
By: **Delegates Petzold, Benson, Conroy, Frush, Goldwater, Madaleno, Moe,
Murray, and Ross**

Introduced and read first time: February 5, 2003

Assigned to: Health and Government Operations

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 certain
5 provisions of State law do not preempt the enactment or enforcement of certain
6 local ordinances; and generally relating to restrictions on the display or storage
7 of 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 (2002 Volume)

13 BY repealing and reenacting, with amendments,
14 Article - Criminal Law
15 Section 10-107
16 Annotated Code of Maryland
17 (2002 Volume)

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 2002 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 2002 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 that 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) NOTHING IN SUBSECTION (B)(3) OF THIS SECTION SHALL BE CONSTRUED
19 TO PREEMPT THE ENACTMENT OR ENFORCEMENT OF LOCAL ORDINANCES
20 RESTRICTING THE DISPLAY OR STORAGE OF A TOBACCO PRODUCT.

21 10-108.

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

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

27 (c) A minor may not:

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

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

31 (i) is falsified; or

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

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

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 § 10-107 of the Criminal Law Article.

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) NOTHING IN SUBSECTION (C) OF THIS SECTION SHALL BE CONSTRUED TO
17 PREEMPT THE ENACTMENT OR ENFORCEMENT OF LOCAL ORDINANCES
18 RESTRICTING THE DISPLAY OR STORAGE OF A TOBACCO PRODUCT.

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