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## HOUSE BILL NO. 1231

Offered January 22, 1996

A BILL to amend and reenact § 18.2-371.2 of the Code of Virginia, relating to purchase or possession of tobacco products by minors; penalty.

Patrons—Connally, Almand, Callahan, Crittenden, Darner, Davies, Grayson, Hull, Keating, Marshall, Moran, Morgan, Plum, Puller, Scott, Stump, Van Landingham, Van Yahres and Watts; Senators: Gartlan, Hanger, Ticer, Whipple and Woods

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-371.2 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-371.2. Prohibiting purchase or possession of tobacco products by minors or sale of tobacco products to minors.

A. No person shall sell to, distribute to or purchase for any person less than eighteen years of age, knowing or having reason to believe that such person is less than eighteen years of age, any tobacco product, including but not limited to cigarettes and cigars. ~~However, the provisions of this subsection shall not apply to the sale of any~~ No tobacco product may be sold from a vending machine provided (i) except in compliance with subsection D and (ii) unless notice is posted on the machine in a conspicuous manner and place indicating that the purchase or possession of tobacco products by minors is unlawful.

B. No person less than eighteen years of age shall purchase or possess any tobacco product including but not limited to cigarettes and cigars. The provisions of this subsection shall not be applicable to the possession of tobacco products by a person less than eighteen years of age making a delivery of tobacco products in pursuance of his employment.

C. A violation of subsection A or B by an individual or by a separate retail establishment shall be punishable by a civil penalty not to exceed \$50 for a first violation and a civil penalty of \$100 for any subsequent violation. Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A or B.

D. 1. The proprietor of every retail establishment which offers for sale any tobacco product, including but not limited to cigarettes and cigars, shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products to any person under eighteen years of age is prohibited by law.

2. No person shall operate a vending machine which dispenses tobacco products unless such machine is located in a:

a. Restaurant, and such vending machine shall not be placed in the vestibule area, and no less than fifteen feet inside the entrance to the establishment. Such machine shall be placed within the normal unobstructed line of sight of the proprietor or his agents and not more than twenty-five feet from the cashier's station;

b. Hotel or motel, on the main floor, and the machine is located inside the office or lobby, excluding the vestibule, within the normal unobstructed line of sight of the proprietor or his agents and not more than twenty-five feet from the desk clerk's station;

c. Private club;

d. Retail store where the primary products sold are tobacco products; or

e. Place of employment which has an insignificant portion of its regular workforce comprised of persons under the age of eighteen years, and only in such locations as are not accessible to the general public.

As an option to subdivision 2a or 2b, a vending machine may be modified to accept only tokens, rather than cash,. However, such machine shall not be located in the vestibule area and shall be no less than fifteen feet from the entrance to the establishment. Any individual who does not demonstrate by photo identification that he is eighteen years of age or older shall not purchase such tokens.

3. Any attorney for the county, city or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city or town which instituted the action.

E. Nothing in this section shall be construed to create a private cause of action.

INTRODUCED

HB1231