

2019 -- S 0462

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

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

Introduced By: Senators Coyne, Ruggiero, Lombardo, Sosnowski, and Gallo

Date Introduced: February 27, 2019

Referred To: Senate 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. Cigarette, tobacco and~~
18 ~~electronic nicotine-delivery system vending machines.~~

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

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

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

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

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

1 next offense shall be treated as the first offense.

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

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

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

10 (a) The use of tobacco products and electronic nicotine-delivery systems by Rhode Island
11 children and youth is a ~~health and substance abuse problem of the utmost severity. The legislature~~
12 ~~finds that tobacco product usage by children in Rhode Island is rampant and increasing with over~~
13 ~~thirty percent (30%) of high school students smoking. The present law prohibiting the sale of~~
14 ~~tobacco to children is being ignored by many retailers. Rhode Island tobacco retailers illegally~~
15 ~~sell four million eight hundred thousand (4,800,000) packs, over eleven million dollars~~
16 ~~(\$11,000,000) in tobacco product sales, to children annually. Tobacco industry advertising targets~~
17 ~~children as the replacement smokers for the one thousand one hundred forty five (1,145) adults~~
18 ~~who die daily from tobacco product usage. Approximately seventy percent (70%) of the Rhode~~
19 ~~Island high school seniors who are smoking today will be the addicted adult smokers of~~
20 ~~tomorrow. According to the federal Centers for Disease Control and Prevention (CDC), smoking-~~
21 ~~related direct medical costs in Rhode Island in 1990 climbed to one hundred eighty six million~~
22 ~~dollars (\$186,000,000). This is an ongoing, escalating financial burden borne by every business,~~
23 ~~large and small, and every person, smoker and nonsmoker, in Rhode Island. This is a health and~~
24 ~~economic drain created by each new generation of children who begin using tobacco products and~~
25 ~~become addicted to nicotine. It is the intent of this legislation to preserve and protect the health of~~
26 ~~children by: (1) stopping the illegal sale of tobacco to children, and (2) by severely punishing~~
27 ~~those who disregard the laws relating to the illegal sale of tobacco products to children. serious~~
28 health and addiction problem. Cigarette use has greatly declined among Rhode Island youth, to
29 six and one-tenths percent (6.1%) yet even at this low rate, every year, three hundred (300)
30 children under the age eighteen (18) in Rhode Island become daily smokers. There are sixteen
31 thousand (16,000) children in Rhode Island today who will ultimately die prematurely from
32 smoking. Rhode Island's annual health care costs due to smoking are six hundred forty million
33 dollars (\$640,000). As the national youth tobacco survey reports, in 2018, there was a dramatic
34 increase in electronic cigarette use among youth. According to the findings, the number of United

1 States high school students who reported being current e-cigarette users increased seventy-eight
2 percent (78%) between 2017 and 2018 to three million fifty thousand (3,050,000) or twenty and
3 eight-tenths percent (20.8%), putting millions of young people at risk of lifelong nicotine
4 addiction. In Rhode Island, twenty and one-tenths percent (20.1%) of high school students use e-
5 cigarettes.

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

19 **11-9-13.4. Definitions.**

20 As used in this chapter:

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

25 ~~(2)~~(1) "Court" means any appropriate district court of the state of Rhode Island.

26 ~~(3)~~(2) "Dealer" is synonymous with the term "retail tobacco products dealer" or
27 electronic nicotine-delivery system dealer.

28 ~~(4)~~(3) "Department of behavioral healthcare, developmental disabilities and hospitals "
29 means the state of Rhode Island behavioral healthcare, developmental disabilities and hospitals
30 department, its employees, agents or assigns.

31 ~~(5)~~(4) "Department of taxation" means the state of Rhode Island taxation division, its
32 employees, agents, or assigns.

33 (5) "Electronic nicotine-delivery system" means any device that can be used to deliver
34 aerosolized or vaporized nicotine to the person inhaling from the device, including, but not

1 limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic nicotine-delivery
2 systems include any component, part, or accessory of such a device, whether or not sold
3 separately, and includes any substance intended to be aerosolized or vaporized during the use of
4 the device. Electronic nicotine-delivery systems do not include drugs, devices, or combination
5 products authorized for sale by the United States Food and Drug Administration (FDA), as those
6 terms are defined in the Federal Food, Drug and Cosmetic Act.

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

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

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

17 ~~(8)~~(9) "Person" means any individual person, firm, association, or corporation licensed as
18 a retail dealer to sell tobacco products or electronic nicotine-delivery systems within the state.

