
By: **Delegates Palumbo, Healey, R. Baker, Menes, Frush, Moe, O'Donnell,
and Montague**

Introduced and read first time: February 11, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Distribution of Herbal Cigarettes to Minors - Prohibited**

3 FOR the purpose of prohibiting the distribution of herbal cigarettes to minors;
4 providing certain penalties for a violation of this Act; defining a certain term;
5 and generally relating to prohibiting the distribution of herbal cigarettes to
6 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 and 1998 Supplement)

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) "HERBAL CIGARETTE" MEANS ANY SIZE OR SHAPED ROLL FOR
20 SMOKING THAT:

21 (I) IS MADE OF ONE OR MORE HERBS;

22 (II) IS WRAPPED IN PAPER; AND

23 (III) CONTAINS NO NICOTINE OR TOBACCO.

24 [(3)] (4) "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 OR HERBAL CIGARETTES for commercial purposes, including persons

7 licensed under Title 16 of the Business Regulation Article, may not:

8 (i) Distribute any tobacco product OR HERBAL CIGARETTE to a

9 minor, unless the minor is acting solely as the agent of the minor's employer, who is in

10 the business of distributing tobacco products OR HERBAL CIGARETTES;

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

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

13 product OR HERBAL CIGARETTE.

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 HERBAL

17 CIGARETTE; or

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

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

20 distribution of a coupon which is redeemable for any tobacco product OR HERBAL

21 CIGARETTE when the coupon is contained in a newspaper, a magazine, or any other

22 type of publication in which the coupon is incidental to the primary purpose of the

23 publication, or sent through the mail.

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

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

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

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

28 at least 18 years old.

29 405.

30 (a) Except as provided in subsection (b) of this section, a person who violates §

31 404(b) of this subheading shall be subject to:

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

33 (2) For a second violation occurring within a 2-year period of the first

34 violation, a fine of not more than \$1,000; and

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

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

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

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1999.