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SENATE BILL NO. 335

Offered January 25, 1994

A *BILL to amend the Code of Virginia by adding in Chapter 8 of Title 18.2 an article numbered 4.1, consisting of sections numbered 18.2- 371.3 through 18.2 371.8, relating to the Virginia Healthy Children Act.*

Patrons—Calhoun and Holland, C.A.; Delegates: Callahan, Cohen, Darner, Dillard, Hull, Mims, Scott, Van Yahres and Woodrum

Referred to the Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 8 of Title 18.2 an article numbered 4.1, consisting of sections numbered 18.2-371.3 through 18.2-371.8, as follows:

Article 4.1.

Virginia Healthy Children Act.

§ 18.2-371.3. Definitions.

For the purposes of this article:

"Bar and lounge area" means any establishment or portion of an establishment where one can consume alcoholic beverages and hor d'oeuvres, but excluding any establishment or portion of the establishment having tables or seating facilities where, in consideration of payment, meals are served.

"Coupon" means any card, paper, note, form, statement, ticket or other issue distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discounted price.

"Distribute" means to give, deliver, sell, offer to give, deliver, sell or cause or hire any person to give, deliver, sell or offer to give, deliver, or sell.

"Health warning" means any tobacco product label mandated by federal law and intended to alert all users of such tobacco product to the health risks associated with tobacco use, including but not limited to warning labels imposed under the Federal Cigarette Labeling and Advertising Act of 1965 and the Comprehensive Smokeless Tobacco Education Act of 1986.

"Non-residential public school building or property" means any public land, facility, property of other holding owned or occupied by the Commonwealth of Virginia and under the direct control and administration of the Board of Education of the Commonwealth of Virginia or any local school boards or other legal subdivisions acting thereunder, and shall include but not be limited to school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, stadiums, school buses, and any other property whose use is not primarily residential.

"Person means any natural person, company, corporation, firm, partnership, organization, or other legal entity.

"Photographic identification" means any officially issued card which includes a photograph of the person seeking to purchase tobacco products and is accepted as proof of age for the sale of alcoholic beverages under state law.

"Public event" means any event to which the general public is invited or permitted, including but not limited to musical concerts or performances, athletic competitions, public fairs, carnivals, flea markets, bazaars and artistic or cultural performances or exhibitions. A private function such as a wedding party, testimonial dinner or other similar gathering in which the seating arrangements are under the exclusive control of the organizer or sponsor of the event, and not the person who owns, manages, operates or otherwise controls the use of the place in which the function is held, is not a public event within the meaning of this definition.

"Public place" means any area to which the general public is invited or permitted, including but not limited to public parks, streets, sidewalks or pedestrian concourses, sports arenas, pavilions, gymnasiums, public malls, and property owned, occupied or operated by the Commonwealth of Virginia or any agency thereof, but not including retail tobacco stores.

"Restaurant" means any building, structure, or area, excluding a bar or lounge area as defined in this section where food is available for eating on the premises, in consideration of payment.

"Seller" means any natural person, company, corporation, firm, partnership, organization, or other legal entity, who sells, dispenses, distributes or issues tobacco products for commercial purposes.

"Tobacco product use" means the smoking of any substance which contains tobacco, including but not limited to cigarettes, cigars, pipes, or other smoking tobacco, or having in one's possession a lighted cigarette, cigar, pipe or other substance containing tobacco, or the use of snuff or other smokeless

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60 tobacco.

61 "Tobacco product" means any substance that contains tobacco, including but not limited to
62 cigarettes, cigars, pipes, snuff, smoking tobacco, or smokeless tobacco.

63 "Vending machine" means any mechanical, electronic, or other similar device which automatically
64 dispenses tobacco products, usually upon the insertion of a coin, token, or slug.

65 § 18.2-371.4. Free distribution of tobacco products in public places or at public events.

66 A. No person shall distribute for commercial purposes free tobacco products to the general public in
67 public places or at public events.

68 B. No person shall distribute to members of the general public in public places or at public events a
69 coupon redeemable in the Commonwealth of Virginia for a free tobacco product or for a sample
70 tobacco product.

71 C. No person engaged in the sale of tobacco products shall accept or redeem, offer to accept or
72 redeem, or cause to hire any person to accept or redeem or offer to accept or redeem, a coupon for
73 free tobacco products or for sample tobacco products from members of the general public.

74 D. The provisions of subsection B shall not apply to (i) the distribution of tobacco products at less
75 than basic cost by tobacco retailers, manufacturers or distributors of such product to any employees of
76 such companies who are of legal age, (ii) private social functions, (iii) trade shows, (iv) bars and
77 lounges as defined in this article. The provisions of this subsection shall not apply to the transactions
78 exclusively between retailers, manufacturers and distributors of tobacco products and businesses
79 engaged in the sale of tobacco products.

80 § 18.2-371.5. Restriction on the distribution of tobacco products other than in sealed packages.

81 No person shall distribute tobacco products for commercial purposes other than in a sealed package
82 provided by the manufacturer with the required health warning.

83 § 18.2-371.6. Establishing smoke-free elementary schools and secondary educational facilities.

84 A. Tobacco product use shall not be permitted by any person in or on the grounds of any public
85 elementary school or public secondary educational facility or other non-residential public school
86 building or property during regular school hours or at school sponsored events.

87 B. The provisions of subsection A shall not apply to the use of a tobacco product (i) in a classroom
88 or other school property as a part of any lecture, demonstration or educational forum sanctioned by a
89 school administrator or a faculty member concerning the risks associated with tobacco use, or (ii) after
90 school hours by persons in a tobacco, alcohol or drug rehabilitation, counseling or control group using
91 school facilities for any meeting or event in furtherance of such group's goals and sanctioned by school
92 administrators or other public officials.

93 C. Enforcement of this section shall be determined by regulations established by the local school
94 district governing board.

95 § 18.2-371.7. Preemption.

96 Nothing contained in this article shall be construed to restrict the power or authority of any county,
97 city or town to adopt and enforce local ordinances that comply with at least the minimum applicable
98 standards set forth in this article.

99 § 18.2-371.8. Civil penalties.

100 Any person who violates any provision of this article shall be liable for a civil penalty of \$50 for the
101 first violation, \$100 for a second violation, and \$500 for a third and any subsequent violation.

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