

2018 -- H 7647

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO CRIMINAL OFFENSES - CHILDREN

Introduced By: Representatives Tanzi, Fogarty, Handy, Nunes, and Ranglin-Vassell

Date Introduced: February 15, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-9-13, 11-9-13.1, 11-9-13.3, 11-9-13.4, 11-9-13.5, 11-9-13.6,
2 11-9-13.7, 11-9-13.8, 11-9-13.10, 11-9-13.11, and 11-9-13.13 of the General Laws in Chapter 11-
3 9 entitled "Children" are hereby 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. Sale or delivery of tobacco products or electronic nicotine-delivery~~
6 ~~systems to persons under twenty-one -- Posting notice of law.~~

7 No person ~~under eighteen (18) years of age shall purchase, nor~~ shall ~~any person~~ sell, give,
8 or deliver to any person under ~~eighteen (18)~~ twenty-one (21) years of age, any tobacco product or
9 electronic nicotine-delivery system as defined in § 11-9-13.4. ~~in the form of cigarettes, bidi~~
10 ~~cigarettes, cigars, little cigars, flavored cigars known as "blunts," unflavored "blunts," flavored~~
11 ~~and unflavored blunt wraps, cigarette rolling papers of any size or composition, cigarillos and~~
12 ~~tiparillos, pipe tobacco, chewing tobacco, electronic nicotine-delivery systems, or snuff.~~ Any
13 person, firm, or corporation that owns, manages, or operates a place of business in which tobacco
14 products or electronic nicotine-delivery systems are sold, including sales through ~~cigarette~~
15 vending machines, shall post notice of this law conspicuously in the place of business in letters at
16 least three-eighths of an inch (3/8") high.

17 11-9-13.1. Cigarette and tobacco vending machines.

18 (a) No cigarettes, nor any other tobacco product, nor electronic nicotine-delivery system
19 ~~product~~ shall be sold from any device or vending machine that is in ~~an~~ any area of a business ~~not~~

1 ~~continuously supervised and in direct line of sight of an authorized person employed by the~~
2 ~~person, firm, or corporation that owns the business occupying the premises in which the device or~~
3 ~~vending machine is located, nor shall any tobacco product, nor electronic nicotine delivery~~
4 ~~system product be sold from any device or vending machine that is in an area supervised by such~~
5 ~~an authorized person unless the device or vending machine is equipped with an electronic locking~~
6 ~~device that will not allow the device or vending machine to dispense a pack of cigarettes, or any~~
7 ~~other tobacco product, or electronic nicotine delivery system product unless it is electronically~~
8 ~~unlocked from a secured position inaccessible to the public and under the supervision of an~~
9 ~~authorized person employed by the person, firm, or corporation that owns the business occupying~~
10 ~~the premises in which the device or vending machine is located. "Direct line of sight" means that~~
11 ~~the vending machine and the purchaser of cigarettes or electronic nicotine delivery system~~
12 ~~product must be visible to the authorized person pressing the unlock button while the unlock~~
13 ~~button is being activated. Provided, a locking device shall not be required in an establishment~~
14 ~~licensed to sell alcoholic beverages that limits access to that persons ~~over~~ under the age of~~
15 twenty-one (21) years are allowed to enter.

16 (b) No cigarettes, nor any other tobacco product, nor electronic nicotine-delivery system
17 ~~product~~ shall be sold from any device or vending machine from which non-tobacco products are
18 sold.

19 (c) No cigarettes shall be sold in packs that contain less than twenty (20) cigarettes.

20 (d) Any person, firm, or corporation who or that owns a business occupying the premises
21 in which a device or vending machine that dispenses cigarettes, or any other tobacco product or
22 electronic nicotine-delivery system ~~product~~ is located who or that shall violate any of the
23 provisions of subsections (a) and (b) of this section shall for the first offense be subject to a fine
24 of seventy-five dollars (\$75.00), for the second offense, be subject to a fine of one hundred fifty
25 dollars (\$150), and for the third and any subsequent offense, be subject to a fine of five hundred
26 dollars (\$500); provided, that in the event that there are no offenses in three (3) successive years
27 from the date of the last offense, then the next offense shall be treated as the first offense.

