
By: **Senator Collins**

Introduced and read first time: February 6, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Abusable Volatile Chemicals - Sales Permits**

3 FOR the purpose of prohibiting a person from selling an abusable volatile chemical at
4 retail without a certain sales permit; requiring the Department of Health and
5 Mental Hygiene to adopt regulations that govern the issuance and renewal of a
6 volatile chemical sales permit; establishing certain requirements to be eligible
7 for a volatile chemical sales permit; authorizing the Department to establish
8 certain fees; requiring the Comptroller to deposit the money collected under this
9 Act in a certain account; providing for certain uses of the money collected under
10 this Act; requiring a permit holder to have a sales permit available for inspection
11 at certain locations; requiring a person who sells an abusable volatile chemical
12 to display certain signs; prohibiting a person from inhaling, ingesting, applying,
13 using, or possessing with intent to inhale, ingest, apply, or use certain chemicals
14 in a certain manner; prohibiting a person from manufacturing, distributing, or
15 possessing with intent to manufacture or distribute certain chemicals;
16 prohibiting a person from distributing certain chemicals to a minor; prohibiting
17 a person from knowingly using or possessing with intent to use inhalant
18 paraphernalia to inhale, ingest, or otherwise introduce into the human body
19 certain chemicals; providing for certain defenses; providing for certain penalties;
20 providing that certain items as a result of certain offenses are subject to
21 forfeiture in certain manners; authorizing the Department, the Attorney
22 General, or the State's Attorney or a county to apply for a temporary or
23 permanent injunction restraining a person from violating certain provisions of
24 this Act under certain circumstances; and generally relating to the regulation of
25 abusable volatile chemical sales and crimes concerning certain chemicals.

26 BY adding to

27 Article - Health - General

28 Section 22-601 through 22-604, inclusive, to be under the new subtitle "Subtitle

29 6. Abusable Volatile Chemicals"

30 Annotated Code of Maryland

31 (1996 Replacement Volume and 1997 Supplement)

32 BY adding to

33 Article 27 - Crimes and Punishments

1 Section 306 through 313, inclusive, to be under the new subheading "Abusable
2 Volatile Chemicals"
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1997 Supplement)

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

7 **Article - Health - General**

8 **SUBTITLE 6. ABUSABLE VOLATILE CHEMICALS.**

9 22-601.

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) (1) "ABUSABLE VOLATILE CHEMICAL" MEANS A CHEMICAL THAT:

13 (I) IS PACKAGED IN A CONTAINER SUBJECT TO THE LABELING
14 REQUIREMENTS CONCERNING PRECAUTIONS AGAINST INHALATION ESTABLISHED
15 UNDER THE FEDERAL HAZARDOUS SUBSTANCES ACT;

16 (II) IF INHALED, INGESTED, OR OTHERWISE INTRODUCED INTO A
17 PERSON'S BODY, MAY:

18 1. AFFECT THE PERSON'S CENTRAL NERVOUS SYSTEM;

19 2. CREATE OR INDUCE IN THE PERSON A CONDITION OF
20 INTOXICATION, HALLUCINATION, OR ELATION; OR

21 3. CHANGE, DISTORT, OR DISTURB THE PERSON'S EYESIGHT,
22 THINKING PROCESS, BALANCE, OR COORDINATION; AND

23 (III) IS NOT:

24 1. A PESTICIDE SUBJECT TO TITLE 5 OF THE AGRICULTURE
25 ARTICLE OR TO THE FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT;

26 2. A FOOD, DRUG, OR COSMETIC SUBJECT TO TITLE 21 OF
27 THE HEALTH - GENERAL ARTICLE OR TO THE FEDERAL FOOD, DRUG, AND COSMETIC
28 ACT; OR

29 3. A BEVERAGE SUBJECT TO THE FEDERAL ALCOHOL
30 ADMINISTRATION ACT.

31 (2) "ABUSABLE VOLATILE CHEMICAL" INCLUDES AEROSOL PAINT.

1 22-602.

2 THE DEPARTMENT SHALL APPROVE AND DESIGNATE ADDITIVE MATERIALS TO
3 BE INCLUDED IN ABUSABLE VOLATILE CHEMICALS AND PRESCRIBE THE
4 PROPORTIONS OF ADDITIVE MATERIALS TO BE PLACED IN ABUSABLE VOLATILE
5 CHEMICALS.

