

2013 -- S 0622

=====  
LC01993  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

—————  
A N A C T

RELATING TO CRIMINAL OFFENSES -- CHILDREN AND  
RELATING TO TAXATION -- CIGARETTE TAX

Introduced By: Senators Ruggerio, Ciccone, Lombardi, Jabour, and Ottiano

Date Introduced: March 06, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 11-9-13, 11-9-13.4, 11-9-13.5, 11-9-13.6, 11-9-13.7, 11-9-13.8,  
2 11-9-13.10, 11-9-13.11, 11-9-13.13 and 11-9-13.15 of the General Laws in Chapter 11-9 entitled  
3 "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 Purchase, sale or delivery of tobacco products, tobacco-derived**  
6 **products and vapor products to persons under eighteen -- Posting notice of law. -- (a) No**  
7 **person under eighteen (18) years of age shall purchase, ~~nor shall any person sell, give or deliver~~**  
8 **to any person under eighteen (18) years of age, any tobacco in the form of cigarettes, bidi**  
9 **cigarettes, cigars, little cigars, flavored cigars known as "blunts" unflavored "blunts", flavored**  
10 **and unflavored blunt wraps, cigarette rolling papers of any size or composition, cigarillos, and**  
11 **tiparillos, pipe tobacco, chewing tobacco, or snuff. Any person, firm, or corporation that owns,**  
12 **manages, or operates a place of business in which tobacco products are sold, including sales**  
13 **through cigarette vending machines, shall post notice of this law conspicuously in the place of**  
14 **business in letters at least three eighths of an inch (3/8") high or attempt to purchase; possess or**  
15 **attempt to possess; use or attempt to use any tobacco in the form of cigarettes, bidi cigarettes,**  
16 **cigars, little cigars, flavored cigars know as "blunts," unflavored "blunts," flavored and**  
17 **unflavored blunt wraps, cigarette rolling papers of any size or composition, cigarillos, and**  
18 **tiparillos, pipe tobacco, chewing tobacco, or snuff; tobacco-derived products or vapor products.**

1 Any person violating this subsection shall be required to perform up to thirty (30) hours of  
2 community service or shall be required to enter into a tobacco treatment program approved by  
3 any local substance abuse prevention task force, at the option of the minor charged with a  
4 violation of this subsection.

5 (b) No person shall sell, give or deliver to any person under eighteen (18) years of age,  
6 any tobacco in the form of cigarettes, bidi cigarettes, cigars, little cigars, flavored cigars known as  
7 "blunts," unflavored "blunts," flavored and unflavored blunt wraps, cigarette rolling papers of any  
8 size or composition, cigarillos, and tiparillos, pipe tobacco, chewing tobacco, or snuff; tobacco-  
9 derived products or vapor products.

10 (c) Any person, firm, or corporation that owns, manages or operates a place of business in  
11 which tobacco products, tobacco-derived products or vapor products are sold, including sales  
12 through cigarette vending machines, shall post notice of this law conspicuously in the place of  
13 business in letters at least three-eighths of an inch (3/8") high.

14 **11-9-13.4. Definitions.** -- As used in this chapter:

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

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

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

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

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

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

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

27 (8) "Person" means any individual person, firm, association, or corporation licensed as a  
28 retail dealer to sell tobacco products, tobacco-derived products or vapor products within the state.

29 (9) "Retail tobacco products dealer" means the holder of a license to sell tobacco  
30 products, tobacco-derived products or vapor products at retail.

31 (10) "Retail tobacco products dealer license" means a license to sell tobacco products,  
32 tobacco-derived products or vapor products at retail as issued by the department of taxation.

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

1 (12) "Tobacco product(s)" means any product containing tobacco, including bidi  
2 cigarettes, as defined in subdivision (1) of this section, which can be used for, but whose use is  
3 not limited to, smoking, sniffing, chewing or spitting of the product, but does not include any  
4 tobacco-derived products or vapor products.

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

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

13 (15) "Tobacco-derived product" means any non-combustible product derived from  
14 tobacco that contains nicotine and is intended for human consumption, whether chewed,  
15 absorbed, dissolved or ingested by any other means, but does not include a vapor product or any  
16 product regulated by the United States food and drug administration under chapter V of the food,  
17 drug and cosmetic act.

