

SENATE BILL 271

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SB 396/99 - JPR

2000 Regular Session  
0lr1574

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By: **Senators Ruben, Kelley, Forehand, Lawlah, Dorman, Hooper, Hughes,  
and Hoffman**

Introduced and read first time: January 31, 2000  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted with floor amendments  
Read second time: March 9, 2000

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Tobacco Products - Vending Machines - Access by Minors**

3 FOR the purpose of prohibiting the sale or dispensing of a tobacco product by means  
4 of a vending machine; establishing certain exceptions; establishing a certain  
5 penalty; repealing a certain exemption from certain penalties for sales of tobacco  
6 products to minors for owners of and other persons exercising control over  
7 tobacco product vending machines; defining certain terms; ~~providing for a~~  
8 ~~delayed effective date~~ making this Act contingent on the failure of certain  
9 legislation; and generally relating to tobacco product vending machines and  
10 access to tobacco product vending machines by minors.

11 BY repealing and reenacting, with amendments,  
12 Article 27 - Crimes and Punishments  
13 Section 405  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 1999 Supplement)

16 BY adding to  
17 Article - Business Regulation  
18 Section 16-3A-01 through 16-3A-03, inclusive, to be under the new subtitle  
19 "Subtitle 3A. ~~Placement of~~ Tobacco Product Vending Machines"  
20 Annotated Code of Maryland  
21 (1998 Replacement Volume and 1999 Supplement)

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

1

**Article 27 - Crimes and Punishments**

2 405.

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

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

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

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

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

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

17

**Article - Business Regulation**

18

**SUBTITLE 3A. ~~PLACEMENT OF~~ TOBACCO PRODUCT VENDING MACHINES.**

19 16-3A-01.

20 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
21 INDICATED.

22 (B) (+) "OWNER" MEANS THE PERSON THAT OWNS OR OPERATES AN  
23 ESTABLISHMENT IN WHICH A VENDING MACHINE IS LOCATED.

24 (±) ~~"OWNER" INCLUDES AN AGENT OR EMPLOYEE OF AN OWNER.~~

25 (C) "TOBACCO PRODUCT" MEANS ANY SUBSTANCE CONTAINING TOBACCO,  
26 INCLUDING CIGARETTES, CIGARS, SMOKING TOBACCO, SNUFF, OR SMOKELESS  
27 TOBACCO.

28 (D) "VENDING MACHINE" MEANS ANY MECHANICAL, ELECTRONIC, OR  
29 SIMILAR SELF-SERVICE DEVICE THAT ON INSERTION OF A COIN, COINS, TOKEN, OR  
30 OTHER SIMILAR MEANS DISPENSES A TOBACCO PRODUCT.

31 16-3A-02.

32 (A) ~~EXCEPT AS PROVIDED IN SUBSECTION (B) OR (C) OF THIS SECTION, A~~  
33 PERSON MAY NOT SELL OR DISPENSE OR OFFER TO SELL OR DISPENSE A TOBACCO

1 PRODUCT THROUGH A VENDING MACHINE IN ANY LOCATION IN THE STATE, UNLESS  
2 THE VENDING MACHINE:

3 ~~(B) AN OWNER OF AN ESTABLISHMENT MAY SELL OR DISPENSE OR OFFER TO~~  
4 ~~SELL OR DISPENSE A TOBACCO PRODUCT THROUGH A VENDING MACHINE PLACED IN~~  
5 ~~A LOCATION INSIDE THE ESTABLISHMENT IF THE ESTABLISHMENT IS NOT OPEN TO~~  
6 ~~THE GENERAL PUBLIC OR IS~~

7 ~~(1) IS LOCATED IN AN ESTABLISHMENT THAT MINORS ARE PROHIBITED~~  
8 ~~BY LAW FROM ENTERING; OR AN ESTABLISHMENT THAT IS A BONA FIDE FRATERNAL~~  
9 ~~OR VETERANS ORGANIZATION; OR~~

10 ~~(C) AN OWNER OF AN ESTABLISHMENT THAT IS OPEN TO THE GENERAL~~  
11 ~~PUBLIC MAY SELL OR DISPENSE OR OFFER TO SELL OR DISPENSE A TOBACCO~~  
12 ~~PRODUCT BY MEANS OF A VENDING MACHINE IF THE VENDING MACHINE MAY~~

13 ~~(2) CAN ONLY BE OPERATED WITH A TOKEN, CARD, OR SIMILAR DEVICE~~  
14 ~~THAT AN INDIVIDUAL CAN ONLY OBTAIN OR PURCHASE FROM THE OWNER OR AN~~  
15 ~~EMPLOYEE OR AGENT OF THE OWNER.~~

16 16-3A-03.

17 A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND  
18 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 January 1, 2001 contingent on the failure of S.B. 899 during the 2000 Session of the  
21 General Assembly. If S.B. 899 is enacted, this Act shall be null and void without the  
22 necessity of further action by the General Assembly.