6 22-603.

7 (A) A PERSON MAY NOT SELL AN ABUSABLE VOLATILE CHEMICAL AT RETAIL
8 UNLESS THE PERSON OR THE PERSON'S EMPLOYER HOLDS A VOLATILE CHEMICAL
9 SALES PERMIT AT THE TIME OF THE SALE.

10 (B) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT GOVERN THE
11 ISSUANCE AND RENEWAL OF A VOLATILE CHEMICAL SALES PERMIT. TO BE ELIGIBLE
12 FOR A VOLATILE CHEMICAL SALES PERMIT, A PERSON SHALL:

13 (1) HAVE A SALES TAX PERMIT THAT HAS BEEN ISSUED TO THE PERSON;

14 (2) COMPLETE AND RETURN TO THE DEPARTMENT AN APPLICATION AS
15 REQUIRED BY THE DEPARTMENT; AND

16 (3) PAY TO THE DEPARTMENT AN APPLICATION FEE FOR EACH
17 LOCATION AT WHICH AN ABUSABLE VOLATILE CHEMICAL MAY BE SOLD.

18 (C) A PERMIT ISSUED UNDER THIS SECTION IS VALID FOR 1 YEAR FROM THE
19 DATE OF ISSUANCE OR RENEWAL.

20 (D) A PERMIT IS NOT VALID IF THE PERMIT HOLDER HAS BEEN CONVICTED
21 MORE THAN ONCE IN THE PRECEDING YEAR OF AN OFFENSE COMMITTED AT A
22 LOCATION FOR WHICH THE PERMIT IS ISSUED UNDER ARTICLE 27, § 307, § 308, § 309,
23 OR § 310 OF THE CODE.

24 (E) A PERMIT ISSUED BY THE DEPARTMENT IS THE PROPERTY OF THE
25 DEPARTMENT AND SHALL BE SURRENDERED ON DEMAND BY THE DEPARTMENT.

26 (F) THE DEPARTMENT SHALL:

27 (1) PREPARE AN ANNUAL ROSTER OF PERMIT HOLDERS; AND

28 (2) MONITOR AND ENFORCE COMPLIANCE WITH THIS SECTION.

29 (G) (1) THE DEPARTMENT MAY ESTABLISH FEES TO RECOVER THE COSTS
30 ASSOCIATED WITH ADMINISTERING THIS SECTION, INCLUDING A FEE OF \$50 FOR
31 THE ISSUANCE OR RENEWAL OF A PERMIT UNDER THIS SECTION.

32 (2) THE DEPARTMENT SHALL TRANSMIT THE MONEY COLLECTED
33 UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE COMPTROLLER.

1 (3) THE COMPTROLLER SHALL DEPOSIT THE MONEY IN A SEPARATE
2 ACCOUNT TO BE KNOWN AS THE INHALANT ABUSE PREVENTION ACCOUNT. MONEY
3 IN THE ACCOUNT SHALL BE USED BY THE DEPARTMENT TO:

4 (I) ADMINISTER, MONITOR, AND ENFORCE THE PROVISIONS OF
5 THIS SECTION; AND

6 (II) FINANCE EDUCATION PROJECTS CONCERNING THE HAZARDS
7 OF ABUSABLE VOLATILE CHEMICALS AND THE PREVENTION OF INHALANT ABUSE.

8 (H) A PERMIT HOLDER SHALL HAVE THE VOLATILE CHEMICAL SALES PERMIT
9 OR A COPY OF THE PERMIT AVAILABLE FOR INSPECTION AT EACH LOCATION IN
10 WHICH THE PERMIT HOLDER SELLS AN ABUSABLE VOLATILE CHEMICAL.

11 (I) A PERSON WHO SELLS AN ABUSABLE VOLATILE CHEMICAL TO AN ADULT
12 WITHOUT A PERMIT AS REQUIRED UNDER THIS SECTION IS GUILTY OF A
13 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN
14 \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 18 MONTHS OR BOTH.

15 22-604.

