

2015 -- H 5493

=====
LC001013
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO CRIMINAL OFFENSES -- CHILDREN

Introduced By: Representatives Melo, Johnston, Winfield, Ucci, and Hull

Date Introduced: February 12, 2015

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 **11-9-22. Electronic delivery system liquid – Child-resistant packaging required. --**

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

7 (b) All licensees under § 23-1-56 shall ensure that any liquid intended for human
8 consumption and/or use in an electronic nicotine-delivery system, as defined in § 11-9-13.4, is
9 sold in child-resistant packaging.

10 (c) For the purposes of this section, “child-resistant packaging” means packaging that is
11 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.

15 (d) A licensee that fails to comply with this section shall be subject to the following
16 penalties:

17 (1) For a first violation, a penalty of five hundred (\$500) shall be imposed.

18 (2) For a second violation, a penalty of one thousand dollars (\$1,000) shall be imposed.

19 (3) A third or subsequent violation will result in suspension of the licensee’s license by

1 [the department of health for not less than fourteen \(14\) days. The suspension will take effect on](#)
2 [the date of the director's written notice of the suspension to the licensee. In the written notice of](#)
3 [license suspension, the director shall inform the licensee that a written request for a hearing on](#)
4 [the alleged violation may be filed with the director within ten \(10\) days after service of notice of](#)
5 [license suspension. The notice will be deemed properly served upon a licensee if a copy of the](#)
6 [notice is personally served upon the entity or persons, or sent by registered or certified mail to the](#)
7 [last known address of that entity or persons, or if that entity or persons is served with notice by](#)
8 [any other method of service now or later authorized in a civil action under the laws of this state.](#)
9 [If no written request for a hearing is made to the director within ten \(10\) days of the service of](#)
10 [notice, the notice shall automatically become a compliance order. All hearings shall be governed](#)
11 [by § 23-1-22.](#)

12 SECTION 2. Sections 23-20.9-4 and 23-20.9-5 of the General Laws in Chapter 23-20.9
13 entitled "Smoking in Schools" are hereby amended to read as follows:

14 **23-20.9-4. Definitions.** -- As used in this chapter:

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

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

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

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

34 [\(5\) "Electronic nicotine-delivery system usage" means any vaping, inhaling, or use of any](#)

1 [electronic nicotine-delivery device defined in § 11-9-13.4.](#)

2 **23-20.9-5. Regulation of smoking in schools.** -- (a) The governing body of each school
3 in Rhode Island shall be responsible for the development of enforcement procedures to prohibit
4 tobacco product usage [and electronic nicotine-delivery system usage](#) by any person utilizing
5 school facilities. All facilities used by a school, whether owned, leased or rented, shall be subject
6 to the provisions of this chapter. Enforcement procedures shall be promulgated and conspicuously
7 posted in each building.

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

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

20 SECTION 3. This act shall take effect on January 1, 2016.

=====
LC001013
=====

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 and
3 would prohibit the use of electronic nicotine delivery systems in schools.

4 This act would take effect January 1, 2016.

=====
LC001013
=====