

2018 -- S 2464

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO CRIMINAL OFFENSES -- TOBACCO AND NICOTINE PRODUCTS --
CHILDREN

Introduced By: Senators Coyne, Miller, Lombardo, Sosnowski, and Ruggerio

Date Introduced: February 15, 2018

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-9-13 and 11-9-13.1 of the General Laws in Chapter 11-9
2 entitled "Children" are hereby repealed.

3 ~~11-9-13. Purchase, sale or delivery of tobacco products to persons under eighteen --~~
4 ~~Posting notice of law.~~

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

14 ~~11-9-13.1. Cigarette and tobacco vending machines.~~

15 ~~(a) No cigarettes, nor any other tobacco product, nor electronic nicotine delivery system~~
16 ~~product shall be sold from any device or vending machine that is in an area not continuously~~
17 ~~supervised and in direct line of sight of an authorized person employed by the person, firm, or~~
18 ~~corporation that owns the business occupying the premises in which the device or vending~~

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

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

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

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

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

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

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

5 SECTION 2. Sections 11-9-13.3, 11-9-13.4, 11-9-13.5, 11-9-13.6, 11-9-13.7, 11-9-13.8,
6 11-9-13.11 and 11-9-13.13 of the General Laws in Chapter 11-9 entitled "Children" are hereby
7 amended to read as follows:

8 **11-9-13.3. Legislative intent -- Purpose.**

9 (a) The use of tobacco and nicotine products by Rhode Island children and youth is a
10 ~~health and substance abuse problem of the utmost severity. The legislature finds that tobacco~~
11 ~~product usage by children in Rhode Island is rampant and increasing with over thirty percent~~
12 ~~(30%) of high school students smoking. The present law prohibiting the sale of tobacco to~~
13 ~~children is being ignored by many retailers. Rhode Island tobacco retailers illegally sell four~~
14 ~~million eight hundred thousand (4,800,000) packs, over eleven million dollars (\$11,000,000) in~~
15 ~~tobacco product sales, to children annually. Tobacco industry advertising targets children as the~~
16 ~~replacement smokers for the one thousand one hundred forty five (1,145) adults who die daily~~
17 ~~from tobacco product usage. Approximately seventy percent (70%) of the Rhode Island high~~
18 ~~school seniors who are smoking today will be the addicted adult smokers of tomorrow. According~~
19 ~~to the federal Centers for Disease Control and Prevention (CDC), smoking related direct medical~~
20 ~~costs in Rhode Island in 1990 climbed to one hundred eighty six million dollars (\$186,000,000).~~
21 ~~This is an ongoing, escalating financial burden borne by every business, large and small, and~~
22 ~~every person, smoker and nonsmoker, in Rhode Island. This is a health and economic drain~~
23 ~~created by each new generation of children who begin using tobacco products and become~~
24 ~~addicted to nicotine. It is the intent of this legislation to preserve and protect the health of children~~
25 ~~by: (1) stopping the illegal sale of tobacco to children, and (2) by severely punishing those who~~
26 ~~disregard the laws relating to the illegal sale of tobacco products to children. serious health and~~
27 ~~addiction problem. Cigarette use has greatly declined among Rhode Island youth, to four and~~
28 ~~eight-tenths percent (4.8%), but as the National Youth Tobacco Survey reports, in 2015, the~~
29 ~~overall use of tobacco among youth rose, exposing dangerous new trends. Clever marketing by~~
30 ~~the tobacco industry, encouraging the use of small cigars, hookahs, e-cigarettes, and flavored~~
31 ~~vaping products, has put millions of young people at risk of lifelong lethal nicotine addiction.~~
32 ~~Every year, four hundred (400) children under the age of eighteen (18) in Rhode Island become~~
33 ~~daily smokers. There are sixteen thousand (16,000) children in Rhode Island today who will~~
34 ~~ultimately die prematurely from smoking. Rhode Island's annual health care costs due to smoking~~

1 are six hundred forty million dollars (\$640,000,000).

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

15 **11-9-13.4. Definitions.**

16 As used in this chapter:

17 ~~(1) "Bidi cigarette" means any product that (i) contains tobacco that is wrapped in~~
18 ~~temburni or tender leaf, or that is wrapped in any other material identified by rules of the~~
19 ~~Department of Health that is similar in appearance or characteristics to the temburni or tender~~
20 ~~leaf, and (ii) does not contain a smoke filtering device.~~

21 ~~(2)~~(1) "Court" means any appropriate district court of the state of Rhode Island.

22 ~~(3)~~(2) "Dealer" is synonymous with the term "retail tobacco products dealer".

