

SENATE BILL 322

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1999 Regular Session
9r1047

By: **Senators Harris, Roesser, Kelley, Hoffman, Dorman, and Hooper**
Introduced and read first time: February 5, 1999
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Products - Sale by Vending Machines - Distribution of Tokens or**
3 **Any Other Single Use Nonmonetary Mechanism to Minors**

4 FOR the purpose of prohibiting the sale or offer for sale of tobacco products by
5 vending machines or other mechanical devices under certain circumstances;
6 prohibiting the distribution of vending machine tokens or any other single use
7 nonmonetary mechanism to minors; establishing a certain penalty for a
8 violation of this Act; providing for funding for the conversion of certain vending
9 machines; repealing certain provisions of law that provide an exception to a
10 penalty for a certain sale of a tobacco product by the owner of a tobacco product
11 vending machine; defining a certain term; and generally relating to the sale of
12 tobacco products by vending machines or other mechanical devices.

13 BY adding to
14 Article - Health - General
15 Section 24-1001 through 24-1006, inclusive, to be under the new subtitle
16 "Subtitle 10. Sale of Tobacco Products by Vending Machines"
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1998 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article 27 - Crimes and Punishments
21 Section 404 and 405
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 1998 Supplement)

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

1

Article - Health - General

2

SUBTITLE 10. SALE OF TOBACCO PRODUCTS BY VENDING MACHINES.

3 24-1001.

4 IN THIS SUBTITLE, "TOBACCO PRODUCT" MEANS ANY SUBSTANCE CONTAINING
5 TOBACCO, INCLUDING CIGARETTES, CIGARS, SMOKING TOBACCO, SNUFF, OR
6 SMOKELESS TOBACCO.

7 24-1002.

8 (A) A PERSON MAY NOT SELL OR OFFER FOR SALE A TOBACCO PRODUCT BY
9 MEANS OF A VENDING MACHINE OR OTHER MECHANICAL DEVICE USED FOR
10 DISPENSING TOBACCO PRODUCTS.

11 (B) THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION DO NOT APPLY TO
12 A VENDING MACHINE LOCATED IN AN ESTABLISHMENT THAT IS A BONA FIDE
13 FRATERNAL OR VETERANS ORGANIZATION.

14 24-1003.

15 A PERSON WHO VIOLATES § 24-1002 OF THIS SUBTITLE IS GUILTY OF A
16 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF \$500.

17 24-1004.

18 THE PROVISIONS OF § 24-1002 OF THIS SUBTITLE DO NOT APPLY TO A SALE OR
19 OFFER FOR SALE OF A TOBACCO PRODUCT BY MEANS OF A VENDING MACHINE USED
20 FOR DISPENSING TOBACCO PRODUCTS THAT ACCEPTS ONLY TOKENS OR ANY OTHER
21 SINGLE USE NONMONETARY MECHANISM.

22 24-1005.

23 THE COST OF CONVERTING EXISTING VENDING MACHINES FOR USE WITH
24 TOKENS OR ANY OTHER SINGLE USE NONMONETARY MECHANISM SHALL BE
25 FUNDED BY REVENUES CONSISTING OF FUNDS RECEIVED BY THE STATE FROM ANY
26 SOURCE AS A DIRECT OR INDIRECT RESULT OF ANY JUDGMENT AGAINST OR
27 SETTLEMENT WITH TOBACCO PRODUCT MANUFACTURERS, TOBACCO RESEARCH
28 ASSOCIATIONS, OR ANY OTHER PERSON IN THE TOBACCO INDUSTRY RELATING TO
29 LITIGATION, ADMINISTRATIVE PROCEEDINGS, OR ANY OTHER CLAIM MADE OR
30 PROSECUTED BY THE STATE TO RECOVER DAMAGES FOR VIOLATION OF STATE LAW.

31 24-1006.

32 THE PROVISIONS OF § 24-1005 OF THIS SUBTITLE MAY NOT BE CONSTRUED TO
33 AFFECT THE GOVERNOR'S POWERS WITH RESPECT TO APPROPRIATIONS IN THE
34 ANNUAL BUDGET BILL.

Article 27 - Crimes and Punishments

2 404.

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

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

6 (3) "Distribute" means to:

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

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

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

11 (4) "TOKEN" MEANS A COIN-LIKE DISK OBJECT THAT IS MADE OF METAL
12 OR OTHER MATERIAL THAT MAY BE USED FOR THE SALE OF A TOBACCO PRODUCT BY
13 MEANS OF A VENDING MACHINE OR OTHER MECHANICAL DEVICE USED FOR
14 DISPENSING TOBACCO PRODUCTS.

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

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

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

22 (iii) Distribute to any minor a coupon redeemable for any tobacco
23 product; OR

24 (IV) DISTRIBUTE ANY TOKENS OR ANY OTHER SINGLE USE
25 NONMONETARY MECHANISM TO A MINOR.

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

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

29 (ii) Deliver or sell to a minor cigarette rolling papers; OR

30 (III) DISTRIBUTE ANY TOKENS OR ANY OTHER SINGLE USE
31 NONMONETARY MECHANISM TO A MINOR.

32 (c) The provisions of subsection (b) of this section do not apply to the
33 distribution of a coupon which is redeemable for any tobacco product when the coupon

1 is contained in a newspaper, a magazine, or any other type of publication in which the
2 coupon is incidental to the primary purpose of the publication, or sent through the
3 mail.

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

9 405.

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

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

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

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

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

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

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