18 (16) "Vapor product" means any non-combustible tobacco-derived product containing  
19 nicotine, such as an electronic cigarette, that employs a mechanical heating element, battery or  
20 electronic circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution  
21 contained in a vapor cartridge as well as any vapor cartridge containing liquid nicotine solution  
22 that can be used with or in a vapor product. "Vapor product" does not include any product  
23 regulated by the United States food and drug administration under chapter V of the food, drug  
24 and cosmetic act.

25 **11-9-13.5. Responsibility for tobacco or health issues. --** The Rhode Island department  
26 of mental health, retardation and hospitals shall develop, monitor and aggressively enforce health  
27 rules and regulations pertaining to stopping the illegal sale of tobacco products, tobacco-derived  
28 products or vapor products to children.

29 **11-9-13.6. Duties of the department of mental health, retardation and hospitals. --**

30 The department of mental health, retardation and hospitals shall:

31 (1) Coordinate and promote the enforcement of the provisions of this chapter and serve  
32 as the primary liaison from this department to other state or local agencies, departments, or  
33 divisions on issues pertaining to stopping children's access to tobacco, tobacco-derived products  
34 or vapor products.

1           (2) Provide retail tobacco products dealers signs concerning the prohibition of sales to  
2 children under eighteen (18) years of age. The signs, conforming to the requirements of this  
3 chapter, shall be sold at cost. This sign, or an exact duplicate of it made privately, shall be  
4 displayed in all locations where tobacco products, [tobacco-derived products or vapor products](#) are  
5 sold.

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

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

20           (ii) In fulfilling the requirement of unannounced statewide compliance checks, the  
21 department of mental health, retardation and hospitals shall maintain complete records of the  
22 unannounced compliance checks, detailing, at least, the date of the compliance check, the name  
23 and address of the retail establishment checked or the mail order company, the results of the  
24 compliance check (saleo sale), whether the sale was made as an over-the-counter sale, a mail  
25 order purchase or a tobacco vending machine sale, and if a citation was issued for any violation  
26 found. The records shall be subject to public disclosure. Further, the department of mental health,  
27 retardation and hospitals shall report to the owner of each retail establishment checked or mail  
28 order company, the results of any compliance check (saleo sale) whether the sale was made as an  
29 over-the-counter sale, a mail order purchase or a tobacco vending machine sale, and if a citation  
30 was issued for any violation found.

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

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

1           **11-9-13.7. Signs concerning sales to individuals under age eighteen (18).** -- Signs  
2 provided by the department of mental health, retardation and hospitals, or an exact duplicate of it  
3 made privately, shall:

4           (1) Contain in red bold lettering a minimum of three-eighths ( 3/8") inch high on a white  
5 background the following wording:

6           THE SALE OF CIGARETTES, ~~AND OTHER~~ TOBACCO PRODUCTS, TOBACCO-  
7 DERIVED PRODUCTS OR VAPOR PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS  
8 AGAINST RHODE ISLAND LAW (Section 11-9-13.8(1), Rhode Island Statutes) PHOTO ID  
9 FOR PROOF OF AGE IS REQUIRED FOR PURCHASE.

10           (2) Contain the phone number at the department of mental health, retardation and  
11 hospitals, where violations of sections 11-9-13.2 -- 11-9-13.19 can be reported, in addition to any  
12 other information required by the department of mental health, retardation and hospitals.

13           (3) Be displayed prominently for public view at each cash register, each tobacco vending  
14 machine, or any other place from which tobacco products, tobacco-derived products or vapor  
15 products are sold.

16           **11-9-13.8. Prohibitions applicable to license holders and their employees and agents.**

17 -- A person that holds a license issued under chapter 20 of title 44, or an employee or agent of  
18 that person, is prohibited from selling, distributing or delivering a tobacco product, tobacco-  
19 derived products or vapor product:

20           (1) To any individual that is under eighteen (18) years of age; or

21           (2) In any form other than an original factory-wrapped package; or

22           (3) As a single cigarette sale (section 44-20-31), or as a sale of cigarettes by the  
23 individual piece, known as "loosies."

