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By: **Delegates Gordon, Barve, Doory, Krysiak, and Simmons**

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Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 19, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Law - Candy-Like Products Containing ~~Nicotine~~ Nicotine Tobacco - Minors**

3 FOR the purpose of adding candy-like products that contain ~~nicotine tobacco~~ to the  
4 definition of tobacco products prohibited to be sold to or possessed by a minor;  
5 and generally relating to candy-like products that contain ~~nicotine tobacco~~.

6 BY repealing and reenacting, with amendments,  
7 Article - Criminal Law  
8 Section 10-101  
9 Annotated Code of Maryland  
10 (2002 Volume)

11 BY repealing and reenacting, without amendments,  
12 Article - Criminal Law  
13 Section 10-107 and 10-108  
14 Annotated Code of Maryland  
15 (2002 Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Criminal Law**

19 10-101.

20 (a) In this part the following words have the meanings indicated.

1 (b) "Distribute" means to:

2 (1) give, sell, deliver, dispense, issue, or offer to give, sell, deliver,  
3 dispense, or issue; or

4 (2) cause or hire a person to give, sell, deliver, dispense, issue or offer to  
5 give, sell, deliver, dispense, or issue.

6 (c) (1) "Tobacco product" means a substance containing tobacco ~~OR~~  
7 ~~NICOTINE~~.

8 (2) "Tobacco product" includes cigarettes, cigars, smoking tobacco, snuff,  
9 [and] smokeless tobacco, AND CANDY-LIKE PRODUCTS THAT CONTAIN ~~NICOTINE~~  
10 TOBACCO.

11 (d) "Venereal disease" includes gonorrhea, syphilis, chancroid, and any  
12 diseased condition of the human genitalia caused by, related to, or resulting from a  
13 venereal disease.

14 10-107.

15 (a) This section does not apply to the distribution of a coupon that is  
16 redeemable for a tobacco product, if the coupon is:

17 (1) contained in a newspaper, magazine, or other type of publication in  
18 which the coupon is incidental to the primary purpose of the publication; or

19 (2) sent through the mail.

20 (b) (1) This subsection does not apply to the distribution of a tobacco product  
21 to a minor who is acting solely as the agent of the minor's employer if the employer  
22 distributes tobacco products for commercial purposes.

23 (2) A person who distributes tobacco products for commercial purposes,  
24 including a person licensed under Title 16 of the Business Regulation Article, may not  
25 distribute to a minor:

26 (i) a tobacco product;

27 (ii) a cigarette rolling paper; or

28 (iii) a coupon redeemable for a tobacco product.

29 (c) A person not described in subsection (b)(2) of this section may not:

30 (1) purchase for or sell a tobacco product to a minor; or

31 (2) distribute a cigarette rolling paper to a minor.

32 (d) In a prosecution for a violation of this section, it is a defense that the  
33 defendant examined the purchaser's or recipient's driver's license or other valid

1 identification issued by an employer, government unit, or institution of higher  
2 education that positively identified the purchaser or recipient as at least 18 years of  
3 age.

4 (e) A person who violates this section is guilty of a misdemeanor and on  
5 conviction is subject to a fine not exceeding:

6 (1) \$300 for a first violation;

7 (2) \$1,000 for a second violation occurring within 2 years after the first  
8 violation; and

9 (3) \$3,000 for each subsequent violation occurring within 2 years after  
10 the preceding violation.

11 (f) For purposes of this section, each separate incident at a different time and  
12 occasion is a violation.

13 10-108.

14 (a) In this section, "violation" has the meaning stated in § 3-8A-01 of the  
15 Courts Article.

16 (b) This section does not apply to the possession of a tobacco product or  
17 cigarette rolling paper by a minor who is acting as the agent of the minor's employer  
18 within the scope of employment.

19 (c) A minor may not:

20 (1) use or possess a tobacco product or cigarette rolling paper; or

21 (2) obtain or attempt to obtain a tobacco product or cigarette rolling  
22 paper by using a form of identification that:

23 (i) is falsified; or

24 (ii) identifies an individual other than the minor.

25 (d) (1) A violation of this section is a civil offense.

26 (2) A minor who violates this section is subject to the procedures and  
27 dispositions provided in Title 3, Subtitle 8A of the Courts Article.

28 (e) A law enforcement officer authorized to make arrests shall issue a citation  
29 to a minor if the law enforcement officer has probable cause to believe that the minor  
30 is committing or has committed a violation of this section.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2003.

