

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4440

By Delegate Statler

[Introduced January 16, 2026; referred to the

Committee on Education then the Judiciary]

1 A BILL to amend and reenact §16-9A-3 of the Code of West Virginia, 1931, as amended, relating
2 to permitting law enforcement to issue a citation when a student enrolled in a public school
3 or public charter school possesses nicotine in those schools.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9A. TOBACCO USAGE RESTRICTIONS.

§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; possession prohibited by students and penalty.

1 (a) A person, firm, corporation, or business entity may not sell, give, or furnish, or cause to
2 be sold, given, or furnished, any tobacco product, in any form, to any person younger than 21
3 years of age, which shall be verified by a valid driver's license, state identification card, or any valid
4 and unexpired federally issued identification card such as a passport or military identification card:
5 (b) Any firm, corporation, or business entity that violates the provisions of subsection (a) of
6 this section and any individual who violates the provisions of subsection (a) of this section is guilty
7 of a misdemeanor and, upon conviction thereof, shall be fined \$250 for the first offense. Upon any
8 subsequent violation at the same location or operating unit, the firm, corporation, or business
9 entity or the individual shall be fined as follows: At least \$500, but not more than \$750 for the
10 second offense, if it occurs within two years of the first conviction; at least \$750, but not more than
11 \$1,000 for the third offense, if it occurs within two years of the first conviction; and at least \$2,000,
12 but not more than \$5,000 for any subsequent offenses, if the subsequent offense occurs within five
13 years of the first conviction.

14 (c) Any person who violates subsection (a) of this section while acting as a non-
15 management agent or employee of a retail outlet where tobacco products are sold is subject to
16 non-criminal, non-monetary penalties, including, but not limited to, education classes, diversion
17 programs, and community service. The alcohol beverage control commissioner shall promulgate

18 rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code, to establish standards for
19 education classes, diversion programs, and community service.

20 (d) Any employer who discovers that his or her employee has sold or furnished tobacco
21 products to any person younger than 21 years of age may dismiss the employee for cause, if the
22 employer has provided the employee with prior written notice in the workplace that such act or acts
23 may result in his or her termination from employment.

24 (e) Law enforcement may issue a citation to a student enrolled in a public school or public
25 charter school in this state when that student possesses nicotine products at the school or
26 associated school activity, included but not limited to "electronic smoking devices" and "tobacco
27 products" as otherwise described in §16-9A-2 of this code.

NOTE: The purpose of this bill is to permit law enforcement to issue a citation when a student enrolled in a public school or public charter school possesses nicotine in those schools.

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