16 (A) A PERSON WHO SELLS AT RETAIL AN ABUSABLE VOLATILE CHEMICAL
17 SHALL DISPLAY A CONSPICUOUS SIGN THAT STATES THAT:

18 (1) (I) IT IS ILLEGAL FOR A PERSON TO SELL OR DELIVER AN
19 ABUSABLE VOLATILE CHEMICAL TO A PERSON UNDER THE AGE OF 18 YEARS; AND

20 (II) ON CONVICTION, VIOLATORS ARE SUBJECT TO A FINE OR
21 IMPRISONMENT OR BOTH; AND

22 (2) (I) IT IS ILLEGAL FOR A PERSON TO ABUSE A VOLATILE CHEMICAL
23 BY INHALING, INGESTING, APPLYING, USING, OR POSSESSING WITH INTENT TO
24 INHALE, INGEST, APPLY, OR USE A VOLATILE CHEMICAL IN A MANNER DESIGNED TO
25 AFFECT THE CENTRAL NERVOUS SYSTEM; AND

26 (II) ON CONVICTION, VIOLATORS ARE SUBJECT TO A FINE OR
27 IMPRISONMENT OR BOTH.

28 (B) A PERSON WHO SELLS AT RETAIL AN ABUSABLE VOLATILE CHEMICAL
29 WITHOUT DISPLAYING A SIGN AS REQUIRED UNDER SUBSECTION (A) OF THIS
30 SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
31 OF NOT MORE THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN 6 MONTHS OR
32 BOTH.

1 **Article 27 - Crimes and Punishments**

2 ABUSABLE VOLATILE CHEMICALS

3 306.

4 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) (1) "ABUSABLE VOLATILE CHEMICAL" MEANS A CHEMICAL THAT:

7 (I) IS PACKAGED IN A CONTAINER SUBJECT TO THE LABELING
8 REQUIREMENTS CONCERNING PRECAUTIONS AGAINST INHALATION ESTABLISHED
9 UNDER THE FEDERAL HAZARDOUS SUBSTANCES ACT;10 (II) IF INHALED, INGESTED, OR OTHERWISE INTRODUCED INTO A
11 PERSON'S BODY, MAY:

12 1. AFFECT THE PERSON'S CENTRAL NERVOUS SYSTEM;

13 2. CREATE OR INDUCE IN THE PERSON A CONDITION OF
14 INTOXICATION, HALLUCINATION, OR ELATION; OR15 3. CHANGE, DISTORT, OR DISTURB THE PERSON'S EYESIGHT,
16 THINKING PROCESS, BALANCE, OR COORDINATION; AND

17 (III) IS NOT:

18 1. A PESTICIDE SUBJECT TO TITLE 5 OF THE AGRICULTURE
19 ARTICLE OR TO THE FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT;20 2. A FOOD, DRUG, OR COSMETIC SUBJECT TO TITLE 21 OF
21 THE HEALTH - GENERAL ARTICLE OR TO THE FEDERAL FOOD, DRUG, AND COSMETIC
22 ACT; OR23 3. A BEVERAGE SUBJECT TO THE FEDERAL ALCOHOL
24 ADMINISTRATION ACT.25 (2) "ABUSABLE VOLATILE CHEMICAL" INCLUDES AN AEROSOL PAINT
26 PRODUCT, INCLUDING A CLEAR OR PIGMENTED LACQUER OR FINISH.27 (C) "DISTRIBUTE" MEANS THE ACTUAL, CONSTRUCTIVE, OR ATTEMPTED
28 TRANSFER, EXCHANGE, OR DELIVERING FROM ONE PERSON TO ANOTHER WITH OR
29 WITHOUT REMUNERATION, WHETHER OR NOT THERE EXISTS AN AGENCY
30 RELATIONSHIP.31 (D) (1) "INHALANT PARAPHERNALIA" MEANS EQUIPMENT, PRODUCTS, OR
32 MATERIALS OF ANY KIND THAT ARE USED OR INTENDED FOR USE IN INHALING,
33 INGESTING, OR OTHERWISE INTRODUCING INTO THE HUMAN BODY AN ABUSABLE
34 VOLATILE CHEMICAL.

