

SENATE BILL 45

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HB 1227/97 - ENV

1998 Regular Session
8lr0798
CF 8lr0594

(PRE-FILED)

By: **Senator Boozer**

Requested: November 14, 1997

Introduced and read first time: January 14, 1998

Assigned to: Judicial Proceedings

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,
5 law enforcement personnel, the Department of Health and Mental Hygiene, or
6 local health departments under certain circumstances; and generally relating to
7 access of 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 and 1997 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 406
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1997 Supplement)

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:

- 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

7 of 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

10 distributing 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

15 not:

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

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

18 (c) The provisions of subsection (b) of this section do not apply to the

19 distribution of a coupon which is redeemable for any tobacco product when the coupon

20 is contained in a newspaper, a magazine, or any other type of publication in which the

21 coupon is incidental to the primary purpose of the publication, or sent through the

22 mail.

23 (d) In a prosecution for a violation of subsection (b)(1) or (2) of this section, it

24 shall be a defense that the defendant examined the purchaser's or recipient's driver's

25 license or other valid identification issued by an employer, a governmental entity, or

26 institution of higher education that positively identified the purchaser or recipient as

27 at least 18 years old.

28 406.

29 (a) A minor may not:

30 (1) Use or, unless acting as the agent of the minor's employer within the

31 scope of employment, possess any tobacco product or cigarette rolling papers; or

32 (2) Use any falsified identification, or use any identification other than

33 his or her own, for the purpose of obtaining or attempting to obtain tobacco products

34 or cigarette rolling papers.

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

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

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

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

13 (1) LAW ENFORCEMENT PERSONNEL;

14 (2) PERSONNEL OF THE DEPARTMENT OF HEALTH AND MENTAL
15 HYGIENE;

16 (3) PERSONNEL OF LOCAL HEALTH DEPARTMENTS; OR

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 1998.