28 (e) Any person, firm, or corporation who or that shall violate subsection (c) of this
29 section shall, for the first offense, be subject to a fine of seventy-five dollars (\$75.00), for the
30 second offense, be subject to a fine of one hundred fifty dollars (\$150), and for the third and any
31 subsequent offense, be subject to a fine of five hundred dollars (\$500); provided, that in the event
32 that there are no offenses in three (3) successive years from the date of the last offense, then the
33 next offense shall be treated as the first offense.

34 (f) One-half (1/2) of all the fines collected pursuant to this section shall be transferred to

1 the municipalities in which the citations originated. One-half (1/2) of all the fines collected
2 pursuant to this section shall be transferred to the general fund.

3 (g) Severability. If any provision of this section or the application of it to any person or
4 circumstance is held invalid, that invalidity shall not affect other provisions or applications of this
5 section, which can be given effect without the invalid provision or application, and to this end the
6 provisions of this section are declared to be severable.

7 **11-9-13.3. Legislative intent -- Purpose.**

8 The use of tobacco products and electronic nicotine-delivery systems by Rhode Island
9 children and youth is a health and substance abuse problem of the utmost severity. The legislature
10 finds that tobacco product usage by children in Rhode Island is rampant and increasing with over
11 thirty percent (30%) of high school students smoking. The present law prohibiting the sale of
12 tobacco to children is being ignored by many retailers. Rhode Island tobacco retailers illegally
13 sell four million eight hundred thousand (4,800,000) packs, over eleven million dollars
14 (\$11,000,000) in tobacco product sales, to children annually. Tobacco industry advertising targets
15 children as the replacement smokers for the one thousand one hundred forty five (1,145) adults
16 who die daily from tobacco product usage. Approximately seventy percent (70%) of the Rhode
17 Island high school seniors who are smoking today will be the addicted adult smokers of
18 tomorrow. According to the federal Centers for Disease Control and Prevention (CDC), smoking-
19 related direct medical costs in Rhode Island in 1990 climbed to one hundred eighty six million
20 dollars (\$186,000,000). This is an ongoing, escalating financial burden borne by every business,
21 large and small, and every person, smoker and nonsmoker, in Rhode Island. This is a health and
22 economic drain created by each new generation of children who begin using tobacco products and
23 become addicted to nicotine. It is the intent of this legislation to preserve and protect the health of
24 children by: (1) stopping the illegal sale of tobacco to children, and (2) by severely punishing
25 those who disregard the laws relating to the illegal sale of tobacco products to children is a
26 serious health and addiction problem. Cigarette use has greatly declined among Rhode Island
27 youth, to four and eight-tenths percent (4.8%), yet, even at this low rate, every year, three
28 hundred (300) children under the age of eighteen (18) in Rhode Island become daily smokers.
29 There are sixteen thousand (16,000) children in Rhode Island today who will ultimately die
30 prematurely from smoking. Rhode Island's annual health care costs due to smoking are six
31 hundred forty million dollars (\$640,000,000). As the National Youth Tobacco Survey reports, in
32 2015, the overall use of tobacco among youth rose, exposing dangerous new trends. Clever
33 marketing by the tobacco industry, encouraging the use of small cigars, hookahs, e-cigarettes, and
34 flavored vaping products, has put millions of young people at risk of lifelong lethal nicotine

1 [addiction. In Rhode Island, nineteen and three-tenths percent \(19.3%\) of high school students use](#)
2 [e-cigarettes, and eleven and seven-tenths percent \(11.7%\) of male high school students smoke](#)
3 [cigars.](#)

4 [Data shows that about ninety-five percent \(95%\) of adult smokers began smoking before](#)
5 [they turned age twenty-one \(21\). In March of 2015, the Institute of Medicine, on behalf of the](#)
6 [Food and Drug Administration \(FDA\), released a seminal report detailing the potential public](#)
7 [health benefits of raising the national legal age of tobacco sale from age eighteen \(18\) to age](#)
8 [twenty-one \(21\). Among the findings was a twenty-five percent \(25%\) drop in the rate of](#)
9 [smoking initiation by fifteen \(15\) to seventeen \(17\) year olds, a twelve percent \(12%\) drop in](#)
10 [overall smoking rates over time, and sixteen thousand \(16,000\) cases of preterm birth and low](#)
11 [birth weight babies averted in the first five \(5\) years of the policy, resulting in an impact that](#)
12 [would be recognized immediately. A conservative estimate is that if the tobacco sale age of](#)
13 [twenty-one \(21\) were adopted throughout the United States now, it would prevent four million](#)
14 [two hundred thousand \(4,200,000\) years of lives lost to smoking for those born in the years 2000-](#)
15 [2019. In July 2015, the CDC reported that seventy-five percent \(75%\) of adults favored raising](#)
16 [the tobacco sale age to twenty-one \(21\) years.](#)

