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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 **11-9-13.20. 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 penalties provided in §11-9-13.13.

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

11 (f) No licensee or person shall be found in violation of this section if the licensee or
12 person relied in good faith on documentation provided by or attributed to the manufacturer of the
13 packaging of the aforementioned liquid that such packaging meets the requirements of this
14 section.

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

17 **11-9-13.10. Prohibition on the distribution of free tobacco products. --** The
18 distribution of free tobacco products and electronic nicotine-delivery systems or coupons or
19 vouchers redeemable for free tobacco or electronic nicotine-delivery system products to any
20 person under eighteen (18) years of age shall be prohibited. Further, the distribution of free
21 tobacco products or electronic nicotine-delivery systems or coupons or vouchers redeemable for
22 free tobacco or electronic nicotine-delivery systems products shall be prohibited, regardless of the
23 age of the person to whom the products, coupons, or vouchers are distributed, within five hundred
24 (500) feet of any school. The attorney general, any local or state of Rhode Island police
25 department, their officers or agents shall bring an action for any violation of this section. Every
26 separate, free tobacco product or electronic nicotine-delivery system or coupon or voucher
27 redeemable for a free tobacco or electronic nicotine-delivery system or product in violation of this
28 section shall constitute a separate offense subject to a fine of five hundred dollars (\$500). The
29 penalty shall be assessed against the business or individual responsible for initiating the Rhode
30 Island distribution of the free tobacco products or electronic nicotine-delivery systems or coupons
31 or vouchers redeemable for free tobacco products or electronic nicotine-delivery systems.

32 **11-9-13.13. Nature and size of penalties. --** (a) Any person or individual who violates a
33 requirement of § 11-9-13.6(2), display of specific signage, shall be subject to a fine in court of not
34 less than thirty-five dollars (\$35.00), nor more than five hundred dollars (\$500), per civil

1 violation.

2 (b) The license holder is responsible for all violations of this section that occur at the
3 location for which the license is issued. Any license holder that violates the prohibition of §11-
4 9-13.8(1), ~~and/or (2)~~ 11-9-13.8(2) or 11-9-13.20 shall be subject to civil fines as follows:

5 (1) A fine of two hundred fifty dollars (\$250) for the first violation within any thirty-six-
6 month (36) period;

7 (2) A fine of five hundred dollars (\$500) for the second violation within any thirty-six-
8 month (36) period;

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

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

15 (c) Any person that violates a prohibition of § 11-9-13.8(3), sale of single cigarettes; §
16 11-9-13.8(2), regarding factory-wrapped packs; shall be subject to a penalty of five hundred
17 dollars (\$500) for each violation.

18 (d) The department of taxation and/or the department of health shall not issue a license to
19 any individual, business, firm, association, or corporation the license of which has been revoked
20 or suspended, to any corporation an officer of which has had his or her license revoked or
21 suspended, or to any individual who is, or has been, an officer of a corporation the license of
22 which has been revoked or suspended so long as such revocations or suspensions are in effect.

23 (e) The court shall suspend the imposition of a license suspension of the license secured
24 from the Rhode Island tax administrator for violation of subdivisions (b)(3) and (b)(4) of this
25 section if the court finds that the license holder has taken measures to prevent the sale of tobacco
26 and/or electronic nicotine-delivery systems to minors and the license holder can demonstrate to
27 the court that those measures have been taken and that employees have received training. No
28 person shall sell tobacco products and/or electronic nicotine-delivery system products at retail
29 without first being trained in the legal sale of tobacco and/or electronic nicotine-delivery system
30 products. Training shall teach employees what constitutes a tobacco and/or electronic nicotine-
31 delivery system product; legal age of purchase; acceptable identification; how to refuse a direct
32 sale to a minor or secondary sale to an adult; and all applicable laws on tobacco sales and
33 distribution. Dealers shall maintain records indicating that the provisions of this section were
34 reviewed with all employees who conduct, or will conduct, tobacco and/or electronic nicotine-

1 delivery systems sales. Each employee who sells or will sell tobacco and/or electronic nicotine-
2 delivery system products shall sign an acknowledgement form attesting that the provisions of this
3 section were reviewed with him or her. Each form shall be maintained by the retailer for as long
4 as the employee is so employed and for no less than one year after termination of employment.
5 The measures to prevent the sale of tobacco and/or electronic nicotine-delivery systems to minors
6 shall be defined by the department of behavioral healthcare, developmental disabilities and
7 hospitals in rules and regulations.

8 **11-9-13.16. Rules and regulations.** -- The department of ~~mental health, retardation~~
9 behavioral healthcare, developmental disabilities and hospitals shall promulgate the rules and
10 regulations necessary to fulfill the intent of §§ 11-9-13.2 -- ~~11-9-13.19~~ 11-9-13.20.

11 **11-9-13.17. Fines collected.** -- (a) One-half (1/2) of all the fines collected pursuant to §§
12 11-9-13.2 -- ~~11-9-13.19~~ 11-9-13.20 shall be transferred to the municipalities in which the citation
13 originated.

14 (b) One-half (1/2) of all the fines collected pursuant to §§ 11-9-13.2 -- ~~11-9-13.19~~ 11-9-
15 13.20 shall be transferred to the general fund.

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

18 **23-20.9-4. Definitions.** -- As used in this chapter:

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

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

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

34 (4) "Tobacco product usage" means the smoking or use of any substance or item which

1 contains tobacco, including but not limited to cigarettes, cigars, pipes, or other smoking tobacco,
2 or the use of snuff or smokeless tobacco, or having in one's possession a lighted cigarette, cigar,
3 pipe, or other substance or item containing tobacco.

4 [\(5\) "Electronic nicotine-delivery system usage" means any vaping, inhaling, or use of any](#)
5 [device defined in §11-9-13.4.](#)

6 **23-20.9-5. Regulation of smoking in schools.** -- (a) The governing body of each school
7 in Rhode Island shall be responsible for the development of enforcement procedures to prohibit
8 tobacco product usage [and electronic nicotine-delivery system usage](#) by any person utilizing
9 school facilities. All facilities used by a school, whether owned, leased or rented, shall be subject
10 to the provisions of this chapter. Enforcement procedures shall be promulgated and conspicuously
11 posted in each building.

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

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

24 SECTION 4. 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 and
- 4 establish penalties for any violations by the users and/or sellers.
- 5 This act would take effect on January 1, 2017.

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