24           **11-9-13.10. ~~Prohibition on the distribution of free tobacco products~~ Prohibition on**  
25 **the distribution of free tobacco products, tobacco-derived products or vapor products to**

26 **minors.** -- The distribution of free tobacco products, tobacco-derived products or vapor products  
27 or coupons or vouchers redeemable for free tobacco products, tobacco-derived products or vapor  
28 products to any person under eighteen (18) years of age shall be prohibited. Further, the  
29 distribution of free tobacco products or coupons or vouchers redeemable for free tobacco  
30 products shall be prohibited, regardless of the age of the person to whom the products, coupons,  
31 or vouchers are distributed, within five hundred (500) feet of any school. The attorney general  
32 shall bring an action for any violation of this section. Every separate free tobacco product,  
33 tobacco-derived products or vapor product or coupon or voucher redeemable for a free tobacco  
34 product, tobacco-derived products or vapor product in violation of this section shall constitute a

1 separate offense subject to a fine of five hundred dollars (\$500). The penalty shall be assessed  
2 against the business or individual responsible for initiating the Rhode Island distribution of the  
3 free tobacco products, [tobacco-derived products or vapor products](#) or coupons or vouchers  
4 redeemable for free tobacco products.

5 ~~**11-9-13.11. Prohibition on the sale or distribution of tobacco products through the**~~  
6 ~~**mail conveyance of tobacco products through the mail to children under eighteen (18) --**~~

7 ~~**Proof of age of purchaser required -- General rule**~~ **Prohibition on the sale or distribution of**  
8 **tobacco products, tobacco-derived products or vapor products through the mail conveyance**  
9 **of tobacco products through the mail to children under eighteen (18) -- Proof of age of**  
10 **purchaser required -- General rule. --** (a) The distribution, or sale or conveyance of tobacco  
11 products, [tobacco-derived products or vapor products](#) to children under the age of eighteen (18)  
12 via the United States Postal Service, or by any other public or private postal or package delivery  
13 service, shall be prohibited.

14 (b) Any person selling or distributing tobacco products in the form of cigars, pipe  
15 tobacco, chewing tobacco, or snuff, [tobacco-derived products or vapor products](#) directly to a  
16 consumer via the United States Postal Service, or by any other public or private postal or package  
17 delivery service, including orders placed by mail, telephone, facsimile, or internet, shall: (1)  
18 before distributing or selling the tobacco product, [tobacco-derived products or vapor product](#)  
19 through any of these means, receive both a copy of a valid form of government identification  
20 showing date of birth to verify the purchaser is age eighteen (18) years or over and an attestation  
21 from the purchaser certifying that the information on the government identification truly and  
22 correctly identifies the purchaser and the purchaser's current address, and (2) deliver the tobacco  
23 product, [tobacco-derived products or vapor product](#) to the address of the purchaser given on the  
24 valid form of government identification and by a postal or package delivery service method that  
25 either limits delivery to that purchaser and requires the purchaser to sign personally to receive the  
26 delivery or requires a signature of an adult at the purchaser's address to deliver the package.

27 (c) The attorney general shall bring an action for any violation of this chapter. Any  
28 distribution, or sale or conveyance of a tobacco product, [tobacco-derived products or vapor](#)  
29 [product](#) to a child under eighteen (18) years of age via the United States Postal Service, or by any  
30 other public or private postal or package delivery service, shall be subject to an action against the  
31 distributor, or seller or conveyer by the attorney general of the state of Rhode Island. A minimum  
32 fine of one thousand dollars (\$1,000) shall be assessed against any distributor, or seller or  
33 conveyer convicted of distributing, or selling or conveying tobacco products, [tobacco-derived](#)  
34 [products or vapor products](#) via the United States postal service, or by any other public or private

1 postal or package delivery service, for each delivery, or sale or conveyance of a tobacco product,  
2 [tobacco-derived products or vapor product](#) to a child under eighteen (18) years of age.

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

8 (e) Any delivery sale of cigarettes shall be made pursuant to the provisions of chapter  
9 20.1 of title 44. The provisions of this section shall apply to each tobacco product, [tobacco-](#)  
10 [derived products or vapor product](#) listed in subsection (b) herein, but shall not apply to any  
11 delivery sale of cigarettes.

12 **11-9-13.13. Nature and size of penalties.** -- (a) Any person or individual that violates a  
13 requirement of section 11-9-13.6(2), display of specific signage, shall be subject to a fine in court  
14 of not less than thirty-five dollars (\$35.00) nor more than five hundred dollars (\$500) per civil  
15 violation.