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

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

24 (3) "Dealer" is synonymous with the term "retail tobacco products dealer" [or "electronic](#)
25 [nicotine-delivery system dealer"](#).

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

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

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

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

1 (8) "Person" means any individual person, firm, association, or corporation licensed as a
2 retail dealer to sell tobacco products or electronic nicotine-delivery systems within the state.

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

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

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

9 (12) "Tobacco product(s)" means any product containing tobacco that is intended for
10 human consumption, including bidi cigarettes, as defined in subdivision (1) of this section, that
11 can be used for, but whose use is not limited to, smoking, sniffing, chewing, ~~or spitting of the~~
12 ~~product~~ heating, absorbing, dissolving, inhaling, snorting or ingesting by any other means,
13 including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco and
14 snuff. "Tobacco product" does not include drugs, devices, or combination products authorized for
15 sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food,
16 Drug and Cosmetic Act.

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

19 (14) "Little cigars" means and includes any roll, made wholly or in part of tobacco,
20 irrespective of size or shape, and irrespective of whether the tobacco is flavored, adulterated, or
21 mixed with any other ingredient, where such roll has a wrapper or cover made of tobacco
22 wrapped in leaf tobacco or any substance containing tobacco paper or any other material, except
23 where such wrapper is wholly or in greater part made of tobacco and such roll weighs over ~~three~~
24 ~~(3)~~ four (4) pounds per thousand (1,000).

25 (15) "Electronic nicotine-delivery ~~system~~ systems" means an electronic device that may
26 be used ~~to simulate smoking~~ in the delivery of nicotine or other substance to a person inhaling
27 from the device, and includes, but is not limited to, an electronic cigarette, electronic cigar,
28 electronic cigarillo, electronic pipe, or electronic hookah and any related device and any cartridge
29 or other component of such device.

30 (16) "Electronic nicotine-delivery system license" means a license to sell electronic
31 nicotine-delivery systems at retail as issued by the department of health.

32 (17) "Electronic nicotine-delivery system dealer" means the holder of a license to sell
33 electronic nicotine-delivery systems at retail.

34 **11-9-13.5. Responsibility for tobacco or health issues.**

1 The Rhode Island department of behavioral healthcare, developmental disabilities and
2 hospitals shall develop, monitor and aggressively enforce health rules and regulations pertaining
3 to stopping the illegal sale of tobacco products and electronic nicotine-delivery systems ~~to~~
4 ~~children~~ to underage individuals.

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~~ underage individuals' access to tobacco products and
11 electronic nicotine-delivery ~~system~~ systems ~~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)~~ persons under
14 twenty-one (21) years of age. The signs, conforming to the requirements of this chapter, shall be
15 sold at cost. This sign, or an exact duplicate of it made privately, shall be displayed in all
16 locations where tobacco 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 for persons under age eighteen (18), may purchase, with impunity from prosecution,
26 tobacco products and electronic nicotine-delivery system for the purposes of law enforcement or
27 government research involving monitoring compliance with this chapter, provided that the
28 underage individuals are supervised by an adult law enforcement official. Any individual
29 participating in an unannounced compliance check of over-the-counter or vending machine sales,
30 must state his or her accurate age if asked by the sales representative of the retail establishment
31 being checked.

32 (ii) In fulfilling the requirement of unannounced statewide compliance checks, the
33 department of behavioral healthcare, developmental disabilities and hospitals shall maintain
34 complete records of the unannounced compliance checks, detailing, at least, the date of the

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

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

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

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

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

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

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

29 THE SALE OF TOBACCO PRODUCTS AND ELECTRONIC NICOTINE-DELIVERY
30 SYSTEMS TO PERSONS UNDER THE AGE OF 21 IS AGAINST RHODE ISLAND LAW (§
31 11-9-13.8(1), R.I.G.L.) PHOTO ID FOR PROOF OF AGE IS REQUIRED FOR PURCHASE.

