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By: **Delegates Kelly and F. Turner**  
Introduced and read first time: February 11, 2005  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Minors - Tobacco Products - Penalties**

3 FOR the purpose of altering certain dispositions available to a court on finding a  
4 minor has committed a certain violation regarding a tobacco product; requiring  
5 a court to order a certain minor to participate in a certain smoking cessation  
6 clinic or other suitable presentation within a certain time period; requiring a  
7 court to impose a certain fine under certain circumstances; requiring a minor to  
8 present the court with documentation of participating in a certain clinic and, if  
9 ordered, a work program under certain circumstances; requiring a court to  
10 waive payment of a certain fine on receipt of certain documentation;  
11 establishing the civil offense of a minor obtaining a tobacco product; and  
12 generally relating to minors and tobacco products.

13 BY repealing and reenacting, without amendments,  
14 Article - Courts and Judicial Proceedings  
15 Section 3-8A-01(a), (d), and (x) and 3-8A-19(b)  
16 Annotated Code of Maryland  
17 (2002 Replacement Volume and 2004 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article - Courts and Judicial Proceedings  
20 Section 3-8A-19(e)(3)  
21 Annotated Code of Maryland  
22 (2002 Replacement Volume and 2004 Supplement)

23 BY repealing and reenacting, without amendments,  
24 Article - Criminal Law  
25 Section 1-101(a) and (g)  
26 Annotated Code of Maryland  
27 (2002 Volume and 2004 Supplement)

28 BY repealing and reenacting, with amendments,  
29 Article - Criminal Law

1 Section 10-108  
2 Annotated Code of Maryland  
3 (2002 Volume and 2004 Supplement)

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

6 **Article - Courts and Judicial Proceedings**

7 3-8A-01.

8 (a) In this subtitle the following words have the meanings indicated, unless  
9 the context of their use indicates otherwise.

10 (d) "Child" means an individual under the age of 18 years.

11 (x) "Violation" means a violation for which a citation is issued under:

12 (1) § 10-113, § 10-114, § 10-115, or § 10-116 of the Criminal Law Article;

13 (2) § 10-108 of the Criminal Law Article; or

14 (3) § 26-103 of the Education Article.

15 3-8A-19.

16 (b) (1) After an adjudicatory hearing the court shall hold a separate  
17 disposition hearing, unless the petition or citation is dismissed or unless such hearing  
18 is waived in writing by all of the parties.

19 (2) A disposition hearing may be held on the same day as the  
20 adjudicatory hearing if notice of the disposition hearing, as prescribed by the  
21 Maryland Rules, is waived on the record by all of the parties.

22 (e) (3) (i) The provisions of paragraphs (1) and (2) of this subsection do  
23 not apply to a child found to have committed a violation of § 10-108 of the Criminal  
24 Law Article.

25 (ii) [In] SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (III) OF  
26 THIS PARAGRAPH, IN making a disposition on a finding that the child has committed  
27 a violation of § 10-108 of the Criminal Law Article, the court [may]:

28 1. [Counsel the child or the parent or both, or] SHALL order  
29 the child to participate in a smoking cessation clinic, or other suitable presentation of  
30 the hazards associated with tobacco use that is in the best interest of the child  
31 WITHIN 120 DAYS;

32 2. [Impose] SHALL IMPOSE a civil fine of not more than \$25  
33 for the first violation and a civil fine of not more than \$100 for a second or subsequent  
34 violation THAT SHALL BE PAYABLE IF THE CHILD DOES NOT PROVIDE

1 DOCUMENTATION IN ACCORDANCE WITH SUBPARAGRAPH (III)1 OF THIS  
2 PARAGRAPH; [or] AND

3 3. [Order] MAY ORDER the child to participate in a  
4 supervised work program WITHIN 120 DAYS for not more than 20 hours for the first  
5 violation and not more than 40 hours for a second or subsequent violation.

6 (III) 1. NOT LATER THAN 120 DAYS AFTER THE DISPOSITION  
7 HEARING, THE CHILD SHALL PRESENT DOCUMENTATION OF PARTICIPATION IN A  
8 SMOKING CESSATION CLINIC OR OTHER SUITABLE PRESENTATION OF THE HAZARDS  
9 ASSOCIATED WITH TOBACCO USE IN ACCORDANCE WITH ITEM (II)1 OF THIS  
10 PARAGRAPH AND, IF ORDERED, PARTICIPATION IN A SUPERVISED WORK PROGRAM  
11 IN ACCORDANCE WITH ITEM (II)3 OF THIS PARAGRAPH.

12 2. ON PRESENTATION OF THE DOCUMENTATION REQUIRED  
13 UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE COURT SHALL WAIVE  
14 PAYMENT OF THE FINE IMPOSED UNDER ITEM (II)2 OF THIS PARAGRAPH.

15 **Article - Criminal Law**

16 1-101.

17 (a) In this article the following words have the meanings indicated.

18 (g) "Minor" means an individual under the age of 18 years.

19 10-108.

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

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

25 (c) A minor may not:

26 (1) use or possess a tobacco product or cigarette rolling paper; [or]

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

29 (i) is falsified; or

30 (ii) identifies an individual other than the minor; OR

31 (3) OTHERWISE OBTAIN OR ATTEMPT TO OBTAIN A TOBACCO PRODUCT.

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

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

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

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2005.