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**By: Delegates Frush and Morhaim**

Introduced and read first time: February 7, 1996

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

**2 Tobacco Products - Sales to Minors by Vending Machines - Penalties**

3 FOR the purpose of altering certain penalties for persons found violating a certain  
4 provision of law related to distributing tobacco products and cigarette papers to  
5 minors; repealing a certain exemption from penalties for sales of tobacco products  
6 to minors for owners of and other persons exercising control over tobacco product  
7 vending machines; establishing penalties for certain proprietors and owners of  
8 vending machines for the sale of tobacco products to minors by vending machines;  
9 prohibiting a minor from obtaining or attempting to obtain a tobacco product by  
10 means of a vending machine; and generally relating to the sale of tobacco products  
11 to minors by vending machines.

12 BY repealing and reenacting, without amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 404  
15 Annotated Code of Maryland  
16 (1992 Replacement Volume and 1995 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article 27 - Crimes and Punishments  
19 Section 405 and 405A  
20 Annotated Code of Maryland  
21 (1992 Replacement Volume and 1995 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article - Courts and Judicial Proceedings  
24 Section 3-810(n)  
25 Annotated Code of Maryland  
26 (1995 Replacement Volume and 1995 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 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] A person who violates  
34 § 404(b) of this subheading shall be subject to:

35 (1) For a first violation, a [fine] CIVIL PENALTY 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] CIVIL PENALTY 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] CIVIL PENALTY 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. ] FOR A VIOLATION OF § 404(B) OF THIS SUBHEADING RELATED TO  
10 THE DISTRIBUTION OF A TOBACCO PRODUCT TO A MINOR BY MEANS OF A VENDING  
11 MACHINE, THE CIVIL PENALTIES ESTABLISHED UNDER SUBSECTION (A) OF THIS  
12 SECTION SHALL APPLY ONLY TO THE PROPRIETOR OF THE ESTABLISHMENT IN  
13 WHICH THE VENDING MACHINE IS LOCATED AND THE OWNER OF THE VENDING  
14 MACHINE.

15 (C) A LAW ENFORCEMENT OFFICER AUTHORIZED TO MAKE ARRESTS SHALL  
16 ISSUE A CIVIL CITATION TO A PERSON IF THE OFFICER HAS PROBABLE CAUSE TO  
17 BELIEVE THAT THE PERSON IS COMMITTING OR HAS COMMITTED A VIOLATION OF §  
18 404 OF THIS SUBHEADING.

19 [(c)] (D) For purposes of this section, a violation means a separate and distinct  
20 incident at a different time and occasion.

21 405A.

22 (a) A minor may not:

23 (1) Use or, unless acting as the agent of the minor's employer within the  
24 scope of employment, possess any tobacco product or cigarette rolling papers;

25 (2) OBTAIN OR ATTEMPT TO OBTAIN A TOBACCO PRODUCT BY MEANS  
26 OF A VENDING MACHINE; or

27 [(2)] (3) Use any falsified identification, or use any identification other than  
28 his or her own, for the purpose of obtaining or attempting to obtain tobacco products or  
29 cigarette rolling papers.

30 (b) For purposes of this section, a violation of the provisions of this section is  
31 deemed a Code violation and is a civil offense.

32 (c) An individual who violates the provisions of this section shall be subject to the  
33 procedures and dispositions provided in Title 3, Subtitle 8 of the Courts and Judicial  
34 Proceedings Article.

35 (d) A law enforcement officer authorized to make arrests shall issue a citation to  
36 a person if the officer has probable cause to believe that the child is committing or has  
37 committed a Code violation.

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1           **Article - Courts and Judicial Proceedings**

2 3-810.

3           (n) If the intake officer receives a citation authorized under Article 27, § 405A of  
4 the Code, the intake officer may:

5                   (1) Refer the child to a smoking cessation clinic, or other suitable  
6 presentation of the hazards associated with tobacco use;

7                   (2) Assign the child to a supervised work program for not more than 20  
8 hours for the first violation and not more than 40 hours for a second or subsequent  
9 violation; or

10                  (3) Forward the citation to the State's Attorney.

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