packaging" as defined in subsection (c)(l) of this section. Provided,
3 however, that if any federal statute or federal regulation and/or rule is promulgated prescribing
4 standards specifically for child safety packaging for liquid nicotine containers, that federal statute
5 or federal regulation and/or rule shall be the regulatory standard under this section as of the
6 effective date of any such enacted legislation or final regulation and/or rule.

7 (d) Any licensee or any person required to be licensed under §23-1-56 that fails to
8 comply with this section shall be subject to the following penalties:

9 (1) For a first violation, a fine of five hundred dollars (\$500).

10 (2) For a second violation, a fine of one thousand dollars (\$1,000).

11 (3) A third or subsequent violation will result in a fine of two thousand dollars (\$2,000)
12 and a suspension of the licensee's license by the department of health for not less than fourteen
13 (14) days. The suspension will take effect on the date of the director's written notice of the
14 suspension to the licensee. In the written notice of license suspension, the director shall inform
15 the licensee that a written request for a hearing on the alleged violation may be filed with the
16 director within ten (10) days after service of notice of license suspension. The notice will be
17 deemed properly served upon a licensee if a copy of the notice is personally served upon the
18 entity or persons, or sent by registered or certified mail to the last known address of that entity or
19 persons, or if that entity or persons is served with notice by any other method of service now or
20 later authorized in a civil action under the laws of this state. If no written request for a hearing is
21 made to the director within ten (10) days of the service of notice, the notice shall automatically
22 become a compliance order. All hearings shall be governed by §23-1-22.

23 (e) The licensee is responsible for all violations of this section that occur at the location
24 for which the license is issued.

25 (f) No licensee or person shall be found in violation of this section if the licensee or
26 person relied in good faith on any documentation provided by or attributed to the manufacturer of
27 the packaging of the aforementioned liquid that such packaging meets the requirements of this
28 section.

29 (g) The department of health is authorized to promulgate any rules and regulations
30 necessary to carry into effect the provisions of this section.

31 SECTION 2. Sections 23-20.9-4 and 23-20.9-5 of the General Laws in Chapter 23-20.9
32 entitled "Smoking in Schools" are hereby amended to read as follows:

33 **23-20.9-4. Definitions.** -- As used in this chapter:

34 (1) "Person" means any person or persons including but not limited to contract or other

1 workers on school property, school students, school administrators, school employees, school
2 faculty, and school visitors.

3 (2) "School or schools" means any non-residential school building, public or private, of
4 any city or town or community educational system regulated, directly or secondarily, by the board
5 of regents for elementary and secondary education or the department of elementary and
6 secondary education or any other state education board or local city or town school board or
7 school committee or other legal educational subdivision acting under it. As used in this chapter,
8 the term "school or schools" includes but is not limited to school playgrounds, school
9 administration buildings, indoor school athletic facilities, school gymnasiums, school locker
10 rooms, school buses, other school vehicles, other school buildings whose use is not primarily
11 residential, and outside areas within twenty-five (25) feet of any school building.

12 (3) "Governing body" means the body, board, committee or individual, or its designated
13 agent(s) or designee(s), responsible for, or which has control over, the administration of any
14 elementary or secondary school, public or private, in the state.

15 (4) "Tobacco product usage" means the smoking or use of any substance or item which
16 contains tobacco, including but not limited to cigarettes, cigars, pipes, or other smoking tobacco,
17 or the use of snuff or smokeless tobacco, or having in one's possession a lighted cigarette, cigar,
18 pipe, or other substance or item containing tobacco.

19 (5) "Electronic nicotine-delivery system usage" means any vaping, inhaling, or use of any
20 device defined in §11-9-13.4.

21 **23-20.9-5. Regulation of smoking in schools.** -- (a) The governing body of each school
22 in Rhode Island shall be responsible for the development of enforcement procedures to prohibit
23 tobacco product usage and electronic nicotine-delivery system usage by any person utilizing
24 school facilities. All facilities used by a school, whether owned, leased or rented, shall be subject
25 to the provisions of this chapter. Enforcement procedures shall be promulgated and conspicuously
26 posted in each building.

27 (b) This chapter shall not modify, or be used as a basis for modifying school policies or
28 regulations in effect prior to the passage of this chapter if the existing policies or regulations
29 prohibit tobacco product usage and electronic nicotine-delivery system usage in the school.

30 (c) All school areas where tobacco product usage is prohibited shall be clearly marked
31 with "nonsmoking area" signs with bold block lettering at least three inches (3") high stating
32 "Tobacco-Free School -- Tobacco Use Prohibited". All school areas where electronic nicotine-
33 delivery system usage is prohibited shall be clearly marked with "nonsmoking area" signs with
34 bold block lettering at least three inches (3") high stating "E-Cigarettes and Vapor Devices

1 [Prohibited](#)". There shall be at least one "nonsmoking area" sign, in conformance with the above,
2 at every building entrance and in other areas as designated by the governing body. Signs shall
3 also be posted in every school bus and every school vehicle. Signs as detailed above shall be
4 provided, without charge, by the department of health.

5 SECTION 3. This act shall take effect on January 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES -- CHILDREN

- 1 This act would prohibit the sale of liquid that is intended for human consumption and/or
- 2 use in an electronic nicotine-delivery system that is not contained in child-resistant packaging.
- 3 This act would also prohibit the use of electronic nicotine-delivery systems in schools.
- 4 This act would take effect on January 1, 2017.

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