23 ~~(4)~~(3) "Department of behavioral healthcare, developmental disabilities and hospitals "
24 means the state of Rhode Island behavioral healthcare, developmental disabilities and hospitals
25 department, its employees, agents or assigns.

26 ~~(5)~~(4) "Department of taxation" means the state of Rhode Island taxation division, its
27 employees, agents, or assigns.

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

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

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

3 (8) "Little cigars" means and includes any roll, made wholly or in part of tobacco,
4 irrespective of size or shape, and irrespective of whether the tobacco is flavored, adulterated, or
5 mixed with any other ingredient, where such roll has a wrapper or cover made of tobacco
6 wrapped in leaf tobacco or any substance containing tobacco paper or any other material, except
7 where such wrapper is wholly or in greater part made of tobacco and such roll weighs over four
8 and one-half (4.5) pounds per thousand (1,000).

9 ~~(8)~~(9) "Person" means any individual person, firm, association, or corporation licensed as
10 a retail dealer to sell tobacco products within the state.

11 ~~(9)~~(10) "Retail tobacco products dealer" means the holder of a license to sell tobacco
12 products at retail.

13 ~~(10)~~(11) "Retail tobacco products dealer license" means a license to sell tobacco products
14 at retail as issued by the department of taxation.

15 ~~(11)~~(12) "Spitting tobacco" also means snuff, powdered tobacco, chewing tobacco,
16 dipping tobacco, pouch tobacco, or smokeless tobacco.

17 ~~(12)~~(13) "Tobacco product(s)" means any product containing ~~tobacco, including bidi~~
18 ~~cigarettes, as defined in subdivision (1) of this section, that can be used for, but whose use is not~~
19 ~~limited to, smoking, sniffing, chewing, or spitting of the product.~~ or made from tobacco or
20 nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed,
21 dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to,
22 cigarettes, cigars, little cigars, smokeless tobacco, pipe tobacco, snuff, snus and bidi cigarettes.
23 "Tobacco product" includes any component, part, or accessory of a tobacco product, whether or
24 not sold separately. "Tobacco product" does not include any product that has been approved by
25 the United States Food and Drug Administration for sale as a tobacco cessation product or for
26 other therapeutic purposes where such product is marketed and sold solely for such an approved
27 purpose.

28 ~~(13)~~(14) "Underage individual" or "underage individuals" means any ~~child~~ person under
29 the age of ~~eighteen (18)~~ twenty-one (21) years of age.

30 ~~(14) "Little cigars" means and includes any roll, made wholly or in part of tobacco,~~
31 ~~irrespective of size or shape, and irrespective of whether the tobacco is flavored, adulterated, or~~
32 ~~mixed with any other ingredient, where such roll has a wrapper or cover made of tobacco~~
33 ~~wrapped in leaf tobacco or any substance containing tobacco paper or any other material, except~~
34 ~~where such wrapper is wholly or in greater part made of tobacco and such roll weighs over three~~

1 ~~(3) pounds per thousand (1,000).~~

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

7 **11-9-13.5. Responsibility for tobacco or health issues.**

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

12 **11-9-13.6. Duties of the department of behavioral healthcare, developmental**
13 **disabilities and hospitals.**

14 The department of behavioral healthcare, developmental disabilities and hospitals shall:

15 (1) Coordinate and promote the enforcement of the provisions of this chapter and serve as
16 the primary liaison from this department to other state or local agencies, departments, or divisions
17 on issues pertaining to stopping ~~children's~~ underage individual's access to tobacco products and
18 electronic nicotine-delivery ~~system dealers~~ systems.

19 (2) Provide retail tobacco products dealers and electronic nicotine-delivery system
20 dealers signs concerning the prohibition of sales to ~~children under eighteen (18)~~ persons under
21 twenty-one (21) years of age. The signs, conforming to the requirements of this chapter, shall be
22 sold at cost. This sign, or an exact duplicate of it made privately, shall be displayed in all
23 locations where tobacco products and/or electronic nicotine-delivery systems are sold.

24 (3) Investigate concurrently with other state and local officials violations of this chapter.

