
By: Delegates Rosenberg, Campbell, and McIntosh

Introduced and read first time: February 13, 1997

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Products - Sales to Minors - Enforcement Exception to Prohibition**

3 FOR the purpose of authorizing certain minors to purchase or attempt to purchase
4 tobacco products under the direction of certain personnel of, or authorized by, law
5 enforcement personnel, the Department of Health and Mental Hygiene, or local
6 health departments under certain circumstances; and generally relating to access of
7 minors to tobacco products.

8 BY repealing and reenacting, without amendments,
9 Article 27 - Crimes and Punishments
10 Section 404
11 Annotated Code of Maryland
12 (1996 Replacement Volume)

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 405A
16 Annotated Code of Maryland
17 (1996 Replacement Volume)

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

20 **Article 27 - Crimes and Punishments**

21 404.

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

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

25 (3) "Distribute" means to:

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

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

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

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

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

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

10 (iii) Distribute to any minor a coupon redeemable for any tobacco
11 product.

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

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

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

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

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

24 405A.

25 (a) A minor may not:

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

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

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

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

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

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1 (E) IT IS NOT A VIOLATION OF THIS SECTION FOR MINORS TO PURCHASE OR
2 ATTEMPT TO PURCHASE TOBACCO PRODUCTS OR CIGARETTE ROLLING PAPERS,
3 FOR THE PURPOSE OF MONITORING COMPLIANCE WITH § 404 OF THIS SUBHEADING,
4 UNDER THE DIRECTION OF:

5 (1) LAW ENFORCEMENT PERSONNEL;

6 (2) PERSONNEL OF THE DEPARTMENT OF HEALTH AND MENTAL
7 HYGIENE;

8 (3) PERSONNEL OF LOCAL HEALTH DEPARTMENTS; OR

9 (4) PERSONNEL AUTHORIZED BY PERSONS UNDER ITEMS (1) THROUGH
10 (3) OF THIS SUBSECTION.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1997.