

2013 -- H 5876 SUBSTITUTE A

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LC02032/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINAL OFFENSES - CHILDREN - TAXATION - CIGARETTE TAX

Introduced By: Representatives Melo, McNamara, Corvese, Gallison, and Johnston

Date Introduced: March 13, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-9-13, 11-9-13.4, 11-9-13.13, and 11-9-14 of the General Laws
2 in Chapter 11-9 entitled "Children" are hereby amended to read as follows:

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

14 **(b) No person under the age of eighteen (18) years of age shall purchase, nor shall any**
15 **person sell, give, or deliver to any person under eighteen (18) years of age any vapor product.**

16 **11-9-13.4. Definitions. --** 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 leaf

1 and (ii) does not contain a smoke filtering device.

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

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

4 (4) "Department of mental health, retardation and hospitals" means the state of Rhode
5 Island mental health, retardation and hospitals department, its employees, agents or assigns.

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

8 (6) "License" is synonymous with the term "retail tobacco products dealer license."

9 (7) "License holder" is synonymous with the term "retail tobacco products dealer."

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

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

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

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

18 (12) "Tobacco product(s)" means any product containing tobacco, including bidi
19 cigarettes, as defined in subdivision (1) of this section, which can be used for, but whose use is
20 not limited to, smoking, sniffing, chewing or spitting of the product.

21 (13) "Underage individual" or "underage individuals" means any child under the age of
22 eighteen (18) years of age.

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

29 (15) "Vapor product" means any non-combustible product containing nicotine, such as an
30 electronic cigarette, that employs a mechanical heating element, battery or electronic circuit,
31 regardless of shape or size, that can be used to heat a liquid nicotine solution contained in a vapor
32 cartridge as well as any vapor cartridge containing liquid nicotine solution that can be used with
33 or in a vapor product. Vapor product does not include any cessation product approved by the U.S.
34 food and drug administration and being marketed and sold solely for that approved purpose.

1 **11-9-13.13. Nature and size of penalties.** -- (a) Any person or individual that violates a
2 requirement of section 11-9-13.6(2), display of specific signage, shall be subject to a fine in court
3 of not less than thirty-five dollars (\$35.00) nor more than five hundred dollars (\$500) per civil
4 violation.

5 (b) The license holder is responsible for all violations of this section that occur at the
6 location for which the license is issued. Any license holder that violates the prohibition of section
7 11-9-13.8(1) and/or (2) shall be subject to civil fines as follows:

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

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

12 (3) A fine of one thousand dollars (\$1,000) and a fourteen (14) day suspension of the
13 license to sell tobacco products for the third violation within any thirty-six (36) month period;

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

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

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

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

1 provisions of this section were reviewed with him/her. Each form shall be maintained by the
2 retailer for as long as the employee is so employed and for no less than one year after termination
3 of employment. The measures to prevent the sale of tobacco to minors shall be defined by the
4 department of mental health, retardation and hospitals in rules and regulations.

5 (f) Any person that violates the provisions of subsection 11-9-13(b) relating to the
6 purchase, sale, or delivery of vapor products to persons under eighteen (18) years of age shall be
7 subject to a penalty of five hundred dollars (\$500) for each violation.

8 **11-9-14. Use of tobacco by minors Use of tobacco or vapor products by minors. – (a)**

9 No person under eighteen (18) years of age shall smoke or chew or possess when such possession
10 is clearly visible tobacco in any public street, place or resort, any tobacco in any form
11 whatsoever. Any person under eighteen (18) years of age violating the provisions of this section
12 shall be required to perform up to thirty (30) hours of community service or shall be required to
13 enter into a tobacco treatment program approved by any local substance abuse prevention task
14 force, at the option of a minor charged with a violation of this section.

15 (b) No person under eighteen (18) years of age shall use or possess when such possession
16 is clearly visible in any public street, place or resort, any vapor product. Any person under
17 eighteen (18) years of age violating the provisions of this section shall be required to perform up
18 to thirty (30) hours of community service or shall be required to enter into a tobacco treatment
19 program approved by any local substance abuse prevention task force, at the option of a minor
20 charged with a violation of this section.

21 SECTION 2. 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 - TAXATION - CIGARETTE TAX

1 This act would amend the criminal law relating to cigarettes and tobacco to include all
2 vapor products as among those items that are prohibited to persons under the age of eighteen (18).

3 This act would take effect upon passage.

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