
By: Senator Ruben

Requested: August 9, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Sale of Tobacco Products to Minors - Identification**

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; and generally relating
6 to the sale of tobacco products to minors.

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 404 and 405
10 Annotated Code of Maryland
11 (1996 Replacement Volume)

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

14 **Article 27 - Crimes and Punishments**

15 404.

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

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

19 (3) "Distribute" means to:

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

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

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

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

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

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

5 (iii) Distribute to any minor a coupon redeemable for any tobacco
6 product.

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

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

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

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

14 (D) A PERSON DESCRIBED UNDER SUBSECTION (B)(1) OF THIS SECTION OR AN
15 EMPLOYEE OR AGENT OF A PERSON DESCRIBED UNDER SUBSECTION (B)(1) OF THIS
16 SECTION THAT HAS REASONABLE CAUSE TO BELIEVE THAT AN INDIVIDUAL WHO
17 ATTEMPTS TO PURCHASE A TOBACCO PRODUCT IS UNDER THE AGE OF 18 YEARS
18 SHALL REQUIRE THE INDIVIDUAL TO PRESENT PHOTO IDENTIFICATION THAT
19 INDICATES THE INDIVIDUAL'S AGE, SUCH AS A DRIVER'S LICENSE OR OTHER VALID
20 IDENTIFICATION ISSUED BY AN EMPLOYER, GOVERNMENTAL ENTITY, OR
21 INSTITUTION OF HIGHER EDUCATION.

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

27 405.

28 (a) Except as provided in subsection (b) of this section, a person who violates §
29 404(b) of this subheading shall be subject to:

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

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

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

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

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1 (C) A PERSON THAT VIOLATES § 404(D) OF THIS SUBHEADING SHALL BE
2 SUBJECT TO:

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

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

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

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

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