19 ~~(9)~~(10) "Retail tobacco products dealer" means the holder of a license to sell tobacco
20 products at retail.

21 ~~(10)~~(11) "Retail tobacco products dealer license" means a license to sell tobacco products
22 at retail as issued by the department of taxation.

23 ~~(11)~~(12) "Spitting tobacco" also means snuff, powdered tobacco, chewing tobacco,
24 dipping tobacco, pouch tobacco, or smokeless tobacco.

25 ~~(12)~~(13) "Tobacco product(s)" means any product ~~containing tobacco, including bidi~~
26 ~~cigarettes, as defined in subdivision (1) of this section, that can be used for, but whose use is not~~
27 ~~limited to, smoking, sniffing, chewing, or spitting of the product.~~ that is made from or derived
28 from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be
29 consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any
30 other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe
31 tobacco, snuff, snus and bidi cigarettes.

32 "Tobacco product" also means electronic nicotine-delivery systems and includes any
33 component, part, or accessory used in the consumption of a tobacco product, such as filters,
34 rolling papers, pipes, and liquids used in electronic nicotine-delivery systems, whether or not they

1 contain nicotine. "Tobacco product" does not include drugs, devices, or combination products
2 authorized for sale by the United States Food and Drug Administration (FDA) as those terms are
3 defined in the Federal Food, Drug and Cosmetic Act.

4 ~~(13)~~(14) "Underage individual" or "underage individuals" means any ~~child~~ person under
5 the age of ~~eighteen (18)~~ twenty-one (21) years of age.

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

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

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

19 (16) "Electronic nicotine-delivery system dealer" means the holder of a license to sell
20 electronic nicotine-delivery systems at retail.

21 **11-9-13.5. Responsibility for tobacco or health issues.**

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

26 **11-9-13.6. Duties of the department of behavioral healthcare, developmental** 27 **disabilities and hospitals.**

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

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

33 (2) Provide retail tobacco products dealers and electronic nicotine-delivery system
34 dealers signs concerning the prohibition of sales to ~~children under eighteen (18)~~ persons under

1 [twenty-one \(21\)](#) years of age. The signs, conforming to the requirements of this chapter, shall be
2 sold at cost. This sign, or an exact duplicate of it made privately, shall be displayed in all
3 locations where tobacco products and/or electronic nicotine-delivery systems are sold.

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

5 (4)(i) Utilize unannounced statewide compliance checks of tobacco product sales and/or
6 electronic nicotine-delivery system sales including retail tobacco and/or electronic nicotine-
7 delivery system over-the-counter sales, mail-order sales initiated via mail, facsimile, telephone or
8 internet ordering or other types of electronic communications, and tobacco and/or electronic
9 nicotine-delivery systems vending machine sales as part of investigating compliance with the
10 provisions of this chapter. Underage individuals, acting as agents for the department of behavioral
11 healthcare, developmental disabilities and hospitals and with the written permission of a parent or
12 guardian [for persons under age eighteen \(18\) years](#), may purchase, with impunity from
13 prosecution, tobacco products and electronic nicotine-delivery system for the purposes of law
14 enforcement or government research involving monitoring compliance with this chapter,
15 provided that the underage individuals are supervised by an adult law enforcement official. Any
16 individual participating in an unannounced compliance check of over-the-counter or vending
17 machine sales, must state his or her accurate age if asked by the sales representative of the retail
18 establishment being checked.

19 (ii) In fulfilling the requirement of unannounced statewide compliance checks, the
20 department of behavioral healthcare, developmental disabilities and hospitals shall maintain
21 complete records of the unannounced compliance checks, detailing, at least, the date of the
22 compliance check; the name and address of the retail establishment checked or the mail order
23 company; the results of the compliance check (sale/no sale); whether the sale was made as an
24 over-the-counter sale, a mail-order purchase or a tobacco and/or or electronic nicotine-delivery
25 systems vending machine sale; and if a citation was issued for any violation found. The records
26 shall be subject to public disclosure. Further, the department of behavioral healthcare,
27 developmental disabilities and hospitals shall report to the owner of each retail establishment
28 checked or mail-order company the results of any compliance check (sale/no sale) whether the
29 sale was made as an over-the-counter sale, a mail-order purchase, or a tobacco and/or electronic
30 nicotine-delivery systems vending machine sale, and if a citation was issued for any violation
31 found.

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

34 (6) Develop and disseminate community health education information and materials

1 relating to this chapter.

