

BY: Delegate Mitchell

AMENDMENTS TO HOUSE BILL NO. 190, AS AMENDED
(First Reading File Bill)

AMENDMENT NO. 1

In the Committee on Ways and Means Amendments (HB0190/625456/1), strike in their entirety Amendment Nos. 1 through 3, inclusive.

AMENDMENT NO. 2

On page 1 of the bill, in line 2, before "Tobacco" insert "Cigarettes and"; in the same line, strike "Tax" and substitute "Products - Distribution, Sale, and Consumption Prohibited"; strike beginning with "altering" in line 3 down through "years;" in line 16 and substitute "prohibiting a person from distributing, selling, or consuming in a certain manner, or offering for distribution or sale, a cigarette made primarily from tobacco or any other tobacco product; imposing a certain penalty for a violation of this Act; making stylistic changes; repealing certain provisions that prohibit the sale of tobacco products to minors; repealing certain provisions that prohibit a minor from possessing or using false identification to obtain tobacco products;"; in line 17, strike "taxation" and substitute "prohibition of the distribution, sale, and consumption"; and strike in their entirety lines 18 through 25, inclusive.

On page 2 of the bill, strike in their entirety lines 1 through 25, inclusive, and substitute:

"BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments

Section 40A

Annotated Code of Maryland

(1996 Replacement Volume and 1998 Supplement)

BY repealing

Article 27 - Crimes and Punishments

Section 404 through 406, inclusive

(Over)

Annotated Code of Maryland
(1996 Replacement Volume and 1998 Supplement)”.

AMENDMENT NO. 3

On page 2, after line 27, insert:

“Article 27 - Crimes and Punishments

40A.

(a) A person may not sell or offer for sale a clove cigarette in this State.

(B) A PERSON MAY NOT DISTRIBUTE, SELL, OR CONSUME BY SMOKING OR CHEWING OR AS SNUFF, OR OFFER FOR DISTRIBUTION OR SALE IN THIS STATE:

(1) A CIGARETTE MADE PRIMARILY FROM TOBACCO; OR

(2) ANY OTHER TOBACCO PRODUCT.

[(b)] (C) A person who violates [subsection (a) of] this section is guilty of a misdemeanor and on conviction is subject to a fine of \$500.

[404.

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

(2) “Tobacco product” means any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.

(3) “Distribute” means to:

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

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

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

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

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

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

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

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

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

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

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

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

[405.

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

(Over)

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

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

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

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

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

[406.

(a) A minor may not:

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1999. “.

On pages 2 through 11 of the bill, strike in their entirety the lines beginning with line 28 on page 2 through line 36 on page 11, inclusive.