

2010 -- S 2066

LC00366

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL OFFENSES - CHILDREN

Introduced By: Senators Sosnowski, and Perry

Date Introduced: January 13, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-9-13, 11-9-13.4, 11-9-13.6, 11-9-13.7, 11-9-13.8, 11-9-13.10  
2 and 11-9-13.11 of the General Laws in Chapter 11-9 entitled "Children" are hereby amended to  
3 read as follows:

4 ~~11-9-13. Purchase, sale or delivery of tobacco products to persons under eighteen~~  
5 ~~Posting notice of law.~~ 11-9-13. Purchase, sale or delivery of tobacco products to persons  
6 under twenty-one -- Posting notice of law. --No person under ~~eighteen (18)~~ twenty-one (21)  
7 years of age shall purchase, nor shall any person sell, give or deliver to any person under ~~eighteen~~  
8 ~~(18)~~ twenty-one (21) years of age, any tobacco in the form of cigarettes, bidi cigarettes, cigars,  
9 pipe tobacco, chewing tobacco, or snuff. Any person, firm, or corporation that owns, manages, or  
10 operates a place of business in which tobacco products are sold, including sales through cigarette  
11 vending machines, shall post notice of this law conspicuously in the place of business in letters at  
12 least three-eighths of an inch ( 3/8") high.

13 11-9-13.4. Definitions. -- As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 **11-9-13.6. Duties of the department of mental health, retardation and hospitals. --**

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

28 (1) Coordinate and promote the enforcement of the provisions of this chapter and serve  
29 as the primary liaison from this department to other state or local agencies, departments, or  
30 divisions on issues pertaining to stopping children's access to tobacco.

31 (2) Provide retail tobacco products dealers signs concerning the prohibition of sales to  
32 ~~children~~ persons under ~~eighteen (18)~~ twenty-one (21) years of age. The signs, conforming to the  
33 requirements of this chapter, shall be sold at cost. This sign, or an exact duplicate of it made  
34 privately, shall be displayed in all locations where tobacco products are sold.

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

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

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

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

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

28 ~~11-9-13.7. Signs concerning sales to individuals under age eighteen .--~~ 11-9-13.7.  
29 Signs concerning sales to individuals under age twenty-one. --Signs provided by the  
30 department of mental health, retardation and hospitals, or an exact duplicate of it made privately,  
31 shall:

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

34 THE SALE OF CIGARETTES

1 AND OTHER TOBACCO PRODUCTS  
2 TO PERSONS UNDER THE AGE OF ~~18~~ 21  
3 IS AGAINST RHODE ISLAND LAW  
4 (Section 11-9-13.8(1), Rhode Island Statutes)  
5 PHOTO ID FOR PROOF OF AGE  
6 IS REQUIRED FOR PURCHASE.

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

10 (3) Be displayed prominently for public view at each cash register, each tobacco vending  
11 machine, or any other place from which tobacco products are sold.

12 **11-9-13.8. Prohibitions applicable to license holders and their employees and agents.**

13 -- A person that holds a license issued under chapter 20 of title 44, or an employee or agent of  
14 that person, is prohibited from selling, distributing or delivering a tobacco product:

15 (1) To any individual that is under ~~eighteen (18)~~ twenty-one (21) years of age; or

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

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

19 **11-9-13.10. Prohibition on the distribution of free tobacco products.** -- The

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

30 ~~**11-9-13.11. Prohibition on the sale or distribution of tobacco products through the**~~  
31 ~~**mail conveyance of tobacco products through the mail to children under eighteen -- Proof**~~  
32 ~~**of age of purchaser required -- General rule.**~~ -- **11-9-13.11. Prohibition on the sale or**  
33 **distribution of tobacco products through the mail conveyance of tobacco products through**  
34 **the mail to persons under twenty-one -- Proof of age of purchaser required -- General rule. -**

1 - (a) The distribution, or sale or conveyance of tobacco products to ~~children~~ persons under the age  
2 of ~~eighteen (18)~~ twenty-one (21) via the United States Postal Service, or by any other public or  
3 private postal or package delivery service, shall be prohibited.

4 (b) Any person selling or distributing tobacco products in the form of cigars, pipe  
5 tobacco, chewing tobacco, or snuff directly to a consumer via the United States Postal Service, or  
6 by any other public or private postal or package delivery service, including orders placed by mail,  
7 telephone, facsimile, or internet, shall: (1) before distributing or selling the tobacco product  
8 through any of these means, receive both a copy of a valid form of government identification  
9 showing date of birth to verify the purchaser is age ~~eighteen (18)~~ twenty-one (21) years or over  
10 and an attestation from the purchaser certifying that the information on the government  
11 identification truly and correctly identifies the purchaser and the purchaser's current address, and  
12 (2) deliver the tobacco product to the address of the purchaser given on the valid form of  
13 government identification and by a postal or package delivery service method that either limits  
14 delivery to that purchaser and requires the purchaser to sign personally to receive the delivery or  
15 requires a signature of an adult at the purchaser's address to deliver the package.

16 (c) The attorney general shall bring an action for any violation of this chapter. Any  
17 distribution, or sale or conveyance of a tobacco product to a child under ~~eighteen (18)~~ twenty-one  
18 (21) years of age via the United States Postal Service, or by any other public or private postal or  
19 package delivery service, shall be subject to an action against the distributor, or seller or conveyor  
20 by the attorney general of the state of Rhode Island. A minimum fine of one thousand dollars  
21 (\$1,000) shall be assessed against any distributor, or seller or conveyor convicted of distributing,  
22 or selling or conveying tobacco products via the United States postal service, or by any other  
23 public or private postal or package delivery service, for each delivery, or sale or conveyance of a  
24 tobacco product to a child person under ~~eighteen (18)~~ twenty-one (21) years of age.

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

30 (e) Any delivery sale of cigarettes shall be made pursuant to the provisions of chapter  
31 20.1 of title 44. The provisions of this section shall apply to each tobacco product listed in  
32 subsection (b) herein, but shall not apply to any delivery sale of cigarettes.

1 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

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- 1           This act would increase the age prohibition of sales of tobacco products from eighteen
- 2   (18) to twenty one (21) years of age.
- 3           This act would take effect upon passage.

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