

HOUSE BILL 435

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HB 344/02 - ECM

2003 Regular Session
3r1733
CF 3r1732

By: **Delegates Walkup, Smigiel, and Sossi**
Introduced and read first time: February 5, 2003
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Kent County - Alcoholic Beverages Inspector - Tobacco and Cigarette**
3 **Enforcement**

4 FOR the purpose of granting to an alcoholic beverages inspector for Kent County the
5 power to enforce certain laws relating to unlawfully selling, distributing,
6 purchasing, or possessing cigarettes and tobacco products; and generally
7 relating to the powers of an alcoholic beverages inspector for Kent County.

8 BY repealing and reenacting, without amendments,
9 Article 2B - Alcoholic Beverages
10 Section 15-112(p)(1)
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2002 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article 2B - Alcoholic Beverages
15 Section 15-112(p)(5)
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2002 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - Criminal Law
20 Section 10-106, 10-107, and 10-108
21 Annotated Code of Maryland
22 (2002 Volume)

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

25 **Article 2B - Alcoholic Beverages**

26 15-112.

27 (p) (1) This subsection applies only in Kent County.

- 1 (5) An alcoholic beverages inspector has the following powers and duties:
- 2 (i) To investigate all applicants for an alcoholic beverages license
3 or transfer of license;
- 4 (ii) To enforce all alcoholic beverages laws of Kent County AND THE
5 TOBACCO AND CIGARETTE LAWS UNDER §§ 10-106, 10-107, AND 10-108 OF THE
6 CRIMINAL LAW ARTICLE with the same powers as a law enforcement officer of the
7 State;
- 8 (iii) To inspect, at unannounced times, every licensed premises at
9 least once every 90 days;
- 10 (iv) To investigate all violations of the alcoholic beverages laws;
- 11 (v) To report all violations of the alcoholic beverages laws to the
12 Board; and
- 13 (vi) To give monthly written reports to the Board covering all:
- 14 1. Inspection activities;
- 15 2. Complaints; and
- 16 3. Violations, either observed or reported.

17 **Article - Criminal Law**

18 10-106.

- 19 (a) A person may not sell or offer for sale a clove cigarette.
- 20 (b) A person who violates this section is guilty of a misdemeanor and on
21 conviction is subject to a fine of \$500.

22 10-107.

- 23 (a) This section does not apply to the distribution of a coupon that is
24 redeemable for a tobacco product, if the coupon is:
- 25 (1) contained in a newspaper, magazine, or other type of publication in
26 which the coupon is incidental to the primary purpose of the publication; or
- 27 (2) sent through the mail.

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

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

4 (i) a tobacco product;

5 (ii) a cigarette rolling paper; or

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

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

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

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

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

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

17 (1) \$300 for a first violation;

18 (2) \$1,000 for a second violation occurring within 2 years after the first
19 violation; and

20 (3) \$3,000 for each subsequent violation occurring within 2 years after
21 the preceding violation.

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

24 10-108.

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

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

30 (c) A minor may not:

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

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

1 (i) is falsified; or

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

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

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

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2003.