2 ~~**11-9-13.7. Signs concerning sales to individuals under age eighteen (18). Signs**~~
3 **concerning sales to individuals under age twenty-one (21).**

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

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

8 THE SALE OF **CIGARETTES,**
9 TOBACCO **PRODUCTS** AND ELECTRONIC NICOTINE-DELIVERY **SYSTEM**
10 **PRODUCTS SYSTEMS**
11 TO PERSONS UNDER THE AGE OF ~~18~~ **21**
12 IS AGAINST RHODE ISLAND LAW
13 (~~§ 11-9-13.8(1), Rhode Island Statutes~~ [chapter 9 of title 11, R.I.G.L.](#))
14 PHOTO ID FOR PROOF OF AGE IS
15 REQUIRED FOR PURCHASE.

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

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

26 **11-9-13.8. Prohibitions applicable to license holders and their employees and agents.**

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

- 30 (1) To any individual who is under ~~eighteen (18)~~ [twenty-one \(21\)](#) years of age; or
31 (2) In any form other than an original, factory-wrapped package; or
32 (3) As a single-cigarette sale (§ 44-20-31) or as a sale of cigarettes by the individual piece
33 known as "loosies."

34 ~~**11-9-13.10. Prohibition on the distribution of free tobacco products.**~~ **Prohibition on**

1 **the distribution of free tobacco products and electronic nicotine-delivery systems.**

2 The distribution of free tobacco products and electronic nicotine-delivery systems or
3 coupons or vouchers redeemable for free tobacco products or electronic nicotine-delivery ~~system~~
4 ~~products~~ systems to any person under ~~eighteen (18)~~ twenty-one (21) years of age shall be
5 prohibited. Further, the distribution of free tobacco products or electronic nicotine-delivery
6 systems or coupons or vouchers redeemable for free tobacco products or electronic nicotine-
7 delivery systems ~~products~~ shall be prohibited, regardless of the age of the person to whom the
8 products, coupons, or vouchers are distributed, within five hundred feet (500') of any school. The
9 attorney general, or any local or state of Rhode Island police department, or their officers or
10 agents, shall bring an action for any violation of this section. Every separate, free tobacco product
11 or electronic nicotine-delivery system or coupon or voucher redeemable for a free tobacco or
12 electronic nicotine-delivery system or product in violation of this section shall constitute a
13 separate offense subject to a fine of five hundred dollars (\$500). The penalty shall be assessed
14 against the business or individual responsible for initiating the Rhode Island distribution of the
15 free tobacco products or electronic nicotine-delivery systems or coupons or vouchers redeemable
16 for free tobacco products or electronic nicotine-delivery systems.

17 **11-9-13.11. Prohibition on the sale or distribution of tobacco products through the**
18 **mail conveyance of tobacco products through the mail to children under eighteen (18) --**
19 **Proof of age of purchaser required -- General rule. Prohibition on the sale or distribution of**
20 **tobacco products or electronic nicotine-delivery systems through the mail; conveyance of**
21 **tobacco products or electronic nicotine-delivery systems through the mail to persons under**
22 **twenty-one (21) -- Proof of age of purchaser required -- General rule.**

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

27 (b) Any person selling or distributing tobacco ~~products in the form of cigars, pipe~~
28 ~~tobacco, chewing tobacco, or snuff~~ or electronic nicotine-delivery systems directly to a consumer
29 via the United States Postal Service, or by any other public or private postal or package delivery
30 service, including orders placed by mail, telephone, facsimile, or internet, shall: (1) before
31 distributing or selling the tobacco product or electronic nicotine-delivery system through any of
32 these means, receive both a copy of a valid form of government identification showing date of
33 birth to verify the purchaser is age ~~eighteen (18)~~ twenty-one (21) years or over and an attestation
34 from the purchaser certifying that the information on the government identification truly and

1 correctly identifies the purchaser and the purchaser's current address, and (2) deliver the tobacco
2 product [or electronic nicotine-delivery system](#) to the address of the purchaser given on the valid
3 form of government identification and by a postal or package delivery service method that either
4 limits delivery to that purchaser and requires the purchaser to sign personally to receive the
5 delivery or requires a signature of ~~an adult~~ [a person the age of twenty-one \(21\) or over](#) at the
6 purchaser's address to deliver the package.

