

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 2020**

By Delegates Campbell, Toney, Shamblin, Stephens,  
Dittman, and Pritt

[Introduced March 18, 2025; referred to the  
Committee on Health and Human Resources then the  
Judiciary]

1 A BILL to amend and reenact §16-9A-2 of the Code of West Virginia, 1931, as amended, and to  
 2 repeal §16-9A-3, relating to increasing penalties for the sale of e-cigarettes, vapes, or  
 3 cartridges to anyone under 18 years of age, making it a misdemeanor and increasing the  
 4 fines and penalties for the employee and business that sells these items to minors.

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

**ARTICLE            9A.            TOBACCO            USE            RESTRICTIONS.**

**§16-9A-2. Definitions; sale or gift of cigarette, cigarette paper, pipe, cigar, snuff, chewing tobacco, pipe tobacco, roll-your-own tobacco, tobacco products, tobacco-derived and alternative nicotine product or vapor products to persons under 18; penalties for first and subsequent offense; consideration of prohibited act as grounds for dismissal; impact on eligibility for unemployment benefits.**

1 (a) For purposes of this article, the term:

2 (1) "Electronic smoking device" means any device that can be used to deliver any heated,  
 3 aerosolized or vaporized substance to the person inhaling from the device, including, but not  
 4 limited to, any e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device  
 5 includes any component part, or accessory of the device, whether or not sold separately, and  
 6 includes any substance intended to be heated, aerosolized, or vaporized during the use of the  
 7 device, whether or not the substance contains nicotine. Electronic smoking device does not  
 8 include drugs, devices, or combination products approved by the United States Food, Drug, and  
 9 Cosmetic Act.

10 (2) "Tobacco product" means any product containing, made, or derived from tobacco, or  
 11 nicotine, that is intended for human consumption, whether absorbed, inhaled or ingested by any  
 12 other means, including but not limited, to cigarettes, cigars, cigarillos, little cigars, pipe tobacco,  
 13 snuff, snus, chewing tobacco, or other common tobacco-containing products. A tobacco product  
 14 also includes electronic smoking devices and any accessory of a tobacco product or electronic  
 15 smoking device, whether or not any of these contain tobacco or nicotine, including but not limited

to, filters, rolling papers, blunt or hemp wraps, and pipes. Tobacco product does not include drugs, devices, or combination products that are regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

(3) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any tobacco product, vapor product, or product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

(4) "Vapor product" means any non-combustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of shape and size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device, and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include any product that is regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

(b) No person, firm, corporation, or business entity may sell, give, or furnish, or cause to be sold, given, or furnished, to any person under the age of 18 years:

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

(2) Any cigar, cigarette, snuff, chewing tobacco, or tobacco product, in any form; or

(3) Any tobacco-derived product, or alternative nicotine product.

(c) Any firm or corporation that violates any of the provisions of subsection (b) of this section and any individual who violates any of the provisions of subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$50 for the first offense. Upon

42 any subsequent violation at the same location or operating unit, the firm, corporation or individual  
43 shall be fined as follows: At least \$250 but not more than \$500 for the second offense, if it occurs  
44 within two years of the first conviction; at least \$500 but not more than \$750 for the third offense, if  
45 it occurs within two years of the first conviction; and at least \$1,000 but not more than \$5,000 for  
46 any subsequent offenses, if the subsequent offense occurs within five years of the first conviction.

47 (d) Any individual who knowingly and intentionally sells, gives, or furnishes or causes to be  
48 sold, given, or furnished to any person under the age of 18 years any cigar, cigarette, snuff,  
49 chewing tobacco, tobacco product, or tobacco-derived product, in any form, is guilty of a  
50 misdemeanor and, upon conviction thereof, for the first offense shall be fined not more than \$100;  
51 upon conviction thereof for a second or subsequent offense, is guilty of a misdemeanor and shall  
52 be fined not less than \$100 nor more than \$500.

53 (e) Any employer who discovers that his or her employee has sold or furnished tobacco  
54 products or tobacco-derived products or vapor product to minors may dismiss such employee for  
55 cause. Any such discharge shall be considered as "gross misconduct" for the purposes of  
56 determining the discharged employee's eligibility for unemployment benefits in accordance with  
57 the provisions of §21A-6-3 of this code, if the employer has provided the employee with prior  
58 written notice in the workplace that such act or acts may result in their termination from  
59 employment.

60 (f) No person, firm, corporation, or business entity may sell, give, or furnish, or cause to be  
61 sold, given or furnished, to any person under the age of 18 years any vapor product.

62 (g) Any firm or corporation that violates any of the provisions of subsection (f) of this  
63 section shall be fined \$10,000 and the business must close for 60 days. No other e-cigarette  
64 business may open in that location, using that storefront, for the entire 60 days.

65 (h) Any individual who violates any of the provisions of subsection (f) of this section is guilty  
66 of a misdemeanor and, upon conviction thereof, shall be fined \$2,500.

**§16-9A-3. Sale or gift of tobacco products to persons younger than 21 years of age;**

**penalties for first and subsequent offenses; provision of non-criminal, non-monetary penalties; consideration of prohibited act as grounds for dismissal.**

1 [Repealed.]

NOTE: The purpose of this bill is to increase penalties for the sale of e-cigarettes, vapes, or cartridges to anyone under 18 years of age, making it a misdemeanor and increasing the fines and penalties for the employee and business that sells these items to minors.

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