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

1 developmental disabilities and hospitals.

2 (3) Be displayed prominently for public view, wherever tobacco products [or electronic](#)
3 [nicotine-delivery systems](#) are sold at each cash register, each tobacco [product](#) and/or electronic
4 nicotine-delivery systems vending machine, or any other place from which tobacco products [or](#)
5 [electronic nicotine-delivery systems](#) are sold. The signs shall be electronically available in both
6 English and Spanish online at the department of behavioral healthcare, developmental disabilities
7 and hospitals' website.

8 **11-9-13.8. Prohibitions applicable to license holders and their employees and agents.**

9 A person holding a license issued under chapter 20 of title 44 and/or § 23-1-56, or an
10 employee or agent of that person, is prohibited from selling, distributing, or delivering a tobacco
11 [product](#) and/or electronic nicotine-delivery system ~~product~~:

12 (1) To any individual who is under ~~eighteen (18)~~ [twenty-one \(21\)](#) years of age; or

13 (2) In any form other than an original, factory-wrapped package; or

14 (3) As a single-cigarette sale (§ 44-20-31) or as a sale of cigarettes by the individual piece
15 known as "loosies."

16 **~~11-9-13.10. Prohibition on the distribution of free tobacco products. [Effective~~**
17 **~~January 1, 2018.]~~ **Prohibition on the distribution of free tobacco products and electronic**
18 **nicotine-delivery systems. [Effective January 1, 2018.]****

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

34 **~~11-9-13.11. Prohibition on the sale or distribution of tobacco products through the~~**

1 ~~mail conveyance of tobacco products through the mail to children under eighteen (18)~~
2 ~~Proof of age of purchaser required -- General rule. Prohibition on the sale or distribution of~~
3 ~~tobacco products or electronic nicotine-delivery systems through the mail to persons under~~
4 ~~twenty-one (21) -- Proof of age of purchaser required -- General rule.~~

5 (a) The distribution, or sale or conveyance of tobacco products ~~to children under the age~~
6 ~~of eighteen (18)~~ or electronic nicotine-delivery systems by the seller of the products to persons
7 under the age of twenty-one (21) via the United States Postal Service, or by any other public or
8 private postal or package delivery service, shall be prohibited.

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

23 (c) The attorney general shall bring an action for any violation of this chapter. Any
24 distribution, or sale or conveyance of a tobacco product or electronic nicotine-delivery system to
25 a ~~child~~ person under ~~eighteen (18)~~ twenty-one (21) years of age via the United States Postal
26 Service, or by any other public or private postal or package delivery service, shall be subject to an
27 action against the distributor, or seller or conveyor by the attorney general of the state of Rhode
28 Island. A minimum fine of one thousand dollars (\$1,000) shall be assessed against any
29 distributor, or seller or conveyor convicted of distributing, or selling or conveying tobacco
30 products or electronic nicotine-delivery systems via the United States postal service, or by any
31 other public or private postal or package delivery service, for each delivery, or sale or conveyance
32 of a tobacco product or electronic nicotine-delivery system to a ~~child~~ person under ~~eighteen (18)~~
33 twenty-one (21) years of age.

34 (d) For the purpose of this section, "distribution," "distributing," "selling" and "sale" do

1 not include the acts of the United States Postal Service or other common carrier when engaged in
2 the business of transporting and delivering packages for others or the acts of a person, whether
3 compensated or not, who transports or delivers a package for another person without any reason
4 to know of the package's contents.

5 (e) Any delivery sale of cigarettes shall be made pursuant to the provisions of chapter
6 20.1 of title 44. The provisions of this section shall apply to each tobacco product ~~listed in~~
7 ~~subsection (b) herein~~ or electronic nicotine-delivery system as defined in § 11-9-13.4, but shall
8 not apply to any delivery sale of cigarettes.

