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LC000725/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO CRIMINAL OFFENSES - CHILDREN

Introduced By: Representatives Tanzi, Donovan, Ajello, Ruggiero, and Nunes

Date Introduced: March 08, 2017

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 **11-9-13.20. Packaging of electronic nicotine-delivery system liquid.**

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

7 (b) Any liquid nicotine container that is sold at retail in this state must satisfy the child-
8 resistant effectiveness standards set forth in 16 C.F.R. §1700.15(b), when tested in accordance
9 with the method described in 16 C.F.R. §1700.20. All licensees under §23-1-56 shall ensure that
10 any liquid sold by the licensee intended for human consumption and used in an electronic-
11 nicotine delivery system, as defined in §11-9-13.4, is sold in a liquid nicotine container that meets
12 the requirements described and referenced in this subsection.

13 (c) For the purposes of this section, "liquid nicotine container" means a bottle or other
14 container of a liquid or other substance where the liquid or substance is sold, marketed, or
15 intended for use in a vapor product. A "liquid nicotine container" does not include a liquid or
16 other substance in a cartridge that is sold, marketed, or intended for use in a vapor product,
17 provided that such cartridge is prefilled and sealed by the manufacturer, and not intended to be
18 opened by the consumer.

19 (d) Any licensee or any person required to be licensed under §23-1-56 that fails to

1 [comply with this section shall be subject to the penalties provided in §11-9-13.13.](#)

2 [\(e\) The licensee is responsible for all violations of this section that occur at the location](#)
3 [for which the license is issued.](#)

4 [\(f\) No licensee or person shall be found in violation of this section if the licensee or](#)
5 [person relied in good faith on documentation provided by or attributed to the manufacturer of the](#)
6 [packaging of the aforementioned liquid that such packaging meets the requirements of this](#)
7 [section.](#)

8 SECTION 2. Sections 11-9-13.10, 11-9-13.13, 11-9-13.16 and 11-9-13.17 of the General
9 Laws in Chapter 11-9 entitled "Children" are hereby amended to read as follows:

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

11 The distribution of free tobacco products and electronic nicotine-delivery systems or
12 coupons or vouchers redeemable for free tobacco or electronic nicotine-delivery system products
13 to any 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 systems 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, [or any local or state of Rhode Island police](#)
18 [department, or their officer or agents,](#) shall bring an action for any violation of this section. Every
19 separate, free tobacco product or electronic nicotine-delivery system or coupon or voucher
20 redeemable for a free tobacco or electronic nicotine-delivery system or product in violation of this
21 section shall constitute a separate offense subject to a fine of five hundred dollars (\$500). The
22 penalty shall be assessed against the business or individual responsible for initiating the Rhode
23 Island distribution of the free tobacco products or electronic nicotine-delivery systems or coupons
24 or vouchers redeemable for free tobacco products or electronic nicotine-delivery systems.

25 **11-9-13.13. Nature and size of penalties.**

26 (a) Any person or individual who violates a requirement of § 11-9-13.6(2), display of
27 specific signage, shall be subject to a fine in court of not less than thirty-five dollars (\$35.00), nor
28 more than five hundred dollars (\$500), per civil 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 § 11-9-
31 13.8(1) and/or (2) [or §11-9-13.20](#) 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 month (36) period;

34 (2) A fine of five hundred dollars (\$500) for the second violation within any thirty-six-

1 month (36) period;

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

5 (4) A fine of one thousand five hundred dollars (\$1,500) and a ninety-day (90)
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 § 11-9-13.8(3), sale of single cigarettes; §
9 11-9-13.8(2), regarding factory-wrapped packs; shall be subject to a penalty of five hundred
10 dollars (\$500) for each violation.

11 (d) The department of taxation and/or the department of health shall not issue a license to
12 any individual, business, firm, association, or corporation the license of which has been revoked
13 or suspended, to any corporation an officer of which has had his or her license revoked or
14 suspended, or to any individual who is, or has been, an officer of a corporation the license of
15 which has been revoked or 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 or her. Each form shall be maintained by the retailer for as long
31 as the employee is so employed and for no less than one year after termination of employment.
32 The measures to prevent the sale of tobacco and/or electronic nicotine-delivery systems to minors
33 shall be defined by the department of behavioral healthcare, developmental disabilities and
34 hospitals in rules and regulations.

1 **11-9-13.16. Rules and regulations.**

2 The department of ~~mental health, retardation and hospitals~~ [behavioral healthcare,](#)
3 [developmental disabilities and hospitals](#) shall promulgate the rules and regulations necessary to
4 fulfill the intent of §§ 11-9-13.2 -- ~~11-9-13.19~~ [11-9-13.20](#).

5 **11-9-13.17. Fines collected.**

6 (a) One-half (1/2) of all the fines collected pursuant to §§ 11-9-13.2 -- ~~11-9-13.19~~ [11-9-](#)
7 [13.20](#) shall be transferred to the municipalities in which the citation originated.

8 (b) One-half (1/2) of all the fines collected pursuant to §§ 11-9-13.2 -- ~~11-9-13.19~~ [11-9-](#)
9 [13.20](#) shall be transferred to the general fund.

10 SECTION 3. Sections 23-20.9-4 and 23-20.9-5 of the General Laws in Chapter 23-20.9
11 entitled "Smoking in Schools" are hereby amended to read as follows:

12 **23-20.9-4. Definitions.**

13 As used in this chapter:

14 (1) "Person" means any person or persons including but not limited to contract or other
15 workers on school property, school students, school administrators, school employees, school
16 faculty, and school visitors.

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

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

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

33 (5) ["Electronic nicotine-delivery system usage" means any vaping, inhaling, or use of any](#)
34 [device defined in §11-9-13.4.](#)

1 **23-20.9-5. Regulation of smoking in schools.**

2 (a) The governing body of each school in Rhode Island shall be responsible for the
3 development of enforcement procedures to prohibit tobacco product usage and electronic
4 nicotine-delivery system usage by any person utilizing school facilities. All facilities used by a
5 school, whether owned, leased or rented, shall be subject to the provisions of this chapter.
6 Enforcement procedures shall be promulgated and conspicuously posted in each building.

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

10 (c) All school areas where tobacco product usage is prohibited shall be clearly marked
11 with "nonsmoking area" signs with bold block lettering at least three inches (3") high stating
12 "Tobacco-Free School -- Tobacco Use Prohibited". All school areas where electronic nicotine-
13 delivery system usage is prohibited shall be clearly marked with "nonsmoking area" signs with
14 bold block lettering at least three inches (3") high stating "E-Cigarettes and Vapor Devices
15 Prohibited". There shall be at least one "nonsmoking area" sign, in conformance with the above,
16 at every building entrance and in other areas as designated by the governing body. Signs shall
17 also be posted in every school bus and every school vehicle. Signs as detailed above shall be
18 provided, without charge, by the department of health.

19 SECTION 4. This act shall take effect on January 1, 2018.

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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, 2018.

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