
By: **Delegates Petzold and Frush**

Introduced and read first time: February 5, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Products - Restrictions on Display or Storage**

3 FOR the purpose of prohibiting certain sellers or distributors of tobacco products from
4 displaying or storing products in a certain manner; providing that if a county
5 law is more restrictive than certain provisions of State law, the county law
6 controls; and generally relating to restrictions on the display or storage of
7 tobacco products for sale or distribution.

8 BY repealing and reenacting, with amendments,
9 Article 27 - Crimes and Punishments
10 Section 404
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 2000 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article 27 - Crimes and Punishments
15 Section 405
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 2000 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - Business Regulation
20 Section 16-101(d) and (e) and 16-201(b) and (j)
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2000 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - Business Regulation
25 Section 16-209
26 Annotated Code of Maryland
27 (1998 Replacement Volume and 2000 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 404.

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

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

8 (3) "Distribute" means to:

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

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

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

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

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

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

20 (iii) Distribute to any minor a coupon redeemable for any tobacco
21 product; OR

22 (IV) DISPLAY OR STORE ANY TOBACCO PRODUCT IN ANY PLACE
23 THAT IS ACCESSIBLE TO BUYERS OF THE PRODUCT WITHOUT THE INTERVENTION OF
24 THE SELLER OR AN EMPLOYEE OF THE SELLER.

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.

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

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

6 (E) IF A COUNTY LAW IS MORE RESTRICTIVE THAN SUBSECTION (B)(1)(IV) OF
7 THIS SECTION, THE COUNTY LAW SHALL CONTROL.

8 405.

9 (a) A person who violates § 404(b) of this subheading shall be subject to:

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

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

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

15 (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 16-101.

19 (d) "Sell" means to exchange or transfer, or to agree to exchange or transfer,
20 title or possession of property, in any manner or by any means, for consideration.

21 (e) (1) "Sell cigarettes at retail" means to sell cigarettes to a consumer.

22 (2) "Sell cigarettes at retail" includes selling cigarettes through a
23 vending machine.

24 16-201.

25 (b) "License" means:

26 (1) a license issued by the Comptroller under § 16-205(a) of this subtitle
27 to:

28 (i) act as a manufacturer;

29 (ii) act as a subwholesaler;

30 (iii) act as a vending machine operator;

31 (iv) act as a wholesaler; or

1 (v) act as a storage warehouse; or
2 (2) a license issued by the clerk under § 16-205(b) of this subtitle to act
3 as a retailer.

4 (j) "Retailer" means a person who:

5 (1) sells cigarettes to consumers through vending machines on fewer
6 than 40 premises;

7 (2) otherwise sells cigarettes to consumers; or

8 (3) holds cigarettes for sale to consumers.

9 16-209.

10 (a) A licensee shall display a license in the way that the Comptroller requires
11 by regulation.

12 (b) A licensee who sells cigarettes through a vending machine:

13 (1) shall place each package of cigarettes in the machine so that when
14 the package is visible the tax stamps required by § 12-304 of the Tax - General
15 Article are also visible; and

16 (2) in the way that the Comptroller requires by regulation, shall:

17 (i) identify each vending machine with a conspicuous label that
18 states the licensee's name, address, and telephone number; and

19 (ii) display on a conspicuous label applicable prohibitions and
20 penalties under Article 27, §§ 404 and 405 of the Code.

21 (C) A LICENSED RETAILER MAY NOT DISPLAY OR STORE CIGARETTES IN ANY
22 PLACE THAT IS ACCESSIBLE TO A PURCHASER WITHOUT THE INTERVENTION OF THE
23 SELLER OR AN EMPLOYEE OF THE SELLER.

24 (D) IF A COUNTY LAW IS MORE RESTRICTIVE THAN SUBSECTION (C) OF THIS
25 SECTION, THE COUNTY LAW SHALL CONTROL.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2001.