9 **11-9-13.13. Nature and size of penalties. [Effective January 1, 2018.]**

10 (a) Any person or ~~individual~~ license holder who violates a requirement of § 11-9-13.6(2)
11 and § 11-9-13.7, display of specific signage, shall be subject to a fine in court of not less than
12 thirty-five dollars (\$35.00), nor more than five hundred dollars (\$500), per civil violation.

13 (b) The license holder is responsible for all violations of this section that occur at the
14 location for which the license is issued. Any license holder who or that violates the prohibition of
15 § 11-9-13.8(1) ~~and/or (2)~~ or § 11-9-13.20 shall be subject to civil fines as follows:

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

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

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

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

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

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

34 (e) The court ~~shall~~ may suspend the imposition of a license suspension of the license

1 secured from the Rhode Island tax administrator or department of health for violation of
2 subsections (b)(3) and (b)(4) of this section if the court finds that the license holder has taken
3 measures to prevent the sale of tobacco products and/or electronic nicotine-delivery systems to
4 ~~minors~~ underage individuals and the license holder can demonstrate to the court that those
5 measures have been taken and that employees have received training. No person shall sell
6 tobacco products and/or electronic nicotine-delivery ~~system~~ systems ~~products~~ at retail without
7 first being trained in the legal sale of tobacco products and/or electronic nicotine-delivery ~~system~~
8 systems ~~products~~. Training shall teach employees what constitutes a tobacco product and/or
9 electronic nicotine-delivery system ~~product~~; legal age of purchase and sale; acceptable
10 identification; how to refuse a direct sale to ~~a minor~~ an underage individual or secondary sale to
11 ~~an adult~~ a person age twenty-one (21) or over; and all applicable laws on tobacco sales and
12 distribution. Dealers shall maintain records indicating that the provisions of this section were
13 reviewed with all employees who conduct, or will conduct, tobacco product and/or electronic
14 nicotine-delivery systems sales. Each employee who sells or will sell tobacco products and/or
15 electronic nicotine-delivery ~~system~~ systems ~~products~~ shall sign an acknowledgement form
16 attesting that the provisions of this section were reviewed with him or her. Each form shall be
17 maintained by the retailer for as long as the employee is so employed and for no less than one
18 year after termination of employment. The measures to prevent the sale of tobacco products
19 and/or electronic nicotine-delivery systems to ~~minors~~ underage individuals shall be defined by the
20 department of behavioral healthcare, developmental disabilities and hospitals in rules and
21 regulations.

22 SECTION 2. Section 11-9-14 of the General Laws in Chapter 11-9 entitled "Children" is
23 hereby repealed.

24 **~~11-9-14. Use of tobacco by minors.~~**

25 ~~No person under eighteen (18) years of age shall use or possess, when such possession is~~
26 ~~clearly visible, tobacco in any public street, place, or resort, any tobacco and/or electronic~~
27 ~~nicotine delivery system in any form whatsoever. Any person under eighteen (18) years of age~~
28 ~~violating the provisions of this section shall be required to perform up to thirty (30) hours of~~
29 ~~community service or shall be required to enter into a tobacco treatment program, approved by~~
30 ~~any local substance abuse prevention task force, at the option of a minor charged with a violation~~
31 ~~of this section.~~

32 SECTION 3. Sections 44-20.1-1, 44-20.1-3 and 44-20.1-5 of the General Laws in
33 Chapter 44-20.1 entitled "Delivery Sales of Cigarettes" are hereby amended to read as follows:

34 **44-20.1-1. Definitions.**

1 For purposes of this chapter:

2 (1) "Administrator" means the tax administrator.

3 (2) "Adult" means a person who is at least the legal minimum purchase age.

4 (3) "Consumer" means an individual who is not licensed as a wholesaler or retailer
5 pursuant to the provisions of § 44-20-2.

6 (4) "Delivery sale" means any sale of cigarettes to a consumer in the state where either:

7 (i) The purchaser submits the order for such sale by means of a telephonic or other
8 method of voice transmission, the mail or any other delivery service, or the Internet or other
9 online service; or

10 (ii) The cigarettes are delivered by use of the mails or other delivery service. A sale of
11 cigarettes shall be a delivery sale regardless of whether the seller is located within or without the
12 state. A sale of cigarettes not for personal consumption to a person who is a wholesale dealer or a
13 retail dealer shall not be a delivery sale.