25 (4) (i) Utilize unannounced statewide compliance checks of tobacco product sales and/or
26 electronic nicotine-delivery system sales including retail tobacco and/or electronic nicotine-
27 delivery system over-the-counter sales, mail-order sales initiated via mail, facsimile, telephone or
28 internet ordering or other types of electronic communications, and tobacco and/or electronic
29 nicotine-delivery systems vending machine sales as part of investigating compliance with the
30 provisions of this chapter. Underage individuals, acting as agents for the department of behavioral
31 healthcare, developmental disabilities and hospitals and with the written permission of a parent or
32 guardian for persons under age eighteen (18), may purchase, with impunity from prosecution,
33 tobacco products and electronic nicotine-delivery system for the purposes of law enforcement or
34 government research involving monitoring compliance with this chapter, provided that the

1 underage individuals are supervised by an adult law enforcement official. Any individual
2 participating in an unannounced compliance check of over-the-counter or vending machine sales,
3 must state his or her accurate age if asked by the sales representative of the retail establishment
4 being checked.

5 (ii) In fulfilling the requirement of unannounced statewide compliance checks, the
6 department of behavioral healthcare, developmental disabilities and hospitals shall maintain
7 complete records of the unannounced compliance checks, detailing, at least, the date of the
8 compliance check; the name and address of the retail establishment checked or the mail order
9 company; the results of the compliance check (sale/no sale); whether the sale was made as an
10 over-the-counter sale, a mail-order purchase or a tobacco and/or or electronic nicotine-delivery
11 systems vending machine sale; and if a citation was issued for any violation found. The records
12 shall be subject to public disclosure. Further, the department of behavioral healthcare,
13 developmental disabilities and hospitals shall report to the owner of each retail establishment
14 checked or mail-order company the results of any compliance check (sale/no sale) whether the
15 sale was made as an over-the-counter sale, a mail-order purchase, or a tobacco and/or electronic
16 nicotine-delivery systems vending machine sale, and if a citation was issued for any violation
17 found.

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

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

22 ~~11-9-13.7. Signs concerning sales to individuals under age eighteen (18)~~ **Signs**
23 **concerning sales to individuals under twenty-one (21).**

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

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

28 THE SALE OF **CIGARETTES,**
29 TOBACCO **PRODUCTS** AND ELECTRONIC NICOTINE-DELIVERY SYSTEM
30 **PRODUCTS**
31 TO PERSONS UNDER THE AGE OF ~~18~~ **21**
32 IS AGAINST RHODE ISLAND LAW
33 (~~§ 11-9-13.8(1)~~ **Chapter 9 of Title 11, Rhode Island Statutes R.I.G.L.**)
34 PHOTO ID FOR PROOF OF AGE IS

1 REQUIRED FOR PURCHASE.

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

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

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

12 Minimum sales amounts for tobacco products.

13 ~~A person holding a license issued under chapter 20 of title 44 and/or § 23-1-56, or an~~
14 ~~employee or agent of that person, is prohibited from selling, distributing, or delivering a tobacco~~
15 ~~and/or electronic nicotine-delivery system product:~~

16 (1) ~~To any individual who is under eighteen (18) years of age~~ [No cigarettes shall be sold](#)
17 [in packs that contain less than twenty \(20\) cigarettes;](#) ~~or~~

18 (2) ~~In~~ [No tobacco products shall be sold in](#) any form other than an original, factory-
19 wrapped package; ~~or~~ [and](#)

20 (3) ~~As~~ [No cigarettes shall be sold as](#) a single-cigarette sale (§ 44-20-31) or as a sale of
21 cigarettes by the individual piece known as "loosies."

22 ~~11-9-13.11. Prohibition on the sale or distribution of tobacco products through the~~

23 ~~mail conveyance of tobacco products through the mail to children under eighteen (18) --~~

24 ~~Proof of age of purchaser required -- General rule~~ Prohibition on the sale or distribution of

25 tobacco products or electronic nicotine-delivery system products through the mail

26 conveyance of tobacco products or electronic nicotine-delivery system products through the

27 mail to persons under twenty-one (21) -- Proof of age of purchaser required -- General rule.

28 (a) The distribution, or sale or conveyance of tobacco products ~~to children under the age~~
29 ~~of eighteen (18)~~ [or electronic nicotine-delivery system products by the seller of the products to](#)
30 [persons under the age of twenty-one \(21\)](#) via the United States Postal Service, or by any other
31 public or private postal or package delivery service, shall be prohibited.

