
By: **Senators Ruben and Forehand**
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 to**
3 **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 to minors; establishing a
7 certain penalty for a violation of this Act; providing for funding for the
8 conversion of certain vending machines; repealing certain provisions of law that
9 provide an exception to a penalty for a certain sale of a tobacco product by the
10 owner of a tobacco product vending machine; defining a certain term; and
11 generally relating to the sale of tobacco products by vending machines or other
12 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.

21 24-1005.

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

30 24-1006.

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

Article 27 - Crimes and Punishments

1
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 TO A MINOR.

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

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

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

29 (III) DISTRIBUTE ANY TOKENS TO A MINOR.

30 (c) The provisions of subsection (b) of this section do not apply to the
31 distribution of a coupon which is redeemable for any tobacco product when the coupon
32 is contained in a newspaper, a magazine, or any other type of publication in which the

1 coupon is incidental to the primary purpose of the publication, or sent through the
2 mail.

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

8 405.

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

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

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

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

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

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

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