1 (2) "INHALANT PARAPHERNALIA" INCLUDES:

2 (I) A CAN, TUBE, OR OTHER CONTAINER USED AS THE ORIGINAL
3 RECEPTACLE FOR AN ABUSABLE VOLATILE CHEMICAL; OR

4 (II) A CAN, TUBE, BALLOON, BAG, FABRIC, BOTTLE, OR OTHER
5 CONTAINER USED TO CONTAIN, CONCENTRATE, OR HOLD IN SUSPENSION AN
6 ABUSABLE VOLATILE CHEMICAL OR VAPORS OF THE CHEMICAL.

7 307.

8 (A) A PERSON MAY NOT INHALE, INGEST, APPLY, USE, OR POSSESS WITH
9 INTENT TO INHALE, INGEST, APPLY, OR USE AN ABUSABLE VOLATILE CHEMICAL
10 CONTRARY TO DIRECTIONS FOR USE, CAUTIONS, OR WARNINGS APPEARING ON A
11 LABEL OF A CONTAINER OF THE CHEMICAL IN A MANNER DESIGNED TO:

12 (1) AFFECT THE PERSON'S CENTRAL NERVOUS SYSTEM;

13 (2) CREATE OR INDUCE A CONDITION OF INTOXICATION,
14 HALLUCINATION, OR ELATION; OR

15 (3) CHANGE, DISTORT, OR DISTURB THE PERSON'S EYESIGHT, THINKING
16 PROCESS, BALANCE, OR COORDINATION.

17 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
18 AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR
19 IMPRISONMENT FOR NOT MORE THAN 6 MONTHS OR BOTH.

20 308.

21 (A) A PERSON MAY NOT MANUFACTURE, DISTRIBUTE, OR POSSESS WITH
22 INTENT TO MANUFACTURE OR DISTRIBUTE AN ABUSABLE VOLATILE CHEMICAL
23 THAT DOES NOT CONTAIN ADDITIVE MATERIAL AS REQUIRED IN § 22-602 OF THE
24 HEALTH - GENERAL ARTICLE.

25 (B) A PERSON MAY NOT INSTRUCT ANOTHER PERSON IN THE PRACTICE OF
26 UNLAWFUL INHALING AS PROHIBITED IN § 307 OF THIS SUBHEADING.

27 (C) IT IS AN AFFIRMATIVE DEFENSE TO PROSECUTION UNDER THIS SECTION
28 THAT AN ABUSABLE VOLATILE CHEMICAL IS PACKAGED IN BULK QUANTITY
29 CONTAINERS, EACH OF WHICH HOLDS AT LEAST 2 GALLONS AND IS INTENDED FOR
30 ULTIMATE USE ONLY BY INDUSTRIAL OR COMMERCIAL ENTERPRISES.

31 (D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
32 AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR
33 IMPRISONMENT FOR NOT MORE THAN 18 MONTHS OR BOTH.

1 309.

2 (A) A PERSON MAY NOT KNOWINGLY AND WILLFULLY DISTRIBUTE OR
3 POSSESS WITH INTENT TO DISTRIBUTE AN ABUSABLE VOLATILE CHEMICAL TO A
4 PERSON WHO IS UNDER THE AGE OF 18 YEARS.

5 (B) IT IS A DEFENSE TO PROSECUTION UNDER THIS SECTION THAT:

6 (1) THE ABUSABLE VOLATILE CHEMICAL THAT WAS DISTRIBUTED
7 CONTAINS ADDITIVE MATERIAL THAT EFFECTIVELY DISCOURAGES INTENTIONAL
8 ABUSE BY INHALATION AND IS IN COMPLIANCE WITH REGULATIONS ADOPTED BY
9 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE; OR

10 (2) THE PERSON MAKING THE DISTRIBUTION IS NOT THE
11 MANUFACTURER OF AN ABUSABLE CHEMICAL AND, AT THE TIME OF THE
12 COMMISSION OF THE OFFENSE, WAS NOT AWARE THAT THE MANUFACTURER OF AN
13 ABUSABLE VOLATILE CHEMICAL FAILED TO LABEL THE CHEMICAL IN ACCORDANCE
14 WITH THE FEDERAL HAZARDOUS SUBSTANCES ACT.