32 (b) Any person selling or distributing tobacco products ~~in the form of cigars, pipe~~
33 ~~tobacco, chewing tobacco, or snuff~~ [or electronic nicotine-delivery systems products](#) directly to a
34 consumer via the United States Postal Service, or by any other public or private postal or package

1 delivery service, including orders placed by mail, telephone, facsimile, or internet, shall: (1)
2 before distributing or selling the tobacco product [or electronic nicotine-delivery system product](#)
3 through any of these means, receive both a copy of a valid form of government identification
4 showing date of birth to verify the purchaser is age ~~eighteen (18) years~~ [twenty-one \(21\)](#) or over
5 and an attestation from the purchaser certifying that the information on the government
6 identification truly and correctly identifies the purchaser and the purchaser's current address, and
7 (2) deliver the tobacco product [or electronic nicotine-delivery system product](#) to the address of
8 the purchaser given on the valid form of government identification and by a postal or package
9 delivery service method that either limits delivery to that purchaser and requires the purchaser to
10 sign personally to receive the delivery or requires a signature of ~~an adult~~ [a person the age of](#)
11 [twenty-one \(21\) or over](#) at the purchaser's address to deliver the package.

12 (c) The attorney general shall bring an action for any violation of this chapter. Any
13 distribution, or sale or conveyance of a tobacco product [or electronic nicotine-delivery system](#)
14 [product](#) to a ~~child~~ [person](#) under ~~eighteen (18)~~ [twenty-one \(21\)](#) years of age via the United States
15 Postal Service, or by any other public or private postal or package delivery service, shall be
16 subject to an action against the distributor, or seller or conveyor by the attorney general of the
17 state of Rhode Island. A minimum fine of one thousand dollars (\$1,000) shall be assessed against
18 any distributor, or seller or conveyor convicted of distributing, or selling or conveying tobacco
19 products [or electronic nicotine-delivery system products](#) via the United States postal service, or
20 by any other public or private postal or package delivery service, for each delivery, or sale or
21 conveyance of a tobacco product [or electronic nicotine-delivery system product](#) to a ~~child~~ [person](#)
22 under ~~eighteen (18)~~ [twenty-one \(21\)](#) years of age.

23 (d) For the purpose of this section, "distribution," "distributing," "selling" and "sale" do
24 not include the acts of the United States Postal Service or other common carrier when engaged in
25 the business of transporting and delivering packages for others or the acts of a person, whether
26 compensated or not, who transports or delivers a package for another person without any reason
27 to know of the package's contents.

28 (e) Any delivery sale of cigarettes shall be made pursuant to the provisions of chapter
29 20.1 of title 44. The provisions of this section shall apply to each tobacco product ~~listed in~~
30 ~~subsection (b) herein~~ [as defined in §11-9-13.4](#), but shall not apply to any delivery sale of
31 cigarettes.

32 **11-9-13.13. Nature and size of penalties. [Effective January 1, 2018.]**

33 (a) Any person or ~~individual~~ [license holder](#) who violates a requirement of ~~§ 11-9-13.6(2)~~
34 [§§ 11-9-13.6 and 11-9-13.7](#), display of specific signage, shall be subject to a fine in court of not

1 less than thirty-five dollars (\$35.00), nor more than five hundred dollars (\$500), per civil
2 violation.

3 (b) Any person who violates the prohibition in §§ 11-9-13.7.1 and 11-9-13.7.2 shall be
4 subject to:

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

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

9 (3) A fine of one thousand dollars (\$1,000) for the third violation within any thirty-six
10 (36) month period;

11 (4) A fine of one thousand five hundred dollars (\$1,500) for the fourth violation and each
12 subsequent violation.

13 ~~(b)~~(c) 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~~ § 11-9-13.8 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)~~(d) 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)~~ two hundred fifty dollars (\$250) for each violation.

29 ~~(d)~~(e) The department of taxation and/or the department of health shall not issue a license
30 to any individual, business, firm, association, or corporation, the license of which has been
31 revoked or suspended; to any corporation, an officer of which has had his or her license revoked
32 or 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)(f) ~~The court shall suspend the imposition of a license suspension of the license~~

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

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

22 **44-20.1-1. Definitions.**

23 For purposes of this chapter:

- 24 (1) "Administrator" means the tax administrator.
- 25 (2) "Adult" means a person who is at least the legal minimum purchase age.
- 26 (3) "Consumer" means an individual who is not licensed as a wholesaler or retailer
27 pursuant to the provisions of § 44-20-2.
- 28 (4) "Delivery sale" means any sale of cigarettes to a consumer in the state where either:
- 29 (i) The purchaser submits the order for such sale by means of a telephonic or other
30 method of voice transmission, the mail or any other delivery service, or the Internet or other
31 online service; or
- 32 (ii) The cigarettes are delivered by use of the mails or other delivery service. A sale of
33 cigarettes shall be a delivery sale regardless of whether the seller is located within or without the
34 state. A sale of cigarettes not for personal consumption to a person who is a wholesale dealer or a

1 retail dealer shall not be a delivery sale.

