

2017 -- S 0402

LC000759

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL OFFENSES - CHILDREN

Introduced By: Senators Ruggiero, Jabour, Miller, Lombardi, and Coyne

Date Introduced: March 02, 2017

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-9 of the General Laws entitled "Children" is hereby amended by  
2 adding thereto the following section:

3 **11-9-13.20. Packaging of electronic nicotine-delivery system liquid.**

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

10 (c)(1) For the purposes of this section, "child-resistant packaging" means packaging that  
11 is designed or constructed to be significantly difficult for children under five (5) years of age to  
12 open or obtain a toxic or harmful amount of the substance contained therein within a reasonable  
13 time and not difficult for normal adults to use properly, but does not mean packaging which all  
14 such children cannot open or obtain a toxic or harmful amount within a reasonable time. A liquid,  
15 as defined in subsection (a) of this section, enclosed in a package, cartridge, or other container  
16 that is prefilled and sealed by the manufacturer and not intended to be opened by the consumer  
17 shall qualify as child-resistant packaging.

18 (2) For purposes of this section, all regulations prescribing standards for "special  
19 packaging" of household substances per chapter 24.1 of title 23 now or hereafter adopted under

1 the authority of the Federal Poison Prevention Packaging Act are the regulatory standards in this  
2 state for "child-resistant packaging" as defined in subsection (c)(1) of this section. Provided,  
3 however, that if any federal statute or federal regulation and/or rule is promulgated prescribing  
4 standards specifically for child safety packaging for liquid nicotine containers, that federal statute  
5 or federal regulation and/or rule shall be the regulatory standard under this section as of the  
6 effective date of any such enacted legislation or final regulation and/or rule.

7 (d) Any licensee or any person required to be licensed under §23-1-56 that fails to  
8 comply with this section shall be subject to the penalties provided in §11-9-13.13.

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

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

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

17 **11-9-13.10. Prohibition on the distribution of free tobacco products.**

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

32 **11-9-13.13. Nature and size of penalties.**

33 (a) Any person or individual who violates a requirement of § 11-9-13.6(2), display of  
34 specific signage, shall be subject to a fine in court of not less than thirty-five dollars (\$35.00), nor

1 more than five hundred dollars (\$500), per civil violation.

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

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

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

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

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

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

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

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

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

8 **11-9-13.16. Rules and regulations.**

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

12 **11-9-13.17. Fines collected.**

13 (a) One-half (1/2) of all the fines collected pursuant to §§ 11-9-13.2 -- ~~11-9-13.19~~ 11-9-  
14 13.20 shall be transferred to the municipalities in which the citation originated.

15 (b) One-half (1/2) of all the fines collected pursuant to §§ 11-9-13.2 -- ~~11-9-13.19~~ 11-9-  
16 13.20 shall be transferred to the general fund.

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

19 **23-20.9-4. Definitions.**

20 As used in this chapter:

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

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

33 (3) "Governing body" means the body, board, committee or individual, or its designated  
34 agent(s) or designee(s), responsible for, or which has control over, the administration of any

1 elementary or secondary school, public or private, in the state.

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

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

8 **23-20.9-5. Regulation of smoking in schools.**

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

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

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

26 SECTION 4. This act shall take effect on January 1, 2018.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES - CHILDREN

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- 1           This act would prohibit the sale of liquid that is intended for human consumption and/or
- 2 use in an electronic nicotine-delivery system that is not contained in child resistant packaging.
- 3           This act would also prohibit the use of electronic nicotine-delivery systems in schools.
- 4           This act would take effect on January 1, 2018.

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