

1 **H. B. 2365**

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3 (By Delegates Perdue, Moore, Marshall and Barill)  
4 [Introduced February 13, 2013; referred to the  
5 Committee on Health and Human Resources then the  
6 Judiciary.]  
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10 A BILL to amend and reenact §16-9A-9 of the Code of West Virginia,  
11 1931, as amended, relating to banning of flavored tobacco  
12 products; and providing criminal penalty.

13 *Be it enacted by the Legislature of West Virginia:*

14 That §16-9A-9 of the Code of West Virginia, 1931, as amended,  
15 be amended and reenacted to read as follows:

16 **ARTICLE 9A. TOBACCO USAGE RESTRICTIONS.**

17 **§16-9A-9. Selling of bidis and flavored tobacco products**  
18 **prohibited; penalties.**

19 (a) The Legislature finds that young people in this state have  
20 been enticed into smoking or using tobacco products by first using  
21 or experimenting with hand-rolled, flavored tobacco products called  
22 "bidis" or "beedies." In addition, regular tobacco products that  
23 are flavored are also used to entice minors. Recognizing that the

1 use of bidis and flavored tobacco products is an emerging public  
2 health problem, the Legislature hereby adopts a public policy that  
3 the tobacco products known as "bidis" and other flavored tobacco  
4 products should not be imported, sold or distributed in the State  
5 of West Virginia.

6 (b) Notwithstanding any other provision of law, no person or  
7 business entity ~~shall~~ may possess, import, sell, offer for sale or  
8 distribute any tobacco product commonly referred to as "bidis" or  
9 "beedies" or other flavored tobacco products as defined in this  
10 section.

11 (c) (1) For purposes of this section, "bidis" or "beedies"  
12 means a product containing tobacco that is wrapped in temburni leaf  
13 or leaves (diospyros melanoxylon) or tendu leaf or leaves  
14 (diospyros exculpra), or any other product or substance that is  
15 offered to or purchased by consumers as bidis or beedies. As used  
16 in this section, the terms "bidis" and "beedies" have the same  
17 meaning and may be used interchangeably.

18 (2) For purposes of this section, "flavored tobacco products"  
19 means tobacco products that have added flavoring including  
20 cigarettes, cigars, smokeless tobacco, Hookah tobacco, little  
21 cigars and dissolvable tobacco products. Menthol and mint flavors  
22 are not included in the definition of "flavored tobacco products."

23 (d) Any person violating the provisions of this section is  
24 guilty of a misdemeanor and, upon conviction thereof, shall be

1 fined not more than \$500; and upon a second or subsequent  
2 conviction thereof, shall be fined not less than \$1,000 nor more  
3 than \$5,000 for each offense, or confined in ~~a county or regional~~  
4 jail not more than six months, or both.

NOTE: The purpose of this bill is to ban the sale of flavored tobacco products.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.