16 (b) The license holder is responsible for all violations of this section that occur at the  
17 location for which the license is issued. Any license holder that violates the prohibition of section  
18 11-9-13.8(1) and/or (2) shall be subject to civil fines as follows:

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

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

23 (3) A fine of one thousand dollars (\$1,000) and a fourteen (14) day suspension of the  
24 license to sell tobacco products, [tobacco-derived products or vapor products](#) for the third violation  
25 within any thirty-six (36) month period;

26 (4) A fine of one thousand five hundred dollars (\$1,500) and a ninety (90) day  
27 suspension of the license to sell tobacco products, [tobacco-derived products or vapor products](#) for  
28 each violation in excess of three (3).

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

32 (d) The department of taxation shall not issue a license to any individual, business, firm,  
33 association, or corporation the license of which has been revoked or suspended, to any  
34 corporation an officer of which has had his or her license revoked or suspended, or to any



1 individual who is or has been an officer of a corporation the license of which has been revoked or  
2 suspended so long as such revocations or suspensions are in effect.

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

22 **11-9-13.15. Penalty for operating without a dealer license.** -- (a) Any individual or  
23 business who violates this chapter by selling or conveying a tobacco product without a retail  
24 tobacco products, [tobacco-derived products or vapor products](#) dealer license shall be cited for that  
25 violation and shall be required to appear in court for a hearing on the citation.

26 (b) Any individual or business cited for a violation under this section of this chapter  
27 shall:

28 (1) Either post a five hundred dollar (\$500) bond with the court within ten (10) days of  
29 the citation; or

30 (2) Sign and accept the citation indicating a promise to appear in court.

31 (c) An individual or business who has accepted the citation may:

32 (1) Pay the five hundred dollar (\$500) fine, either by mail or in person, within ten (10)  
33 days after receiving the citation; or

34 (2) If that individual or business has posted a bond, forfeit the bond by not appearing at



1 the scheduled hearing. If the individual or business cited pays the five hundred dollar (\$500) fine  
2 or forfeits the bond, that individual or business is deemed to have admitted the cited violation and  
3 to have waived the right to a hearing on the issue of commission on the violation.

4 (d) The court after a hearing on a citation shall make a determination as to whether a  
5 violation has been committed. If it is established that the violation did occur, the court shall  
6 impose a five hundred dollar (\$500) fine, in addition to any court costs or other court fees.

7 SECTION 2. Section 11-9-13.14 of the General Laws in Chapter 11-9 entitled "Children"  
8 is hereby repealed.

9 ~~11-9-13.14. Notification to the Department of Taxation of fines imposed. -- The court~~  
10 ~~shall maintain records of any penalty, fine or suspension imposed under this chapter and notify~~  
11 ~~within sixty (60) days the tax administrator of the penalty, fine or suspension imposed.~~

12 SECTION 3. Sections 44-20-1, 44-20-2, 44-20-3, 44-20-4.1 and 44-20-8 of the General  
13 Laws in Chapter 44-20 entitled "Cigarette Tax" are hereby amended to read as follows:

14 **44-20-1. Definitions.** -- Whenever used in this chapter, unless the context requires  
15 otherwise:

- 16 (1) "Administrator" means the tax administrator;
- 17 (2) "Cigarettes" means and includes any cigarettes suitable for smoking in cigarette  
18 form, and each sheet of cigarette rolling paper;
- 19 (3) "Dealer" means any person whether located within or outside of this state, who sells  
20 or distributes cigarettes, [tobacco-derived products or vapor products](#) to a consumer in this state;
- 21 (4) "Distributor" means any person:
  - 22 (A) Whether located within or outside of this state, other than a dealer, who sells or  
23 distributes cigarettes within or into this state. Such term shall not include any cigarette  
24 manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C.  
25 section 5712, if such person sells or distributes cigarettes in this state only to licensed distributors,  
26 or to an export warehouse proprietor or another manufacturer with a valid permit under 26 U.S.C.  
27 section 5712;
  - 28 (B) Selling cigarettes directly to consumers in this state by means of at least twenty-five  
29 (25) cigarette vending machines;
  - 30 (C) Engaged in this state in the business of manufacturing cigarettes or any person  
31 engaged in the business of selling cigarettes to dealers, or to other persons, for the purpose of  
32 resale only; provided, that seventy-five percent (75%) of all cigarettes sold by that person in this  
33 state are sold to dealers or other persons for resale and selling cigarettes directly to at least forty  
34 (40) dealers or other persons for resale; or

