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**By: Delegates Hixson, Benson, R. Baker, Barve, Beck, Bobo, Bozman, Branch, Conroy, Cryor, Dembrow, Doory, Dypski, Eckardt, Frush, Goldwater, Grosfeld, Harrison, Healey, Hecht, Howard, B. Hughes, Hurson, Kopp, Mandel, McIntosh, Menes, Montague, Morhaim, Nathan-Pulliam, Parker, Pendergrass, Perry, Pitkin, Shriver, Snodgrass, Walkup, and Marriott**

Introduced and read first time: February 2, 1996

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Products - Retail Licenses - Sales to Minors**

3 FOR the purpose of requiring the State Comptroller to suspend or revoke a county  
4 cigarette retail license if the county licensee is convicted of a violation of selling  
5 tobacco products to minors; requiring the clerk of court to notify the Comptroller of  
6 certain convictions; and generally relating to the sale of tobacco products to minors  
7 and cigarette retailer licenses.

8 BY repealing and reenacting, without amendments,  
9 Article 27 - Crimes and Punishments  
10 Section 404  
11 Annotated Code of Maryland  
12 (1992 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article 27 - Crimes and Punishments  
15 Section 405  
16 Annotated Code of Maryland  
17 (1992 Replacement Volume and 1995 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article - Business Regulation  
20 Section 16-306  
21 Annotated Code of Maryland  
22 (1992 Volume and 1995 Supplement)

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

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1           **Article 27 - Crimes and Punishments**

2 404.

3           (a) (1) In this subheading the following words have the meanings indicated.

4                       (2) "Tobacco product" means any substance containing tobacco, including  
5 cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.

6                       (3) "Distribute" means to:

7                               (i) Give away, sell, deliver, dispense, or issue;

8                               (ii) Offer to give away, sell, deliver, dispense, or issue; or

9                               (iii) Cause or hire any person to give away, sell, deliver, dispense, or  
10 issue or offer to give away, sell, deliver, dispense, or issue.

11           (b) (1) A person engaged in the business of selling or otherwise distributing  
12 tobacco products for commercial purposes, including persons licensed under Title 16 of  
13 the Business Regulation Article, may not:

14                               (i) Distribute any tobacco product to a minor, unless the minor is  
15 acting solely as the agent of the minor's employer, who is in the business of distributing  
16 tobacco products;

17                               (ii) Distribute cigarette rolling papers to a minor; or

18                               (iii) Distribute to any minor a coupon redeemable for any tobacco  
19 product.

20           (2) A person not described under paragraph (1) of this subsection may not:

21                               (i) Purchase for or sell to a minor any tobacco product; or

22                               (ii) Deliver or sell to a minor cigarette rolling papers.

23           (c) The provisions of subsection (b) of this section do not apply to the distribution  
24 of a coupon which is redeemable for any tobacco product when the coupon is contained  
25 in a newspaper, a magazine, or any other type of publication in which the coupon is  
26 incidental to the primary purpose of the publication, or sent through the mail.

27           (d) In a prosecution for a violation of subsection (b)(1) or (2) of this section, it  
28 shall be a defense that the defendant examined the purchaser's or recipient's driver's  
29 license or other valid identification issued by an employer, a governmental entity, or  
30 institution of higher education that positively identified the purchaser or recipient as at  
31 least 18 years old.

32 405.

33           (a) Except as provided in subsection (b) of this section, a person who violates §  
34 404(b) of this subheading shall be subject to:

35                       (1) For a first violation, a fine of not more than \$300;

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1 (2) For a second violation occurring within a 2-year period of the first  
2 violation, a fine of not more than \$1,000; and

3 (3) For a third or subsequent violation occurring within a 2-year period of  
4 the prior violation, a fine of not more than \$3,000.

5 (b) If the requirements of § 16-209(b)(2)(ii) of the Business Regulation Article  
6 are satisfied, the provisions of subsection (a) of this section do not apply to the owner of  
7 a tobacco product vending machine or any other person exercising control over a tobacco  
8 product vending machine if a person under 18 has purchased a tobacco product from a  
9 vending machine.

10 (c) For purposes of this section, a violation means a separate and distinct incident  
11 at a different time and occasion.

12 (D) IF A PERSON THAT HOLDS A LICENSE TO ACT AS A RETAILER UNDER  
13 TITLE 16, SUBTITLE 2 (CIGARETTE BUSINESS LICENSES) OF THE BUSINESS  
14 REGULATION ARTICLE IS CONVICTED OF A VIOLATION OF § 404(B) OF THIS  
15 SUBHEADING, THE CLERK OF THE COURT IN WHICH THE CONVICTION WAS  
16 OBTAINED SHALL NOTIFY IN WRITING THE STATE COMPTROLLER.

17 **Article - Business Regulation**

18 16-306.

19 (A) Subject to the hearing provisions of § 16-307 of this subtitle, the Comptroller  
20 may deny a county license to an applicant, reprimand a county licensee, or suspend or  
21 revoke a county license if the applicant or licensee:

22 (1) fraudulently or deceptively obtains or attempts to obtain a license for  
23 the applicant or licensee or for another person;

24 (2) fraudulently or deceptively uses a license; or

25 (3) fails to comply with the Maryland Cigarette Sales Below Cost Act and  
26 regulations adopted under it.

27 (B) IF THE COUNTY LICENSEE HOLDS A RETAILER LICENSE, UPON RECEIPT  
28 OF NOTIFICATION FROM THE CLERK OF THE COURT OF A CONVICTION FOR A  
29 VIOLATION OF ARTICLE 27, § 404(B) OF THE CODE, THE COMPTROLLER SHALL:

30 (1) FOR THE FIRST VIOLATION, SUSPEND THE LICENSE FOR 6 MONTHS;

31 (2) FOR THE SECOND VIOLATION, SUSPEND THE LICENSE FOR 1 YEAR;  
32 OR

33 (3) FOR THE THIRD VIOLATION, REVOKE THE LICENSE.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 1996.