

1995 SESSION

LEGISLATION NOT PREPARED BY DLS INTRODUCED

LD9834000

HOUSE BILL NO. 2595

Offered January 23, 1995

A BILL to amend and reenact § 18.2-371.2 of the Code of Virginia, relating to prevention of tobacco use by minors; tobacco purchase and use.

Patrons—Almand, Brickley, Callahan, Connally, Crittenden, Darner, Davies, Hull, Jones, J.C., Keating, Marshall, May, McDonnell, Mims, Morgan, Plum, Puller, Robinson, Scott, Shuler, Van Landingham and Van Yahres; Senators: Calhoun, Colgan, Howell, Maxwell, Norment, Waddell 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 a second violation, and \$500 for a third and 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. Tobacco products shall be distributed only in sealed packages provided by the manufacturer, with the required health warning. 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. No person shall operate a vending machine which dispenses tobacco products unless such machine is located in a (i) bar or lounge area as defined in § 15.1-291.1 or the bar or lounge area of a restaurant with a valid, on-premise full alcoholic beverages control license; (ii) private club; (iii) retail store where the primary products sold are tobacco products; (iv) place of employment which is not involved in or open for retail trade; or (v) place of employment in a location therein not accessible to the general public. 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 \$50. 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. In order to monitor compliance with this section, no person under eighteen years of age, who, with parental consent, has been requested by an authorized agent of a local law-enforcement agency to purchase, attempt to purchase, or otherwise receive tobacco products as described in § 32.1-64.4, shall be in violation of this section while engaged in such activities under the direction and control of such authorized agents. In order to retain federal substance abuse block grant funding, now contingent upon enforcement of this section, the Secretaries of Health and Human Resources and Public Safety shall enter into an enforcement agreement on behalf of the Department of Mental Health, Mental Retardation and Substance Abuse Services, for the cooperative use of existing inspection and licensure programs for this purpose and in compliance with federal requirements.

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

G. As used in this section and consistent with § 15.1-291.1, unless the context requires a different meaning:

"Distribute" means to give, deliver, sell, offer to give, offer to deliver, offer to sell, or issue, trade or barter for commercial purposes.

"Health warning" means any tobacco product label mandated by federal law which is intended to

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60 alert tobacco product users to the health risks associated with such use, such as, for example, those
61 warning labels imposed by the federal Cigarette Labeling and Advertising Act of 1965 and the
62 Comprehensive Smokeless Tobacco Education Act of 1986.

63 "Seller" means any person, as defined in § 1-13.19, who distributes tobacco products.

64 "Tobacco product" means cigarettes, cigars, smoking tobacco, snuff, other smokeless tobacco, and
65 any other substance containing tobacco.

66 "Tobacco product use" means to smoke cigarettes, cigars, pipes or other smoking tobacco or to use
67 snuff or other smokeless tobacco or to carry a lighted cigarette, cigar, pipe or other instrument for
68 burning tobacco.