

SENATE BILL 94

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2000 Regular Session
0lr0251

By: **Senator Green**

Introduced and read first time: January 13, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Minors - Possession of Tobacco Products - Loss of Driving Privileges and**
3 **Other Penalties**

4 FOR the purpose of modifying penalties applicable to minors who violate certain
5 tobacco-related prohibitions; increasing the maximum permissible number of
6 hours that an intake officer can require a minor to participate in a supervised
7 work program; requiring the intake officer to offer a minor certain choices for a
8 first or second tobacco-related violation; allowing the intake officer, for a third
9 or subsequent violation, to require the withdrawal of a parent or guardian's
10 consent for the minor's driving privileges; requiring the intake officer to forward
11 the citation to the State's Attorney if consent is not withdrawn; increasing the
12 permissible maximum number of hours in a supervised work program that a
13 juvenile court may require for certain violations; authorizing the juvenile court
14 to order, for a certain period, suspension of driving privileges based on certain
15 repeat violations; making stylistic and technical changes; and generally relating
16 to civil penalties for minors who violate certain prohibitions pertaining to
17 tobacco products.

18 BY repealing and reenacting, without amendments,
19 Article 27 - Crimes and Punishments
20 Section 404(a)(1) and (2) and 406
21 Annotated Code of Maryland
22 (1996 Replacement Volume and 1999 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - Courts and Judicial Proceedings
25 Section 3-801(u), 3-810(l), (m), (n), and (o), and 3-820(d)(3)
26 Annotated Code of Maryland
27 (1998 Replacement Volume and 1999 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article - Courts and Judicial Proceedings
30 Section 3-824(a)(2)
31 Annotated Code of Maryland

1 (1998 Replacement Volume and 1999 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article - Transportation

4 Section 16-206(c)(1) and (5)

5 Annotated Code of Maryland

6 (1999 Replacement Volume and 1999 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Transportation

9 Section 16-206(c)(2)

10 Annotated Code of Maryland

11 (1999 Replacement Volume and 1999 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.

19 406.

20 (a) A minor may not:

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

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

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

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

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

1 **Article - Courts and Judicial Proceedings**

2 3-801.

3 (u) "Violation" means a violation of ARTICLE 27, § 400, § 400A, § 400B, § 401,
4 or § [405A] 406 of [Article 27 of] the Code and § 26-103 of the Education Article for
5 which a citation is issued.

6 3-810.

7 (l) If the intake officer receives a citation other than a citation authorized
8 under Article 27, § [405A] 406 of the Code, the intake officer may:

9 (1) Refer the child to an alcohol education or rehabilitation program;

10 (2) Assign the child to a supervised work program for not more than 20
11 hours for the first violation and not more than 40 hours for the second or subsequent
12 violation;

13 (3) Require the parent or guardian of the child to withdraw the parent's
14 or guardian's consent to the child's license to drive, and advise the Motor Vehicle
15 Administration of the withdrawal of consent; or

16 (4) Forward the citation to the State's Attorney.

17 (m) The intake officer shall forward the citation, other than a citation
18 authorized under Article 27, § [405A] 406 of the Code, to the State's Attorney if:

19 (1) The parent or guardian of the child refuses to withdraw consent to
20 the child's license to drive;

21 (2) The child fails to comply with an alcohol education or rehabilitation
22 program referral; or

23 (3) The child fails to comply with a supervised work program
24 assignment.

25 (n) (1) [If] SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, IF
26 the intake officer receives a citation authorized under Article 27, § [405A] 406 of the
27 Code, the intake officer may:

28 [(1)] (I) Refer the child to a smoking cessation clinic, or other suitable
29 presentation of the hazards associated with tobacco use;

30 [(2)] (II) Assign the child to a supervised work program for not more
31 than [20] 25 hours for the first violation and not more than [40] 50 hours for a second
32 [or subsequent] violation; or

33 [(3)] (III) Forward the citation to the State's Attorney.

1 (2) FOR A FIRST OR SECOND VIOLATION, THE INTAKE OFFICER SHALL
2 OFFER THE CHILD A CHOICE OF:

3 (I) ATTENDING A SMOKING CESSATION CLINIC OR OTHER
4 SUITABLE PRESENTATION OF THE HAZARDS ASSOCIATED WITH TOBACCO USE; OR

5 (II) PARTICIPATING IN A SUPERVISED WORK PROGRAM.

6 (3) FOR A THIRD OR SUBSEQUENT VIOLATION, THE INTAKE OFFICER
7 SHALL:

8 (I) ASSIGN THE CHILD TO A SUPERVISED WORK PROGRAM FOR 50
9 HOURS;

10 (II) REQUIRE THE PARENT, GUARDIAN, OR OTHER INDIVIDUAL
11 WHO SIGNED THE CHILD'S APPLICATION FOR A LICENSE UNDER § 16-107 OF THE
12 TRANSPORTATION ARTICLE TO WITHDRAW CONSENT TO THE CHILD'S DRIVER'S
13 LICENSE OR LEARNER'S INSTRUCTIONAL PERMIT AND ADVISE THE MOTOR VEHICLE
14 ADMINISTRATION OF THE WITHDRAWAL OF CONSENT; OR

15 (III) FORWARD THE CITATION TO THE STATE'S ATTORNEY.

16 (o) The intake officer shall forward the citation authorized under Article 27, §
17 [405A] 406 of the Code to the State's Attorney if:

18 (1) [the] THE child fails to comply with a smoking program referral or a
19 supervised work program assignment described under subsection (n) of this section;
20 OR

21 (2) CONSENT TO THE CHILD'S DRIVER'S LICENSE OR LEARNER'S
22 INSTRUCTIONAL PERMIT IS NOT WITHDRAWN UNDER SUBSECTION (N)(3)(II) OF THIS
23 SECTION.

24 3-820.

25 (d) (3) (i) The provisions of paragraphs (1) and (2) of this subsection do
26 not apply to a child found to have committed a violation under Article 27, § [405A]
27 406 of the Code.

28 (ii) In making a disposition on a finding that the child has
29 committed a violation under Article 27, § [405A] 406 of the Code, the court may:

30 1. Counsel the child or the parent or both, or order the child
31 to participate in a smoking cessation clinic, or other suitable presentation of the
32 hazards associated with tobacco use that is in the best interest of the child;

33 2. Impose a civil fine of not more than \$25 for the first
34 violation and a civil fine of not more than \$100 for a second or subsequent violation;
35 or

1 (iii) It finds that the individual's or child's employment would be
2 adversely affected because the individual or child has no reasonable alternative
3 means of transportation to or from a place of employment; or

4 (iv) It finds that the individual's or child's education would be
5 adversely affected because the individual or child has no reasonable alternative
6 means of transportation for educational purposes.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2000.