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

4 (6) "Legal minimum purchase age" means the minimum age at which an individual may
5 legally purchase cigarettes in the state, the age of twenty-one (21) years.

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

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

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

11 **44-20.1-3. Age Verification requirements.**

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

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

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

16 and

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

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

22 (B) That the sale of cigarettes to individuals under the legal minimum purchase age is
23 illegal;

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

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

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

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

33 (4) In the case of an order for cigarettes pursuant to an advertisement on the Internet,
34 receives payment for the delivery sale from the prospective consumer by a credit or debit card

1 that has been issued in such consumer's name or by check.

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

4 **44-20.1-5. Shipping requirements.**

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

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

10 (2) Shall use a method of mailing, shipping or delivery that obligates the delivery service
11 to require: (i) the consumer placing the purchase order for the delivery sale or another adult of
12 legal minimum purchase age residing at the consumer's address, to sign to accept delivery of the
13 shipping container; and (ii) proof, in the form of a valid, government-issued identification bearing
14 a photograph of the individual who signs to accept delivery of the shipping container,
15 demonstrating that he/she either the addressee or another adult of legal minimum purchase age
16 residing at the consumer's address. However, proof of the legal minimum purchase age shall be
17 required only if such individual appears to be under ~~twenty-seven (27)~~ thirty (30) years of age;
18 and

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

21 (b) If the person accepting a purchase order for a delivery sale delivers the cigarettes
22 without using a delivery service, such person shall comply with all requirements of this chapter
23 applicable to a delivery service and shall be in violation of the provisions of this chapter if he/she
24 fails to comply with any such requirement.

25 SECTION 4. Chapter 11-9 of the General Laws entitled "Children" is hereby amended by
26 adding thereto the following sections:

27 **11-9-13.7.1. Purchase, sale or delivery of tobacco products or electronic nicotine-**
28 **delivery system products to persons under twenty-one (21) years of age.**

29 (a) No person under twenty-one (21) years of age shall purchase tobacco products or
30 electronic nicotine-delivery system products.

31 (b) No person shall sell, give, or deliver to any person under twenty-one (21) years of
32 age, any tobacco product or electronic nicotine-delivery system product.

33 **11-9-13.7.2. Purchase, sale or delivery of electronic nicotine-delivery system**
34 **products to persons under twenty-one (21) years of age, by license holders and their**

1 **employees and agents.**

2 A person holding a license issued under chapter 20 of title 44 and/or § 23-1-56, or an
3 employee or agent of that person, is prohibited from selling, distributing, or delivering a tobacco
4 and/or electronic nicotine-delivery system product to any individual who is under twenty-one (21)
5 years of age.

6 **11-9-13.10.1. Tobacco product and electronic nicotine-delivery system product**
7 **vending machines.**

8 (a) No tobacco products, nor electronic nicotine-delivery system products shall be sold
9 from any device or vending machine that is in an area not continuously supervised and in direct
10 line of sight of an authorized person employed by the person, firm, or corporation that owns the
11 business occupying the premises in which the device or vending machine is located, nor shall any
12 tobacco product, nor electronic nicotine-delivery system product be sold from any device or
13 vending machine that is in an area supervised by such an authorized person unless the device or
14 vending machine is equipped with an electronic locking device that will not allow the device or
15 vending machine to dispense a pack of cigarettes, or any other tobacco product, or electronic
16 nicotine-delivery system product unless it is electronically unlocked from a secured position
17 inaccessible to the public and under the supervision of an authorized person employed by the
18 person, firm, or corporation that owns the business occupying the premises in which the device or
19 vending machine is located. As used in this section, "direct line of sight" means that the vending
20 machine and the purchaser of tobacco products or electronic nicotine-delivery system product
21 must be visible to the authorized person pressing the unlock button while the unlock button is
22 being activated. Provided, a locking device shall not be required in an establishment licensed to
23 sell alcoholic beverages that limits access to persons over the age of twenty-one (21) years of age.

24 (b) No tobacco product, nor electronic nicotine-delivery system product shall be sold
25 from any device or vending machine from which non-tobacco products are sold.

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

1 SECTION 5. This act shall take effect on January 1, 2019.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES -- TOBACCO AND NICOTINE PRODUCTS --
CHILDREN

1 This act would provide certain restrictions on the sale of tobacco products, enhance the
2 definition of "tobacco products", and would raise the legal minimum age to purchase tobacco
3 products and nicotine-delivery systems from eighteen (18) to twenty-one (21) years of age.

4 This act would take effect on January 1, 2019.

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