1 (D) Maintaining one or more regular places of business in this state for that purpose;  
2 provided, that seventy-five percent (75%) of the sold cigarettes are purchased directly from the  
3 manufacturer and selling cigarettes directly to at least forty (40) dealers or other persons for  
4 resale;

5 (5) "Importer" means any person who imports into the United States, either directly or  
6 indirectly, a finished cigarette for sale or distribution;

7 (6) "Licensed", when used with reference to a manufacturer, importer, distributor or  
8 dealer, means only those persons who hold a valid and current license issued under section 44-20-  
9 2 for the type of business being engaged in. When the term "licensed" is used before a list of  
10 entities, such as "licensed manufacturer, importer, wholesale dealer, or retailer dealer," such term  
11 shall be deemed to apply to each entity in such list;

12 (7) "Manufacturer" means any person who manufactures, fabricates, assembles,  
13 processes, or labels a finished cigarette;

14 (8) "Person" means any individual, including an employee or agent, firm, fiduciary,  
15 partnership, corporation, trust, or association, however formed;

16 (9) "Place of business" means and includes any place where cigarettes are sold or where  
17 cigarettes are stored or kept for the purpose of sale or consumption, including any vessel, vehicle,  
18 airplane, train, or vending machine;

19 (10) "Sale" or "sell" includes and applies to gifts, exchanges, and barter;

20 (11) "Stamp" means the impression, device, stamp, label, or print manufactured, printed,  
21 or made as prescribed by the administrator to be affixed to packages of cigarettes, as evidence of  
22 the payment of the tax provided by this chapter or to indicate that the cigarettes are intended for a  
23 sale or distribution in this state that is exempt from state tax under the provisions of state law; and  
24 also includes impressions made by metering machines authorized to be used under the provisions  
25 of this chapter.

26 (12) "Tobacco-derived product" means any non-combustible product derived from  
27 tobacco that contains nicotine and is intended for human consumption, whether chewed,  
28 absorbed, dissolved or ingested by any other means, but does not include a vapor product or any  
29 product regulated by the United States food and drug administration under chapter V of the food,  
30 drug and cosmetic act.

31 (13) "Tobacco product" means any product containing tobacco that can be used for, but  
32 whose use is not limited to, smoking, sniffing, chewing or spitting of the product, but does not  
33 include any tobacco-derived product or vapor product.

34 (14) "Vapor product" means any non-combustible tobacco-derived product containing

1 [nicotine, such as an electronic cigarette, that employs a mechanical heating element, battery or](#)  
2 [electronic circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution](#)  
3 [contained in a vapor cartridge as well as any vapor cartridge containing liquid nicotine solution](#)  
4 [that can be used with or in a vapor product. "Vapor product" does not include any product](#)  
5 [regulated by the United States food and drug administration under chapter V of the food, drug](#)  
6 [and cosmetic act.](#)

7 **44-20-2. Importer, distributor, and dealer licenses required -- Licenses required. --**

8 Each person engaging in the business of selling ~~cigarettes and/or any~~ tobacco products, [tobacco-](#)  
9 [derived products or vapor products](#) in this state, including any distributor or dealer, shall secure a  
10 license from the administrator before engaging in that business, or continuing to engage in it. A  
11 separate application and license is required for each place of business operated by a distributor or  
12 dealer; provided, that an operator of vending machines for cigarette products is not required to  
13 obtain a distributor's license for each machine. If the applicant for a license does not have a place  
14 of business in this state, the license shall be issued for such applicant's principal place of business,  
15 wherever located. A licensee shall notify the administrator within thirty (30) days in the event that  
16 it changes its principal place of business. A separate license is required for each class of business  
17 if the applicant is engaged in more than one of the activities required to be licensed by this  
18 section. No person shall maintain or operate or cause to be operated a vending machine for  
19 cigarette products without procuring a dealer's license for each machine.

20 **44-20-3. Penalties for unlicensed business. --** Any distributor or dealer who sells, offers

21 for sale, or possesses with intent to sell, ~~cigarettes and/or any~~ tobacco products, [tobacco-derived](#)  
22 [products or vapor products](#) without a license as provided in section 44-20-2, shall be fined in  
23 accordance with the provisions of and the penalties contained in section 11-9-13.15.