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

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

23 (e) Any delivery sale of cigarettes shall be made pursuant to the provisions of chapter
24 20.1 of title 44. The provisions of this section shall apply to each tobacco product ~~listed in~~
25 ~~subsection (b) herein~~ [or electronic nicotine-delivery system as defined in § 11-9-13.4](#), but shall
26 not apply to any delivery sale of cigarettes.

27 **11-9-13.13. Nature and size of penalties.**

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

31 (b) The license holder is responsible for all violations of this section that occur at the
32 location for which the license is issued. Any license holder who or that violates the prohibition of
33 § 11-9-13.8(1) ~~and/or (2)~~ or § 11-9-13.20 shall be subject to civil fines as follows:

34 (1) A fine of two hundred fifty dollars (\$250) for the first violation within any thirty-six-

1 month (36) period;

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

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

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

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

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

18 (e) The court ~~shall~~ may suspend the imposition of a license suspension of the license
19 secured from the Rhode Island tax administrator or the department of health for violation of
20 subsections (b)(3) and (b)(4) of this section if the court finds that the license holder has taken
21 measures to prevent the sale of tobacco products and/or electronic nicotine-delivery systems to
22 ~~minors~~ underage individuals and the license holder can demonstrate to the court that those
23 measures have been taken and that employees have received training. No person shall sell
24 tobacco products and/or electronic nicotine-delivery ~~system products~~ systems at retail without
25 first being trained in the legal sale of tobacco products and/or electronic nicotine-delivery ~~system~~
26 ~~products~~ systems. Training shall teach employees what constitutes a tobacco product and/or
27 electronic nicotine-delivery system ~~product~~; legal age of ~~purchase~~ sale; acceptable identification;
28 how to refuse a direct sale to ~~a minor~~ an underage individual or secondary sale to ~~an adult~~ a
29 person age (21) years or older; and all applicable laws on tobacco sales and distribution. Dealers
30 shall maintain records indicating that the provisions of this section were reviewed with all
31 employees who conduct, or will conduct, tobacco product and/or electronic nicotine-delivery
32 systems sales. Each employee who sells or will sell tobacco products and/or electronic nicotine-
33 delivery system products shall sign an acknowledgement form attesting that the provisions
34 systems of this section were reviewed with him or her. Each form shall be maintained by the

1 retailer for as long as the employee is so employed and for no less than one year after termination
2 of employment. The measures to prevent the sale of tobacco [products](#) and/or electronic nicotine-
3 delivery systems to ~~minors~~ [underage individuals](#) shall be defined by the department of behavioral
4 healthcare, developmental disabilities and hospitals in rules and regulations.

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

7 ~~**11-9-14. Use of tobacco by minors.**~~

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

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

17 **44-20.1-1. Definitions.**

18 For purposes of this chapter:

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

20 (2) "Adult" means a person who is at least the legal minimum purchase age [for sale of](#)
21 [tobacco products](#).

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

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

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

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

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

34 (6) "Legal minimum purchase age" means the minimum age at which an individual may

1 legally purchase cigarettes in the state, [the age of twenty-one \(21\) years](#).

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

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

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

7 **44-20.1-3. Age Verification requirements.**

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

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

11 (i) A reliable confirmation that the consumer is at least ~~the legal minimum purchase~~
12 [twenty-one \(21\) years of](#) age; and

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

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

18 (B) That the sale of cigarettes to individuals under ~~the legal minimum purchase age~~
19 [twenty-one \(21\) years of age](#) is illegal; and

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

22 ~~(D)~~(C) That the prospective consumer wants to receive mailings from a tobacco
23 company;

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

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

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

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

1 **44-20.1-5. Shipping requirements.**

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

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

7 (2) Shall use a method of mailing, shipping or delivery that obligates the delivery service
8 to require: (i) the consumer placing the purchase order for the delivery sale or another adult ~~of~~
9 ~~legal minimum purchase age~~ twenty-one (21) years of age or older residing at the consumer's
10 address, to sign to accept delivery of the shipping container; and (ii) proof, in the form of a valid,
11 government-issued identification bearing a photograph of the individual who signs to accept
12 delivery of the shipping container, demonstrating that he/she either the addressee or another adult
13 of legal minimum purchase age residing at the consumer's address. However, proof of the legal
14 minimum purchase age shall be required only if such individual appears to be under ~~twenty-seven~~
15 ~~(27)~~ thirty (30) years of age; and

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

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

22 SECTION 4. This act shall take effect on January 1, 2020.

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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 minimum age to purchase tobacco products
3 and nicotine-delivery systems from eighteen (18) to twenty-one (21) years of age.
4 This act would take effect on January 1, 2020.

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