

2021 -- H 5716

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LC002036
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO HEALTH AND SAFETY -- SALE OF TOBACCO PRODUCTS IN
PHARMACIES

Introduced By: Representatives Caldwell, Baginski, Morales, Bennett, Ackerman,
Donovan, and Amore

Date Introduced: February 24, 2021

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 95

4 PROHIBITIONS OF SALE OF TOBACCO PRODUCTS IN PHARMACIES

5 **23-95-1. Legislative findings.**

6 The general assembly hereby finds and declares:

7 (1) The state of Rhode Island recognizes that the use of tobacco products has devastating
8 health and economic consequences.

9 (2) Commercial tobacco use is the foremost preventable cause of premature death in the
10 United States. It causes five hundred thousand (500,000) deaths annually and has been responsible
11 for twenty million eight hundred thousand (20,800,000) premature deaths in the U.S. since the first
12 Surgeon General's report on smoking in 1964.

13 (3) Tobacco product use leads to more than three hundred billion dollars
14 (\$300,000,000,000) in health care and lost worker productivity costs each year.

15 (4) Young people are particularly susceptible to the addictive properties of tobacco
16 products, and youth that begin using tobacco products are particularly likely to become lifelong
17 users.

18 (5) An estimated five million six hundred thousand (5,600,000) of today's American youth

1 aged zero (0) to seventeen (17) are projected to die prematurely from a commercial tobacco-related
2 illness if prevalence rates do not change.

3 (6) Two million (2,000,000) smokers last purchased their cigarettes from a pharmacy.

4 (7) One in twenty (20) customers who were filling prescriptions for chronic illnesses,
5 worsened by smoking, also purchased cigarettes.

6 (8) Tobacco products in pharmacies make quitting attempts for current smokers less
7 successful.

8 (9) After CVS Health stopped selling tobacco in September 2014, cigarette pack sales
9 decreased, and nicotine patch purchases increased in states where the chain had a large retail
10 presence.

11 (10) Some large pharmacy chains are the leading sellers of tobacco products to underage
12 individuals.

13 (11) Some large-scale pharmacy operations and independent community pharmacies have
14 already ceased the sale of tobacco products to align their businesses with the health care role they
15 serve in the community.

16 (12) To promote the health, safety and well-being of its residents, all pharmacies and retail
17 establishments containing a pharmacy should be prohibited from selling tobacco products in the
18 state.

19 (13) Local and state governments have used their authority to prohibit the sale of tobacco
20 products in pharmacies to protect communities from tobacco-related harms. As of July 2020, two
21 hundred thirty-five (235) municipalities and two (2) states have enacted tobacco-free pharmacy
22 policies.

23 **23-95-2. Definitions.**

24 As used in this law, the following terms shall have the following meanings:

25 (1) "Distribute" or "distribution" means to furnish, give, provide, sell, or to attempt to do
26 so, whether gratuitously or for any type of compensation.

27 (2) "Electronic smoking device" means any device that may be used to deliver any
28 aerosolized or vaporized substance to the person inhaling from the device, including, but not limited
29 to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any
30 component, part, or accessory of the device, and also includes any substance intended to be
31 aerosolized or vaporized during the use of the device, whether or not the substance contains
32 nicotine. Electronic smoking device does not include drugs, devices, or combination products
33 authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the
34 Federal Food, Drug and Cosmetic Act.

1 (3) "Pharmacy" means an establishment licensed as such by the state board of pharmacy,
2 pursuant to chapter 19.1 of title 5, where pharmacy may be practiced as well as retail establishments
3 containing a pharmacy.

4 (4) "Tobacco product" means:

5 (i) Any product containing, made of, or derived from tobacco or nicotine that is intended
6 for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any
7 other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff,
8 or snus;

9 (ii) Any electronic smoking device and any substances that may be aerosolized or
10 vaporized by such device, whether or not the substance contains nicotine; or

11 (iii) Any component, part, or accessory of subsections (4)(i) or (4)(ii) of this section,
12 whether or not any of these contain tobacco or nicotine, including, but not limited to, filters, rolling
13 papers, blunt or hemp wraps, and pipes. Tobacco product does not include drugs, devices, or
14 combination products authorized for sale by the U.S. Food and Drug Administration, as those terms
15 are defined in the Federal Food, Drug and Cosmetic Act.

16 **23-95-3. Prohibitions of sale of tobacco products in pharmacies.**

17 No pharmacy located in the state shall distribute or attempt to distribute, including selling
18 or attempting to sell a tobacco product.

19 **23-95-4. Enforcement.**

20 (a) This chapter shall be enforced by the department of health.

21 (b) Notice of the provisions of this policy shall be given to all applicants for a business
22 license in the state.

23 (c) Any citizen who desires to register a complaint under this chapter may initiate
24 enforcement with the department of health.

25 (d) The department of health shall, while an establishment is undergoing otherwise
26 mandated inspections, inspect for compliance with this policy.

27 **23-95-5. Penalties.**

28 Violation of this chapter by a pharmacy shall be subject to a civil penalty of up to two
29 thousand (\$2,000) dollars per violation. Each day of a violation shall be a separate offense.

30 **23-95-6. Public education.**

31 The department of health shall engage in a continuing program to explain and clarify the
32 purposes and requirements of this chapter to citizens affected by it, and to guide owners, operators,
33 and managers in their compliance with it. The program may include publication of a brochure for
34 affected businesses and individuals explaining the provisions of this chapter.

1 **23-95-7. Severability.**

2 If any provision, clause, sentence, or paragraph of this chapter or the application thereof to
3 any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions
4 of this chapter which can be given effect without the invalid provisions or application, and to this
5 end the provisions of this chapter are declared to be severable.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO HEALTH AND SAFETY -- SALE OF TOBACCO PRODUCTS IN
PHARMACIES

- 1 This act would prohibit the sale of tobacco products in pharmacies and would provide for
- 2 a civil penalty of two thousand dollars (\$2,000) for each violation.
- 3 This act would take effect upon passage.

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