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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000

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Revised Committee Substitute for
SENATE BILL NO. 126

(By Senator Mitchell, et al)

PASSED March 11, 2000

In Effect July 1, 2000

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 126

(SENATORS MITCHELL, DAWSON, UNGER, HUNTER,
KESSLER, BALL, MCKENZIE, MINEAR, MINARD,
REDD, BOWMAN, ROSS AND SHARPE, *original sponsors*)

[Passed March 11, 2000; to take effect July 1, 2000.]

AN ACT to amend and reenact sections two and three, article nine-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to sale of tobacco products to minors and use of tobacco products by minors; increasing penalties for firm or individual selling tobacco or tobacco-related products to minors; and increasing penalties for minors possessing tobacco products.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article nine-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 9A. TOBACCO USAGE RESTRICTIONS.

§16-9A-2. Sale or gift of cigarette, cigarette paper, pipe, cigar, snuff, or chewing tobacco to persons under eighteen; penalties for first and subsequent offense.

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

4 (1) Any pipe, cigarette paper or any other paper pre-
5 pared, manufactured or made for the purpose of smoking
6 any tobacco or tobacco product; or

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

9 (b) Any firm or corporation that violates any of the
10 provisions of subdivision (1) or (2), subsection (a) of this
11 section and any individual who violates any of the provi-
12 sions of subdivision (1), subsection (a) of this section is
13 guilty of a misdemeanor and, upon conviction thereof,
14 shall be fined twenty-five dollars for the first offense.
15 Upon any subsequent violation at the same location or
16 operating unit, the firm, corporation or individual shall be
17 fined as follows: At least one hundred dollars but not
18 more than two hundred dollars for the second offense, if it
19 occurs within two years of the first conviction; at least two
20 hundred fifty dollars but not more than five hundred
21 dollars for the third offense, if it occurs within two years
22 of the first conviction; at least two hundred fifty dollars
23 but not more than five hundred dollars for the fourth
24 offense, if it occurs within five years of the first conviction;
25 and at least one thousand dollars but not more than five
26 thousand dollars for the fifth and any subsequent offenses,

27 if the fifth or subsequent offense occurs within five years
28 of the first conviction.

29 (c) Any individual who knowingly and intentionally
30 sells, gives or furnishes or causes to be sold, given or
31 furnished to any person under the age of eighteen years
32 any cigar, cigarette, snuff, chewing tobacco or tobacco
33 product, in any form, is guilty of a misdemeanor and, upon
34 conviction thereof, for the first offense shall be fined not
35 more than one hundred dollars; upon conviction thereof
36 for a second or subsequent offense, is guilty of a misde-
37 meanor and shall be fined not less than one hundred nor
38 more than five hundred dollars.

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

1 No person under the age of eighteen years shall have on
2 or about his or her person or premises or use any cigarette,
3 or cigarette paper or any other paper prepared, manufac-
4 tured or made for the purpose of smoking any tobacco
5 products, in any form; or, any pipe, snuff, chewing tobacco
6 or tobacco product: *Provided*, That minors participating
7 in the inspection of locations where tobacco products are
8 sold or distributed pursuant to section seven of this article
9 shall not be deemed to violate the provisions of this
10 section. Any person violating the provisions of this section
11 shall for the first violation be fined twenty-five dollars and
12 be required to serve eight hours of community service; for
13 a second violation, the person shall be fined fifty dollars
14 and be required to serve sixteen hours of community
15 service; and for a third and each subsequent violation, the
16 person shall be fined one hundred dollars and be required
17 to serve twenty-four hours of community service. Not-
18 withstanding the provisions of section two, article five,
19 chapter forty-nine, the magistrate court shall have concur-
20 rent jurisdiction.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 2000.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within..... *approved* this the *29th*
Day of..... *March*, 2000
[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/00

Time 3:48 pm