WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

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ENROLLED

HOUSE BILL No. 2072

(By Delegate Givens)

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Passed MARCH 14, 1987

In Effect Ninety Days from Passage
ENROLLED

H. B. 2072

(By Delegate Givens)

[Passed March 14, 1987; in effect ninety days from passage.]

AN ACT to repeal sections four, five and seven, article nine, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said chapter by adding thereto a new article, designated article nine-a, relating to tobacco usage restrictions; legislative intent; prohibiting the selling, giving or furnishing of any tobacco product to any person under the age of eighteen; prohibiting the use or possession of tobacco or tobacco products by person under the age of eighteen; prohibiting the use of tobacco or tobacco products in certain areas of certain public schools; requiring outdoor advertising and billboards for smokeless tobacco products to carry certain public health warnings; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That sections four, five and seven, article nine, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that said chapter be amended by adding thereto a new article, designated article nine-a, to read as follows:

ARTICLE 9A. TOBACCO USAGE RESTRICTIONS.

§16-9A-1. Legislative intent.

1 The Legislature hereby declares it to be the policy and 2 intent of this state to discourage and ban the use of 3 tobacco products by minors. As basis for this policy, the
Legislature hereby finds and accepts the medical evidence that smoking tobacco may cause lung cancer, heart disease, emphysema and other serious health problems while the use of smokeless tobacco may cause gum disease and oral cancer. It is the further intent of the Legislature in banning the use of tobacco products by minors to ease the personal tragedy and eradicate the severe economic loss associated with the use of tobacco and to provide the state with a citizenry free from the use of tobacco.

§16-9A-2. Sale of gift of cigarette, cigarette paper, pipe, cigar, snuff, or chewing tobacco to persons under eighteen; penalty.

No person, firm or corporation may sell, give or furnish, or cause to be sold, given or furnished, to any person under the age of eighteen years:

(a) Any cigarette, cigarette paper or any other paper prepared, manufactured or made for the purpose of smoking any tobacco or tobacco product; or,

(b) Any cigar, pipe, snuff, chewing tobacco or tobacco product, in any form.

Any person, firm or corporation violating any of the provisions of subdivisions (a) or (b) of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than twenty-five dollars for the first offense, and for each subsequent offense, not less than twenty-five nor more than three hundred dollars.

§16-9A-3. Use or possession of tobacco or tobacco products by persons under the age of eighteen years; penalty.

No person under the age of eighteen years shall have on or about his or her person or premises or use any cigarette, cigarette paper or any other paper prepared, manufactured or made for the purpose of smoking any tobacco products, in any form; or, any pipe snuff, chewing tobacco or tobacco product. Any person violating the provisions of this section is punishable by a fine of five dollars and notwithstanding the provisions
of section one, article five, chapter forty-nine, the magistrate court shall have concurrent jurisdiction.

§16-9A-4. Use of tobacco or tobacco products in certain areas of certain public schools prohibited; penalty.

Every person who shall smoke a cigarette or cigarettes, pipe, cigar or other implement, of any type or nature, designed, used or employed for smoking any tobacco or tobacco product; or who shall use any tobacco product, whether chewing tobacco, snuff or otherwise, in any building or part thereof used for instructional purposes, in any school of this state, as defined in section one, article one, chapter eighteen of this code, or on any lot or grounds actually used for instructional purposes of any such school of this state while such school is used or occupied for school purposes, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished for each offense by a fine of not less than one nor more than five dollars: Provided, That this prohibition shall not be construed to prevent the use of any tobacco or tobacco product in any faculty lounge or staff lounge or faculty office or other area of said public school not used for instructional purposes: Provided, however, That students do not have access thereto: Provided further, That nothing herein contained shall be construed to prevent any county board of education from promulgating rules and regulations that further restrict the use of tobacco or tobacco products, in any form, from any other part or section of any public school building under its jurisdiction.


(a) Any outdoor billboard advertisement for snuff and chewing tobacco products must conspicuously display one of the following statements:

“WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER”
GUM DISEASE AND TOOTH LOSS"

"WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE TO CIGARETTES"

The warnings shall be rotated every four months by the manufacturer, packager or importer of snuff and chewing tobacco products in an alternating sequence in the advertisement for each brand of such tobacco product. Such warning shall appear in the format and type style prescribed under 15 U.S.C. 1333 (b) (3), as amended.

No other warning, format, or type style in any outdoor billboard advertisement shall be required by any state or local statute or regulation.

(b) Any outdoor billboard advertisement that does not conform to the provisions of this section shall be deemed a nuisance affecting the public health.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within _______ is hereby approved this the ___ day of __________, 1987.

Governor