

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1189 Session of 2015

INTRODUCED BY MULLERY, V. BROWN, O'BRIEN, CALTAGIRONE, DAY, FRANKEL, THOMAS, D. COSTA, PASHINSKI, JAMES, DEASY, MURT, COHEN, DAVIS AND COX, MAY 12, 2015

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 2, 2015

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in minors, expanding the offense of
3 use of tobacco in schools.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 6306.1 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6306.1. Use of tobacco, NICOTINE DELIVERY PRODUCT or nicotine <--
9 product in schools prohibited.

10 (a) Offense defined.--A pupil who possesses or uses tobacco, <--
11 NICOTINE DELIVERY PRODUCT or nicotine product in a school
12 building, a school bus or on school property owned by, leased by
13 or under the control of a school district commits a summary
14 offense.

15 (b) Grading.--A pupil who commits an offense under this
16 section shall be subject to prosecution initiated by the local
17 school district and shall, upon conviction, be sentenced to pay

1 a fine of not more than \$50 for the benefit of the school  
2 district in which such offending pupil resides and to pay court  
3 costs. When a pupil is charged with violating subsection (a),  
4 the court may admit the offender to an adjudication alternative  
5 as authorized under 42 Pa.C.S. § 1520 (relating to adjudication  
6 alternative program) in lieu of imposing the fine.

7 (c) Nature of offense.--A summary offense under this section  
8 shall not be a criminal offense of record, shall not be  
9 reportable as a criminal act and shall not be placed on the  
10 criminal record of the offending school-age person if any such  
11 record exists.

12 (d) Definitions.--As used in this section, the following  
13 words and phrases shall have the meanings given to them in this  
14 subsection:

15 ~~"Nicotine product." Any product containing nicotine or any <--~~  
16 ~~product or formulation of matter containing biologically active~~  
17 ~~amounts of nicotine that is manufactured, sold, offered for sale~~  
18 ~~or otherwise distributed with the expectation that the product~~  
19 ~~or matter will be introduced into the human body. The term shall~~  
20 ~~not include any cessation product specifically approved by the~~  
21 ~~United States Food and Drug Administration for use in reducing,~~  
22 ~~treating or eliminating nicotine or tobacco dependence.~~

23 ~~"ELECTRONIC CIGARETTE." AN ELECTRONIC DEVICE THAT DELIVERS <--~~  
24 ~~NICOTINE OR OTHER SUBSTANCES THROUGH VAPORIZATION AND~~  
25 ~~INHALATION.~~

26 ~~"NICOTINE DELIVERY PRODUCT." A PRODUCT OR DEVICE USED,~~  
27 ~~INTENDED FOR USE OR DESIGNED FOR THE PURPOSE OF INGESTING A~~  
28 ~~NICOTINE PRODUCT. THE TERM INCLUDES AN ELECTRONIC CIGARETTE.~~

29 ~~"NICOTINE PRODUCT." A PRODUCT THAT CONTAINS OR CONSISTS OF~~  
30 ~~NICOTINE IN A FORM THAT CAN BE INGESTED BY CHEWING, SMOKING,~~

1 INHALING OR ANY OTHER MEANS. THE TERM SHALL NOT INCLUDE A  
2 SMOKING CESSATION PRODUCT SPECIFICALLY APPROVED BY THE UNITED  
3 STATES FOOD AND DRUG ADMINISTRATION FOR USE IN REDUCING,  
4 TREATING OR ELIMINATING NICOTINE OR TOBACCO DEPENDENCE WHICH IS  
5 POSSESSED OR USED BY A STUDENT WHO IS AT LEAST 18 YEARS OF AGE.

6 "Pupil." A person between the ages of 6 and 21 years who is  
7 enrolled in school.

8 "School." A school operated by a joint board, board of  
9 directors or school board where pupils are enrolled in  
10 compliance with Article XIII of the act of March 10, 1949  
11 (P.L.30, No.14), known as the Public School Code of 1949,  
12 including area vocational schools and intermediate units.

13 "Tobacco." A lighted or unlighted cigarette, cigar,  
14 cigarillo, little cigar, pipe or other lighted smoking product  
15 and smokeless tobacco in any form, including chewing tobacco,  
16 snuff, dip or dissolvable tobacco pieces.

17 Section 2. This act shall take effect in 60 days.