

HOUSE BILL 132

Unofficial Copy  
J1  
HB 570/01 - JUD

2002 Regular Session  
2lr0404

---

By: **Delegates Petzold and Frush**

Introduced and read first time: January 16, 2002

Assigned to: Economic Matters

---

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, without amendments,  
9 Article - Criminal Law  
10 Section 10-101(a), (b), and (c) and 10-108  
11 Annotated Code of Maryland  
12 (As enacted by Chapter \_\_\_ (H.B. 11) of the Acts of the General Assembly of  
13 2002)

14 BY repealing and reenacting, with amendments,  
15 Article - Criminal Law  
16 Section 10-107  
17 Annotated Code of Maryland  
18 (As enacted by Chapter \_\_\_ (H.B. 11) of the Acts of the General Assembly of  
19 2002)

20 BY repealing and reenacting, without amendments,  
21 Article - Business Regulation  
22 Section 16-101(d) and (e) and 16-201(b) and (j)  
23 Annotated Code of Maryland  
24 (1998 Replacement Volume and 2001 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article - Business Regulation  
27 Section 16-209  
28 Annotated Code of Maryland  
29 (1998 Replacement Volume and 2001 Supplement)

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

3 **Article - Criminal Law**

4 10-101.

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

6 (b) "Distribute" means to:

7 (1) give, sell, deliver, dispense, issue, or offer to give, sell, deliver,  
8 dispense, or issue; or

9 (2) cause or hire a person to give, sell, deliver, dispense, issue or offer to  
10 give, sell, deliver, dispense, or issue.

11 (c) (1) "Tobacco product" means a substance containing tobacco.

12 (2) "Tobacco product" includes cigarettes, cigars, smoking tobacco, snuff,  
13 and smokeless tobacco.

14 10-107.

15 (a) This section does not apply to the distribution of a coupon which is  
16 redeemable for a tobacco product, if the coupon is:

17 (1) contained in a newspaper, magazine, or other type of publication in  
18 which the coupon is incidental to the primary purpose of the publication; or

19 (2) sent through the mail.

20 (b) (1) This subsection does not apply to the distribution of a tobacco product  
21 to a minor who is acting solely as the agent of the minor's employer if the employer  
22 distributes tobacco products for commercial purposes.

23 (2) A person who distributes tobacco products for commercial purposes,  
24 including a person licensed under Title 16 of the Business Regulation Article, may not  
25 distribute to a minor:

26 (i) a tobacco product;

27 (ii) a cigarette rolling paper; or

28 (iii) a coupon redeemable for a tobacco product.

29 (3) A PERSON WHO DISTRIBUTES TOBACCO PRODUCTS FOR  
30 COMMERCIAL PURPOSES, INCLUDING A PERSON LICENSED UNDER TITLE 16 OF THE  
31 BUSINESS REGULATION ARTICLE, MAY NOT DISPLAY OR STORE A TOBACCO PRODUCT  
32 IN ANY PLACE THAT IS ACCESSIBLE TO A PURCHASER OF THE PRODUCT WITHOUT  
33 THE INTERVENTION OF THE SELLER OR AN EMPLOYEE OF THE SELLER.

1 (c) A person not described in subsection (b)(2) of this section may not:

2 (1) purchase for or sell a tobacco product to a minor; or

3 (2) distribute a cigarette rolling paper to a minor.

4 (d) In a prosecution for a violation of this section, it is a defense that the  
5 defendant examined the purchaser's or recipient's driver's license or other valid  
6 identification issued by an employer, government unit, or institution of higher  
7 education that positively identified the purchaser or recipient as at least 18 years of  
8 age.

9 (e) A person who violates this section is guilty of a misdemeanor and on  
10 conviction is subject to a fine not exceeding:

11 (1) \$300 for a first violation;

12 (2) \$1,000 for a second violation occurring within 2 years after the first  
13 violation; and

14 (3) \$3,000 for each subsequent violation occurring within 2 years after  
15 the preceding violation.

16 (f) For purposes of this section, each separate incident at a different time and  
17 occasion is a violation.

18 (G) IF A COUNTY LAW IS MORE RESTRICTIVE THAN SUBSECTION (B)(3) OF THIS  
19 SECTION, THE COUNTY LAW SHALL CONTROL.

20 10-108.

21 (a) In this section, "violation" has the meaning stated in § 3-8A-01 of the  
22 Courts Article.

23 (b) This section does not apply to the possession of a tobacco product or  
24 cigarette rolling paper by a minor who is acting as the agent of the minor's employer  
25 within the scope of employment.

26 (c) A minor may not:

27 (1) use or possess a tobacco product or cigarette rolling paper; or

28 (2) obtain or attempt to obtain a tobacco product or cigarette rolling  
29 paper by using a form of identification that:

30 (i) is falsified; or

31 (ii) identifies an individual other than the minor.

32 (d) (1) A violation of this section is a civil offense.

1 (2) A minor who violates this section is subject to the procedures and  
2 dispositions provided in Title 3, Subtitle 8A of the Courts Article.

3 (e) A law enforcement officer authorized to make arrests shall issue a citation  
4 to a minor if the law enforcement officer has probable cause to believe that the minor  
5 is committing or has committed a violation of this section.

6 **Article - Business Regulation**

7 16-101.

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

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

11 (2) "Sell cigarettes at retail" includes selling cigarettes through a  
12 vending machine.

13 16-201.

14 (b) "License" means:

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

17 (i) act as a manufacturer;

18 (ii) act as a subwholesaler;

19 (iii) act as a vending machine operator;

20 (iv) act as a wholesaler; or

21 (v) act as a storage warehouse; or

22 (2) a license issued by the clerk under § 16-205(b) of this subtitle to act  
23 as a retailer.

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

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

27 (2) otherwise sells cigarettes to consumers; or

28 (3) holds cigarettes for sale to consumers.

1 16-209.

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

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

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

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

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

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

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

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2002.