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SENATE BILL NO. 1060

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 59.1-293.12 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-371.2:1, relating to possession, etc., of retail tobacco products, hemp products, and nicotine vapor products containing liquid nicotine intended for smoking by a person younger than 21 years of age; prohibitions; enforcement.

Patron—Ebbin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-293.12 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-371.2:1 as follows:

§ 18.2-371.2:1. Prohibiting attempt to purchase, purchase, and possession of retail tobacco products and hemp products intended for smoking by a person under 21 years of age; seizure.

A. No person younger than 21 years of age shall attempt to purchase, purchase, or possess any retail tobacco product or hemp product intended for smoking, as those terms are defined in § 18.2-371.2. The provisions of this section shall not be applicable to the possession of retail tobacco products or hemp products intended for smoking by a person younger than 21 years of age (i) making a delivery of retail tobacco products or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such medical research has been approved by an institutional review board pursuant to applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to the attempt to purchase, purchase, or possession of any retail tobacco product or hemp product intended for smoking by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

B. Any retail tobacco product or hemp product intended for smoking, as those terms are defined in § 18.2-371.2, purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 19.2-386.1.

C. Except as provided in subsection D, the forfeiture of contraband pursuant to subsection B shall be the sole penalty for a violation of this section.

D. Any person who commits a second or subsequent offense may be required to complete a tobacco and nicotine education and cessation course provided by a program licensed by the Department of Behavioral Health and Developmental Services.

E. The provisions of this section shall not preclude prosecution under any other statute.

§ 59.1-293.12. Restrictions on the sale of retail tobacco products to minors; penalties.

A. A retail dealer shall comply with the provisions of this section, §§ 18.2-246.8, 18.2-246.10, 18.2-371.2, and 59.1-293.13, and any other state or local law related to the sale of retail tobacco products. If the Department determines or is notified by the Virginia Alcoholic Beverage Control Authority, the Department of Behavioral Health and Developmental Services, local law enforcement, or any other agency or political subdivision of the Commonwealth charged with the enforcement of the provisions of this chapter that a retail dealer has violated any such provision of law, the Department may suspend or revoke such retail dealer's Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or Other Tobacco Products (OTP) Distributor's License.

B. 1. For each retail dealer Notwithstanding the provisions of § 58.1-3, the Department shall disclose, upon request by the Virginia Alcoholic Beverage Control Authority, the Department of Behavioral Health and Developmental Services, local law enforcement, or any other agency or political subdivision of the Commonwealth charged with the enforcement of the provisions of this chapter, each place of business that has received a retail dealer's liquid nicotine and nicotine vapor products license and any other information necessary to conduct an unannounced investigation for each retail dealer at least once every 24 months to verify that the retail dealer is not selling retail tobacco products to persons under 21 years of age. If the Department, the Virginia Alcoholic Beverage Control Authority, the Department of Behavioral Health and Developmental Services, local law enforcement, or any other agency or political subdivision of the Commonwealth charged with the enforcement of the provisions of this chapter determines that the retail dealer has violated any provision of this section, § 18.2-246.8, 18.2-246.10, 18.2-371.2, or 59.1-293.13, or any other state or local law related to the sale of retail tobacco products over which it has enforcement

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59 *authority*, it shall conduct an unannounced investigation of the retail dealer within six months of such
60 violation.

61 2. If the Department determines *or is notified by the Virginia Alcoholic Beverage Control Authority, the*
62 *Department of Behavioral Health and Developmental Services, local law enforcement, or any other agency*
63 *or political subdivision of the Commonwealth charged with the enforcement of the provisions of this chapter*
64 that a retail dealer, or a retail dealer's agent or employee, sold a retail tobacco product to a person under 21
65 years of age or violated subsection A or B of § 18.2-371.2, the Department shall impose and the retail dealer
66 shall be subject to:

67 a. For the first violation in a 36-month period, a penalty of no less than \$1,000;

68 b. For a second violation in a 36-month period, a penalty of no less than \$5,000. Any retail dealer found to
69 be in violation of this subdivision 2 b shall be required to verify that any consumer who appears to be under
70 30 years of age is of legal age by verifying such consumer's government-issued photographic identification
71 using fraud detection software, technology, or a scanner that confirms the authenticity of such identification;
72 and

73 c. For a third violation in a 36-month period, a penalty of no less than \$10,000 and a 30-day suspension of
74 the retail dealer's Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for
75 Resale or OTP Distributor's License.

76 d. For a fourth violation in a 36-month period, revocation of the retail dealer's Retail Sales and Use Tax
77 Exemption Certificate for Stamped Cigarettes Purchased for Resale or OTP Distributor's License, and
78 ineligibility to possess any such certificate or license for a period of three years from the date of the most
79 recent violation.

80 3. Any civil penalties assessed pursuant to this section shall be paid into the Tobacco Retail Enforcement
81 Fund, established pursuant to § 59.1-293.14.

82 C. The Department shall collaborate with the Virginia Alcoholic Beverage Control Authority ~~and~~, *the*
83 *Department of Behavioral Health and Developmental Services, local law enforcement, and any other agency*
84 *or political subdivision of the Commonwealth charged with the enforcement of the provisions of this chapter*
85 to the extent possible to enforce the provisions of this section and § 4.1-103.01.