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Use of Tobacco Products P 7-41.2

The use or possession of tobacco products is strictly prohibited on school premises and while riding on school vehicles.

Legal Reference:

Code of Va., 15.2-2801. Statewide regulation of smoking. A. The Commonwealth or any agency thereof and every locality shall provide reasonable no-smoking areas, considering the nature of the use and the size of the building, in any building owned or leased by the Commonwealth or any agency thereof or a locality. The provisions of this chapter shall not apply to office, work or other areas of the Department of Corrections which are not entered by the general public in the normal course of business or use of the premises.

B. Smoking shall be prohibited in (i) elevators, regardless of capacity, except in any open material hoist elevator, not intended for use by the public; (ii) public school buses; (iii) the interior of any public elementary, intermediate, and secondary school; however, smoking may be allowed by a local school division in a designated area which is not a common area, including but not limited to, a classroom, library, hallway, restroom, cafeteria, gymnasium, or auditorium after regular school hours so long as all student activities in the building have been concluded; (iv) hospital emergency rooms; (v) local or district health departments; (vi) polling rooms; (vii) indoor service lines and cashier lines; (viii) public restrooms in any building owned or leased by the Commonwealth or any agency thereof; (ix) the interior of a child day center licensed pursuant to §63.1-196 that is not also used for residential purposes; however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited by this chapter; and (x) public restrooms of health care facilities.

C. Any restaurant having a seating capacity of fifty or more persons shall have a designated no-smoking area sufficient to meet customer demand. In determining the extent of the no-smoking area, the following shall not be included as seating capacity: (i) seats in any bar or lounge area of a restaurant and (ii) seats in any separate room or section of a restaurant which is used exclusively for private functions.

D. The proprietor or other person in charge of an educational facility, except any public elementary, intermediate, or secondary school, health care facility, or a retail establishment of 15,000 square feet or more serving the general public, including, but not limited to, department stores, grocery stores, drug stores, clothing stores, shoe stores, and recreational facilities shall designate reasonable no-smoking areas, considering the nature of the use and the size of the building.

E. The proprietor or other person in charge of a space subject to the provisions of this chapter shall post signs conspicuous to public view stating "Smoking Permitted" or "No Smoking," and in restaurants, signs conspicuous to ordinary public view at or near each public entrance stating "No-Smoking Section Available." Any person failing to post such

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signs may be subject to a civil penalty of not more than twenty-five dollars.

F. No person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after having been asked to refrain from smoking may be subject to a civil penalty of not more than twenty-five dollars.

G. Any law-enforcement officer may issue a summons regarding a violation of this chapter.

H. The provisions of this chapter shall not be construed to regulate smoking in retail tobacco stores, tobacco warehouses or tobacco manufacturing facilities. (1997)

Code of Va., § 18.2-371.2. Prohibiting purchase or possession of tobacco products by minors or sale of tobacco products to minors. A. No person shall sell to, distribute to, purchase for or knowingly permit the purchase by any person less than eighteen years of age, knowing or having reason to believe that such person is less than eighteen years of age, any tobacco product, including but not limited to cigarettes and cigars. No tobacco product may be sold from a vending machine (i) except in compliance with subsection E and (ii) unless notice is posted on the machine in a conspicuous manner and place indicating that the purchase or possession of tobacco products by minors is unlawful.

B. No person less than eighteen years of age shall purchase or possess any tobacco product including but not limited to cigarettes and cigars. The provisions of this subsection shall not be applicable to the possession of tobacco products by a person less than eighteen years of age making a delivery of tobacco products in pursuance of his employment.

C. No person shall sell a tobacco product to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least eighteen years of age. Such identification is not required from an individual whom the person has reason to believe is at least eighteen years of age or whom the person knows is at least eighteen years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least eighteen years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least eighteen years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior and manner of the individual.

This subsection shall not apply to mail order sales.

D. A violation of subsection A or C by an individual or by a separate retail establishment shall be punishable by a civil penalty not to exceed \$100 for a first violation and a civil

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penalty not to exceed \$200 for a second violation. However, a third or subsequent violation of subsection A shall be punishable by a civil penalty not to exceed \$500. A violation of subsection B shall be punishable by a civil penalty not to exceed \$50 for a first violation and a civil penalty not to exceed \$100 for a second or subsequent violation. Upon a third or subsequent violation of subsection B, the judge in his discretion may enter an order pursuant to subdivision 9 of §16.1-278.8. Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

E. 1. Cigarettes shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment which offers for sale any tobacco product, including but not limited to cigarettes and cigars, shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products to any person under eighteen years of age is prohibited by law. Any attorney for the county, city or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed fifty dollars. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city or town which instituted the action.

2. No person shall operate a vending machine which dispenses tobacco products unless such a machine is located in:

a. A place that is not open to the general public and is not generally accessible to minors; or

b. A place that is open to the general public. Such a vending machine shall be inside the establishment and unless the vending machine is at least ten feet from any public entrance to the establishment, or the sale of a token is required to operate such a machine, it shall be placed within the normal unobstructed line of sight of the proprietor or his employees.

3. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

4. Any attorney for the county, city or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city or town which instituted the action.

F. Nothing in this section shall be construed to create a private cause of action.

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G. Agents of the Virginia Alcoholic Beverage Control Board designated pursuant to §4.1-105 may issue a summons for any violation of this section. (1991)

Virginia Board of Education Regulations, "Governing the Accreditation of Public Schools in Virginia" . (September 1997)

Adopted by School Board: November 21, 1972
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