

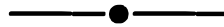
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WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2010



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2773

(By Delegates Lawrence, Fragale, Perdue, Sobonya,
Paxton, D. Walker, Stowers, Moore, Eldridge,
Hall and Smith)



Passed March 13, 2010

In Effect Ninety Days From Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2773

(BY DELEGATES LAWRENCE, FRAGALE, PERDUE, SOBONYA,
PAXTON, D. WALKER, STOWERS, MOORE, ELDRIDGE,
HALL AND SMITH)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §16-9A-2 and §16-9A-3 of the Code of West Virginia, 1931, as amended, all relating to prohibited access and usage of tobacco products by minors; increasing the monetary penalties for selling tobacco products to minors; providing that the sale or furnishing of tobacco products to minors may constitute grounds for dismissal as an act of misconduct; clarifying the impact of such a dismissal on the discharged employees' eligibility to receive unemployment benefits; and increasing the monetary penalties for minors possessing tobacco products.

Be it enacted by the Legislature of West Virginia:

That §16-9A-2 and §16-9A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 9A. TOBACCO USAGE RESTRICTIONS.

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§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; consideration of prohibited act as grounds for dismissal; impact on eligibility for unemployment benefits.

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 prepared,
5 manufactured or made for the purpose of smoking any
6 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 provisions
12 of subdivision (1), subsection (a) of this section is guilty of
13 a misdemeanor and, upon conviction thereof, shall be fined
14 \$50 for the first offense. Upon any subsequent violation at
15 the same location or operating unit, the firm, corporation or
16 individual shall be fined as follows: At least \$250 but not
17 more than \$500 for the second offense, if it occurs within two
18 years of the first conviction; at least \$500 but not more than
19 \$750 for the third offense, if it occurs within two years of the
20 first conviction; and at least \$1,000 but not more than \$5,000
21 for any subsequent offenses, if the subsequent offense occurs
22 within five years of the first conviction.

23 (c) Any individual who knowingly and intentionally sells,
24 gives or furnishes or causes to be sold, given or furnished to
25 any person under the age of eighteen years any cigar,

26 cigarette, snuff, chewing tobacco or tobacco product, in any
27 form, is guilty of a misdemeanor and, upon conviction
28 thereof, for the first offense shall be fined not more than
29 \$100; upon conviction thereof for a second or subsequent
30 offense, is guilty of a misdemeanor and shall be fined not less
31 than \$100 nor more than \$500.

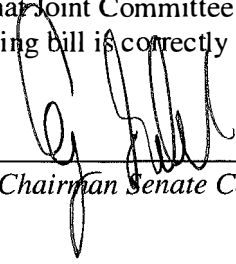
32 (d) Any employer who discovers that his or her employee
33 has sold or furnished tobacco products to minors may
34 dismiss such employee for cause. Any such discharge shall
35 be considered as "gross misconduct" for the purposes of
36 determining the discharged employee's eligibility for
37 unemployment benefits in accordance with the provisions of
38 section three, article six, chapter twenty-one-a of this code,
39 if the employer has provided the employee with prior written
40 notice in the workplace that such act or acts may result in
41 their termination from employment.

**§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, or
3 cigarette paper or any other paper prepared, manufactured or
4 made for the purpose of smoking any tobacco products, in
5 any form; or, any pipe, snuff, chewing tobacco or tobacco
6 product: *Provided*, That minors participating in the inspection
7 of locations where tobacco products are sold or distributed
8 pursuant to section seven of this article are not considered to
9 violate the provisions of this section. Any person violating
10 the provisions of this section shall for the first violation be
11 fined \$50 and be required to serve eight hours of community
12 service; for a second violation, the person shall be fined \$100
13 and be required to serve sixteen hours of community service;
14 and for a third and each subsequent violation, the person shall
15 be fined \$200 and be required to serve twenty-four hours of

16 community service. Notwithstanding the provisions of
17 section two, article five, chapter forty-nine, the magistrate
18 court has concurrent jurisdiction.

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



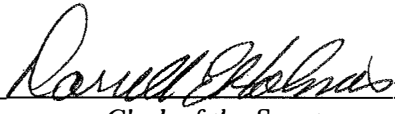
Chairman Senate Committee



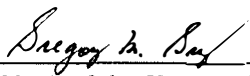
Chairman House Committee

Originating in the House.

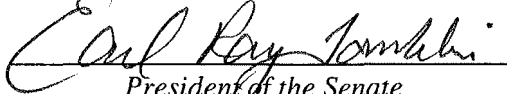
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



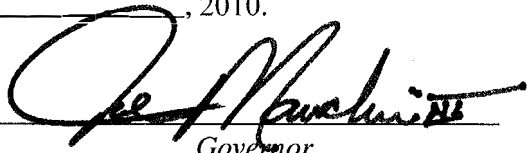
President of the Senate



Speaker of the House of Delegates

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SECRETARY OF STATE

The within is approved this the 1st
day of April, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 30 2010

Time 10:30 am