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SENATE BILL NO. 1395

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice on February 14, 2025)

(Patrons Prior to Substitute—Senators Peake and Durant [SB 1266])

A BILL to amend and reenact § 15.2-912.4 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 of retail tobacco products and hemp products intended for smoking by a person younger than 21 years of age; prohibitions; enforcement.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-912.4 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:

§ 15.2-912.4. Regulation of tobacco and hemp product retail sale locations.

Any locality may by ordinance regulate the retail sale locations of retail tobacco products, ~~nicotine vapor products, alternative nicotine products,~~ as such terms are term is defined in § 18.2-371.2, or hemp products intended for smoking, as such term is defined in § 3.2-4112, for any such retail sale location and may prohibit a retail sale location on property within 1,000 linear feet of a child day center as defined in § 22.1-289.02 or a public, private, or parochial school. An ordinance adopted pursuant to this section shall not affect (i) a licensee holding a valid license under § 4.1-206.3 or (ii) any retail sale location of retail tobacco products, ~~nicotine vapor products, alternative nicotine products,~~ or hemp products intended for smoking operating before July 1, 2024.

§ 18.2-371.2:1. Prohibiting possession of retail tobacco products and hemp products intended for smoking by a person younger than 21 years of age; seizure.

A. No person younger than 21 years of age shall 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 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, possessed in violation of this section shall be deemed contraband and may be seized by a law-enforcement officer. Any such product, the lawful possession of which is not established, seized by such officer shall be forfeited and disposed of according to the process described in subdivision A 2 of § 19.2-386.23.

C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this section.

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

2. That the Department of Taxation (the Department) shall convene a work group consisting of representatives of the Alcoholic Beverage Control Authority, the Office of the Attorney General, the Virginia State Police, and the Department of Behavioral Health and Developmental Services to develop an enforcement program to address the sale of retail tobacco products or hemp products intended for smoking to individuals younger than 21 years of age. The work group shall consider and report on the following factors: (i) the frequency of licensee inspections in Virginia and other states, (ii) licensee compliance rates with underage enforcement in Virginia and other states, (iii) one-time and ongoing costs of any enforcement program recommendations, and (iv) potential sources of revenue to support such enforcement program. The Department shall report the findings and recommendations of the work group to the Chairs of the House Committees on General Laws and Appropriations and the Senate Committees on Rehabilitation and Social Services and Finance and Appropriations no later than November 1, 2025.

HOUSE SUBSTITUTE

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