

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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# ENROLLED

HOUSE BILL No. 2072

(By Delegate Givens.....)

— ● —

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article nine, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that said chapter be amended by adding thereto a new article, designated article nine-a, to read as follows: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

4 Legislature hereby finds and accepts the medical  
5 evidence that smoking tobacco may cause lung cancer,  
6 heart disease, emphysema and other serious health  
7 problems while the use of smokeless tobacco may cause  
8 gum disease and oral cancer. It is the further intent of  
9 the Legislature in banning the use of tobacco products  
10 by minors to ease the personal tragedy and eradicate the  
11 severe economic loss associated with the use of tobacco  
12 and to provide the state with a citizenry free from the  
13 use of tobacco.

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

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

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

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

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

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

1 No person under the age of eighteen years shall have  
2 on or about his or her person or premises or use any  
3 cigarette, cigarette paper or any other paper prepared,  
4 manufactured or made for the purpose of smoking any  
5 tobacco products, in any form; or, any pipe snuff,  
6 chewing tobacco or tobacco product. Any person  
7 violating the provisions of this section is punishable by  
8 a fine of five dollars and notwithstanding the provisions

9 of section one, article five, chapter forty-nine, the  
10 magistrate court shall have concurrent jurisdiction.

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

1 Every person who shall smoke a cigarette or ci-  
2 garettes, pipe, cigar or other implement, of any type or  
3 nature, designed, used or employed for smoking any  
4 tobacco or tobacco product; or who shall use any tobacco  
5 product, whether chewing tobacco, snuff or otherwise,  
6 in any building or part thereof used for instructional  
7 purposes, in any school of this state, as defined in section  
8 one, article one, chapter eighteen of this code, or on any  
9 lot or grounds actually used for instructional purposes  
10 of any such school of this state while such school is used  
11 or occupied for school purposes, shall be guilty of a  
12 misdemeanor, and, upon conviction thereof, shall be  
13 punished for each offense by a fine of not less than one  
14 nor more than five dollars: *Provided*, That this prohi-  
15 bition shall not be construed to prevent the use of any  
16 tobacco or tobacco product in any faculty lounge or staff  
17 lounge or faculty office or other area of said public  
18 school not used for instructional purposes: *Provided*,  
19 *however*, That students do not have access thereto:  
20 *Provided further*, That nothing herein contained shall be  
21 construed to prevent any county board of education from  
22 promulgating rules and regulations that further restrict  
23 the use of tobacco or tobacco products, in any form, from  
24 any other part or section of any public school building  
25 under its jurisdiction.

**§16-9A-5. Outdoor billboard advertisements for smoke-  
less tobacco products, nuisance affecting  
public health.**

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

4 “WARNING: THIS PRODUCT MAY CAUSE  
5 MOUTH CANCER”

6 “WARNING: THIS PRODUCT MAY CAUSE

7    **GUM DISEASE AND TOOTH LOSS”**

8       **“WARNING: THIS PRODUCT IS NOT A SAFE**  
9       **ALTERNATIVE TO CIGARETTES”**

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

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

20       (b) Any outdoor billboard advertisement that does not  
21       conform to the provisions of this section shall be deemed  
22       a nuisance affecting the public health.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Bruce A. Williams*  
Chairman Senate Committee

*Lyle Latta*  
Chairman House Committee  
Member

Originating in the House.

Takes effect ninety days from passage.

*Todd C. Willis*  
Clerk of the Senate

*Donald L. Kopp*  
Clerk of the House of Delegates

*Sam Tenenbaum*  
President of the Senate

*Robert C. Clark*  
Speaker of the House of Delegates

The within *approved* this the *28th*  
*Frank*  
day of \_\_\_\_\_, 1987.  
*Arch A. Phares, Jr.*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/87

Time 4:25 p.m.

RECEIVED

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OFFICE OF THE SECRETARY  
SECRETARY