14 (5) "Delivery service" means any person who is engaged in the commercial delivery of
15 letters, packages, or other containers.

16 (6) "Legal minimum purchase age" means the minimum age at which an individual may
17 legally purchase cigarettes in the state, [the age of twenty-one \(21\) years](#).

18 (7) "Mail" or "mailing" means the shipment of cigarettes through the United States Postal
19 Service.

20 (8) "Person" means the same as that term is defined in § 44-20-1.

21 (9) "Shipping container" means bills of lading, airbills, or any other documents used to
22 evidence the undertaking by a delivery service to deliver letters, packages, or other containers.

23 **44-20.1-3. Age Verification requirements.**

24 (a) No person shall mail, ship, or otherwise deliver cigarettes in connection with a
25 delivery sale unless such person prior to the first delivery sale to such consumer:

26 (1) Obtains from the prospective consumer a certification that includes:

27 (i) A reliable confirmation that the consumer is at least the legal minimum purchase age;

28 and

29 (ii) A statement signed by the prospective consumer in writing that certifies the
30 prospective consumer's address and that the consumer is at least ~~eighteen (18)~~ [twenty-one \(21\)](#)
31 years of age. Such statement shall also confirm:

32 (A) That the prospective consumer understands that signing another person's name to
33 such certification is illegal;

34 (B) That the sale of cigarettes to individuals under the legal minimum purchase age is

1 illegal; [and](#)

2 (C) ~~That the purchase of cigarettes by individuals under the legal minimum purchase age~~
3 ~~is illegal under the laws of the state; and~~

4 (D) That the prospective consumer wants to receive mailings from a tobacco company;

5 (2) Makes a good faith effort to verify the information contained in the certification
6 provided by the prospective consumer pursuant to subsection (1) against a commercially available
7 database, or obtains a photocopy or other image of the valid, government-issued identification
8 stating the date of birth or age of the individual placing the order;

9 (3) Provides to the prospective consumer, via e-mail or other means, a notice that meets
10 the requirements of § 44-20.1-4; and

11 (4) In the case of an order for cigarettes pursuant to an advertisement on the Internet,
12 receives payment for the delivery sale from the prospective consumer by a credit or debit card
13 that has been issued in such consumer's name or by check.

14 (b) Persons accepting purchase orders for delivery sales may request that the prospective
15 consumers provide their e-mail addresses.

16 **44-20.1-5. Shipping requirements.**

17 (a) Each person who mails, ships, or otherwise delivers cigarettes in connection with a
18 delivery sale:

19 (1) Shall include as part of the bill of lading or other shipping documents a clear and
20 conspicuous statement providing as follows: "Cigarettes: Rhode Island law prohibits shipping to
21 individuals under ~~18~~ [\(21\)](#), and requires the payment of all applicable taxes":

22 (2) Shall use a method of mailing, shipping or delivery that obligates the delivery service
23 to require: (i) the consumer placing the purchase order for the delivery sale or another adult of
24 legal minimum purchase age residing at the consumer's address, to sign to accept delivery of the
25 shipping container; and (ii) proof, in the form of a valid, government-issued identification bearing
26 a photograph of the individual who signs to accept delivery of the shipping container,
27 demonstrating that he/she either the addressee or another adult of legal minimum purchase age
28 residing at the consumer's address. However, proof of the legal minimum purchase age shall be
29 required only if such individual appears to be under ~~twenty seven (27)~~ [thirty \(30\)](#) years of age;
30 and

31 (3) Shall provide to the delivery service retained for such delivery sale evidence of full
32 compliance with § 44-20.1-7.

33 (b) If the person accepting a purchase order for a delivery sale delivers the cigarettes
34 without using a delivery service, such person shall comply with all requirements of this chapter

1 applicable to a delivery service and shall be in violation of the provisions of this chapter if he/she
2 fails to comply with any such requirement.

3 SECTION 4. 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 prohibit the sale of tobacco products to anyone under twenty-one (21)
2 years of age and include electronic-nicotine delivery systems in the regulation of tobacco sales to
3 underage individuals.

4 This act would take effect upon passage.

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LC004315
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