15 (C) IT IS AN AFFIRMATIVE DEFENSE TO PROSECUTION UNDER THIS SECTION
16 THAT:

17 (1) (I) THE PERSON MAKING THE DISTRIBUTION IS AN ADULT HAVING
18 SUPERVISORY RESPONSIBILITY OVER THE PERSON UNDER THE AGE OF 18 YEARS;

19 (II) THE ADULT PERMITS THE USE OF THE ABUSABLE VOLATILE
20 CHEMICAL ONLY UNDER THE ADULT'S DIRECT SUPERVISION AND IN THE ADULT'S
21 PRESENCE AND ONLY FOR ITS INTENDED PURPOSE; AND

22 (III) THE ADULT REMOVES THE CHEMICAL FROM USE BY A PERSON
23 UNDER THE AGE OF 18 YEARS ON COMPLETION OF THAT USE; OR

24 (2) THE PERSON TO WHOM AN ABUSABLE VOLATILE CHEMICAL WAS
25 DISTRIBUTED PRESENTED TO THE DEFENDANT AN APPARENTLY VALID DRIVER'S
26 LICENSE OR AN IDENTIFICATION ISSUED BY THE MOTOR VEHICLE ADMINISTRATION
27 THAT CONTAINS A PHYSICAL DESCRIPTION CONSISTENT TO THE PERSON'S
28 APPEARANCE THAT PURPORTED TO ESTABLISH THAT THE PERSON WAS AN ADULT.

29 (D) A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS GUILTY
30 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE
31 THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 18 MONTHS OR BOTH.

32 310.

33 (A) A PERSON MAY NOT KNOWINGLY USE OR POSSESS WITH INTENT TO USE
34 INHALANT PARAPHERNALIA TO INHALE, INGEST, OR OTHERWISE INTRODUCE INTO
35 THE HUMAN BODY AN ABUSABLE VOLATILE CHEMICAL.

36 (B) A PERSON IS IN VIOLATION OF THIS SECTION IF THE PERSON:

1 (1) KNOWINGLY:

2 (I) DISTRIBUTES OR SELLS INHALANT PARAPHERNALIA;

3 (II) POSSESSES, WITH INTENT TO DISTRIBUTE OR SELL, INHALANT
4 PARAPHERNALIA; OR

5 (III) MANUFACTURES, WITH INTENT TO DISTRIBUTE OR SELL,
6 INHALANT PARAPHERNALIA; AND

7 (2) AT THE TIME OF THE ACT DESCRIBED IN PARAGRAPH (1) OF THIS
8 SUBSECTION, KNOWS THAT THE PERSON WHO RECEIVES OR IS INTENDED TO
9 RECEIVE THE INHALANT PARAPHERNALIA INTENDS THAT IT BE USED TO INHALE,
10 INGEST, APPLY, USE, OR OTHERWISE INTRODUCE INTO THE HUMAN BODY AN
11 ABUSABLE VOLATILE CHEMICAL.

12 (C) (1) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS
13 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT
14 MORE THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN 6 MONTHS OR BOTH.

15 (2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS
16 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT
17 MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 18 MONTHS OR BOTH.

18 311.

19 AN ABUSABLE VOLATILE CHEMICAL OR INHALANT PARAPHERNALIA THAT IS
20 SEIZED AS A RESULT OF AN OFFENSE UNDER THIS SUBHEADING IS SUBJECT TO
21 FORFEITURE IN THE SAME MANNER THAT A CONTROLLED DANGEROUS SUBSTANCE
22 OR DRUG PARAPHERNALIA IS SUBJECT TO FORFEITURE UNDER § 297 OF THIS
23 ARTICLE.

24 312.

25 IF A PERSON HAS VIOLATED, IS VIOLATING, OR IS THREATENING TO VIOLATE
26 THE PROVISIONS OF THIS SUBHEADING, THE DEPARTMENT OF HEALTH AND MENTAL
27 HYGIENE, THE ATTORNEY GENERAL, OR THE STATE'S ATTORNEY OF ANY COUNTY
28 MAY APPLY TO THE CIRCUIT COURT FOR A TEMPORARY OR PERMANENT INJUNCTION
29 RESTRAINING ANY PERSON FROM VIOLATING ANY PROVISION OF THIS SUBHEADING.
30 313.

31 THIS SUBTITLE IS IN ADDITION TO THE PROVISIONS OF §§ 301 AND 301A OF THIS
32 ARTICLE.

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