24 **44-20-4.1. License availability. --** (a) No license under this chapter may be granted,

25 maintained or renewed if the applicant, or any combination of persons owning directly or  
26 indirectly any interests in the applicant:

- 27 (1) Owes five hundred dollars (\$500) or more in delinquent cigarette taxes;
- 28 (2) Is delinquent in any tax filings for one month or more;
- 29 (3) Had a license under this chapter revoked by the administrator within the past two (2)  
30 years;
- 31 (4) Has been convicted of a crime relating to cigarettes stolen or counterfeit cigarettes;
- 32 (5) Is a cigarette manufacturer or importer that is neither: (i) a participating manufacturer  
33 as defined in subsection II (jj) of the "Master Settlement Agreement" as defined in section 23-71-  
34 2; nor (ii) in full compliance with chapter 20.2 of this title and section 23-71-3;

1 (6) Has imported, or caused to be imported, into the United States any cigarette in  
2 violation of 19 U.S.C. section 1681a; or

3 (7) Has imported, or caused to be imported into the United States, or manufactured for  
4 sale or distribution in the United States any cigarette that does not fully comply with the Federal  
5 Cigarette Labeling and Advertising Act (15 U.S.C. section 1331, et. seq).

6 (b) (1) No person shall apply for a new license or permit (as defined in section 44-19-1)  
7 or renewal of a license or permit, and no license or permit shall be issued or renewed for any  
8 person, unless all outstanding fines, fees or other charges relating to any license or permit held by  
9 that person have been paid.

10 (2) No license or permit shall be issued relating to a business at any specific location  
11 until all prior licenses or permits relating to that location have been officially terminated and all  
12 fines, fees or charges relating to the prior licenses have been paid or otherwise resolved or the  
13 administrator has found that the person applying for the new license or permit is not acting as an  
14 agent for the prior licensee or permit holder who is subject to any such related fines, fees or  
15 charges that are still due. Evidence of such agency status includes, but is not limited to, a direct  
16 familial relationship and/or an employment, contractual or other formal financial or business  
17 relationship with the prior licensee or permit holder.

18 (3) No person shall apply for a new license or permit pertaining to a specific location in  
19 order to evade payment of any fines, fees or other charges relating to a prior license or permit for  
20 that location.

21 (4) No new license or permit shall be issued for a business at a specific location for  
22 which a license or permit already has been issued unless there is a bona fide, good faith change in  
23 ownership of the business at that location.

24 (5) No license or permit shall be issued, renewed or maintained for any person, including  
25 the owners of the business being licensed or having applied and received a permit, that has been  
26 convicted of violating any criminal law relating to tobacco products, [tobacco-derived products or](#)  
27 [vapor products](#), the payment of taxes or fraud or has been ordered to pay civil fines of more than  
28 twenty-five thousand dollars (\$25,000) dollars for violations of any civil law relating to tobacco  
29 products, [tobacco-derived products or vapor products](#), the payment of taxes or fraud.

30 **44-20-8. Suspension or revocation of license.** -- The tax administrator may suspend or  
31 revoke any license under this chapter for failure of the licensee to comply with any provision of  
32 this chapter or with any provision of any other law or ordinance relative to the sale of cigarettes,  
33 [tobacco-derived products or vapor products](#); and the tax administrator may also suspend or  
34 revoke any license for failure of the licensee to comply with any provision of chapter 13 of title 6,

1 and, for the purpose of determining whether the licensee is complying with any provision of  
2 chapter 13 of title 6, the tax administrator and his or her authorized agents are empowered, in  
3 addition to authority conferred by section 44-20-40, to examine the books, papers, and records of  
4 any licensee. The administrator shall revoke the license of any person who would be ineligible to  
5 obtain a new or renew a license by reason of any of the conditions for licensure provided in  
6 section 44-20-4.1. Any person aggrieved by the suspension or revocation may apply to the  
7 administrator for a hearing as provided in section 44-20-47, and may further appeal to the district  
8 court as provided in section 44-20-48.

9 SECTION 4. This act shall take effect upon passage.

=====  
LC01993  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO CRIMINAL OFFENSES -- CHILDREN AND  
RELATING TO TAXATION -- CIGARETTE TAX

\*\*\*

1           This act would amend the criminal and tax laws on cigarettes and tobacco to include all  
2 tobacco-derived products and vapor products among those items that are subject to taxation and  
3 those items that are prohibited to persons under the age of eighteen (18).

4           This act would take effect upon passage.

=====  
LC01993  
=====