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**By: Senators Trotter, Young, and Lawlah**

Introduced and read first time: February 19, 1996

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Products - Sale to and Access by Minors**

3 FOR the purpose of requiring certain persons under certain circumstances to request  
4 certain identification from individuals under a certain age when the individual is  
5 purchasing a tobacco product; establishing a certain penalty; prohibiting the sale or  
6 dispensing of a tobacco product by means of a vending machine; authorizing the  
7 sale or dispensing of a tobacco product by means of a vending machine under  
8 certain circumstances; repealing a certain exemption from certain penalties for sales  
9 of tobacco products to minors for owners of and other persons exercising control  
10 over tobacco product vending machines; defining certain terms; and generally  
11 relating to the sale to and access by minors of tobacco products.

12 BY repealing and reenacting, with amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 404 and 405  
15 Annotated Code of Maryland  
16 (1992 Replacement Volume and 1995 Supplement)

17 BY adding to  
18 Article - Business Regulation  
19 Section 16-3A-01 through 16-3A-03, inclusive, to be under the new subtitle  
20 "Subtitle 3A. Placement of Tobacco Product Vending Machines"  
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:

25 **Article 27 - Crimes and Punishments**

26 404.

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

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

30 (3) "Distribute" means to:

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

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

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

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

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

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

12 (iii) Distribute to any minor a coupon redeemable for any tobacco  
13 product.

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

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

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

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

21 (D) A PERSON DESCRIBED UNDER SUBSECTION (B)(1) OF THIS SECTION OR AN  
22 EMPLOYEE OR AGENT OF A PERSON DESCRIBED UNDER SUBSECTION (B)(1) OF THIS  
23 SECTION WHO HAS REASONABLE CAUSE TO BELIEVE THAT AN INDIVIDUAL WHO  
24 ATTEMPTS TO PURCHASE A TOBACCO PRODUCT IS UNDER THE AGE OF 21 YEARS  
25 SHALL REQUIRE THE INDIVIDUAL TO PRESENT PHOTO IDENTIFICATION THAT  
26 INDICATES THE INDIVIDUAL'S AGE, SUCH AS A DRIVER'S LICENSE OR OTHER VALID  
27 IDENTIFICATION ISSUED BY AN EMPLOYER, GOVERNMENTAL ENTITY, OR  
28 INSTITUTION OF HIGHER EDUCATION.

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

34 405.

35 (a) [Except as provided in subsection (b) of this section, a] A person who violates  
36 § 404(b) of this subheading shall be subject to:

37 (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 (B) A PERSON WHO VIOLATES § 404(D) OF THIS SUBHEADING SHALL BE  
11 SUBJECT TO:

12 (1) FOR A FIRST VIOLATION, A FINE OF NOT MORE THAN \$50;

13 (2) FOR A SECOND VIOLATION, A FINE OF NOT MORE THAN \$100; AND

14 (3) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE OF NOT MORE  
15 THAN \$250.

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

18 **Article - Business Regulation**

19 SUBTITLE 3A. PLACEMENT OF TOBACCO PRODUCT VENDING MACHINES.

20 16-3A-01.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (B) "OWNER" MEANS THE PERSON WHO OWNS OR OPERATES AN  
24 ESTABLISHMENT IN WHICH A TOBACCO PRODUCT VENDING MACHINE IS LOCATED.

25 (C) "TOBACCO PRODUCT" MEANS ANY SUBSTANCE CONTAINING TOBACCO,  
26 INCLUDING CIGARETTES, CIGARS, SMOKING TOBACCO, SNUFF, OR SMOKELESS  
27 TOBACCO.

28 16-3A-02.

29 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON  
30 MAY NOT SELL OR DISPENSE OR OFFER FOR SALE OR DISPENSE A TOBACCO  
31 PRODUCT THROUGH A VENDING MACHINE IN ANY LOCATION IN THE STATE.

32 (B) AN OWNER OF AN ESTABLISHMENT MAY SELL OR DISPENSE OR OFFER  
33 FOR SALE OR DISPENSE A TOBACCO PRODUCT BY MEANS OF A VENDING MACHINE  
34 IF THE VENDING MACHINE:

35 (1) IS PLACED IN AN AREA IN THE ESTABLISHMENT THAT IS:

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1 (I) AT A MINIMUM DISTANCE OF 25 FEET FROM ANY ENTRANCE  
2 TO THE ESTABLISHMENT; OR

3 (II) DIRECTLY VISIBLE TO THE OWNER OF THE ESTABLISHMENT  
4 OR AN EMPLOYEE OR AGENT OF THE OWNER OF THE ESTABLISHMENT; OR

5 (2) MAY ONLY BE OPERATED WITH A TOKEN, CARD, OR SIMILAR  
6 DEVICE THAT AN INDIVIDUAL CAN ONLY OBTAIN OR PURCHASE FROM AN  
7 EMPLOYEE OR AGENT OF THE OWNER.

8 16-3A-03.

9 A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND  
10 ON CONVICTION IS SUBJECT TO A FINE OF \$100.

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