
By: **Carroll County Senators and Garrett County Senators**

Introduced and read first time: February 8, 2005

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Carroll County and Garrett County - Display of Tobacco Products**

3 FOR the purpose of prohibiting certain persons who own or operate a business
4 engaging in the retail sale of tobacco products from storing or displaying a
5 tobacco product in a certain manner in Carroll County or Garrett County;
6 providing that the prohibition does not apply to sales of certain tobacco products
7 from certain vending machines, certain tobacconist establishments, and certain
8 businesses; providing that a person who violates certain provisions regarding
9 the display of tobacco products is committing a civil infraction; providing for the
10 issuance of a certain citation by certain persons, the contents of the citation, and
11 the amount of the civil penalties for certain violations; requiring a certain
12 county health officer to retain a copy of a certain citation; authorizing a person
13 who receives a certain citation to elect to stand trial; providing for the
14 procedures and venue for certain trials of the civil infraction; providing that
15 certain civil penalties, and forfeitures collected by a District Court for certain
16 violations be remitted to the county in which the violation occurred; requiring a
17 violation of this Act to be prosecuted in the same manner and to the same extent
18 as a municipal infraction; authorizing the County Commissioners of Carroll
19 County and Garrett County to authorize the county attorney of the respective
20 county to prosecute a certain civil infraction; providing that if a person has
21 committed a certain civil infraction, the person shall be liable for certain court
22 costs; providing that a certain violation is not a criminal violation and does not
23 impose certain civil disabilities; providing that the District Court has original
24 civil jurisdiction for civil infractions under this Act; defining a certain term; and
25 generally relating to the restriction of the display of tobacco products in Carroll
26 County and Garrett County.

27 BY adding to

28 Article 24 - Political Subdivisions - Miscellaneous Provisions
29 Section 15-101 through 15-104, inclusive, to be under the new title "Title 15.
30 Tobacco Product Sales"
31 Annotated Code of Maryland
32 (2001 Replacement Volume and 2004 Supplement)

33 BY repealing and reenacting, with amendments,

1 Article - Courts and Judicial Proceedings
2 Section 4-401(10)(xi) and (xii)
3 Annotated Code of Maryland
4 (2002 Replacement Volume and 2004 Supplement)

5 BY adding to
6 Article - Courts and Judicial Proceedings
7 Section 4-401(10)(xiii)
8 Annotated Code of Maryland
9 (2002 Replacement Volume and 2004 Supplement)

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

12 **Article 24 - Political Subdivisions - Miscellaneous Provisions**

13 **TITLE 15. TOBACCO PRODUCT SALES.**

14 15-101.

15 THIS TITLE APPLIES ONLY IN:

- 16 (1) CARROLL COUNTY; AND
17 (2) GARRETT COUNTY.

18 15-102.

19 (A) IN THIS SECTION, "TOBACCO PRODUCT" MEANS CIGARETTES, CIGARS,
20 SMOKING TOBACCO, SNUFF, SMOKELESS TOBACCO, OR ANY SIMILAR PRODUCT
21 CONTAINING TOBACCO.

22 (B) THIS SECTION DOES NOT APPLY TO:

23 (1) THE SALE OF A TOBACCO PRODUCT FROM A VENDING MACHINE
24 THAT COMPLIES WITH THE REQUIREMENTS OF STATE LAW;

25 (2) A TOBACCONIST ESTABLISHMENT THAT ENGAGES PRIMARILY IN
26 THE SALE OF TOBACCO PRODUCTS OTHER THAN CIGARETTES, AS DEFINED IN §
27 16-101 OF THE BUSINESS REGULATION ARTICLE; OR

28 (3) A BUSINESS THAT ENGAGES PRIMARILY IN THE SALE OF BEER, WINE,
29 AND LIQUOR FOR RETAIL.

30 (C) A PERSON WHO OWNS OR OPERATES A BUSINESS THAT ENGAGES IN THE
31 RETAIL SALE OF A TOBACCO PRODUCT MAY NOT STORE OR DISPLAY A TOBACCO
32 PRODUCT UNLESS THE TOBACCO PRODUCT:

- 33 (1) IS NOT IMMEDIATELY ACCESSIBLE TO CUSTOMERS; AND

1 (2) IS ACCESSIBLE ONLY TO THE OWNER OR OPERATOR OF THE
2 BUSINESS OR AN AGENT OR EMPLOYEE OF THE OWNER OR OPERATOR.

3 (D) A PERSON WHO VIOLATES SUBSECTION (C) OF THIS SECTION IS
4 COMMITTING A CIVIL INFRACTION AND IS SUBJECT TO A CIVIL PENALTY OF:

5 (1) \$100 FOR THE FIRST VIOLATION; AND

6 (2) \$300 FOR ANY SUBSEQUENT VIOLATION.

7 (E) A CITATION FOR A SECOND VIOLATION MAY NOT BE ISSUED WITHIN 30
8 DAYS AFTER THE DATE OF THE FIRST CITATION.

9 (F) AFTER A CITATION IS ISSUED FOR A SECOND VIOLATION, A CITATION MAY
10 BE ISSUED EACH DAY THAT THE VIOLATION CONTINUES AFTER THE DATE OF THE
11 SECOND CITATION.

12 15-103.

13 (A) A COUNTY HEALTH OFFICER OR A DESIGNEE OF A COUNTY HEALTH
14 OFFICER MAY ISSUE A CIVIL CITATION TO A PERSON WHO VIOLATES § 15-102 OF THIS
15 TITLE.

16 (B) A CITATION ISSUED UNDER THIS TITLE SHALL INCLUDE:

17 (1) THE NAME AND ADDRESS OF THE PERSON CHARGED;

18 (2) THE NATURE OF THE VIOLATION;

19 (3) THE LOCATION AND TIME OF THE VIOLATION;

20 (4) THE AMOUNT OF THE CIVIL PENALTY;

21 (5) THE MANNER, LOCATION, AND TIME IN WHICH THE CIVIL PENALTY
22 MAY BE PAID;

23 (6) THE CITED PERSON'S RIGHT TO ELECT TO STAND TRIAL FOR THE
24 VIOLATION; AND

25 (7) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OR TO
26 CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:

27 (I) IS AN ADMISSION OF LIABILITY; AND

28 (II) MAY RESULT IN AN ENTRY OF A DEFAULT JUDGMENT THAT
29 MAY INCLUDE THE CIVIL PENALTY, COURT COSTS, AND ADMINISTRATIVE EXPENSES.

30 (C) THE COUNTY HEALTH OFFICER SHALL RETAIN A COPY OF THE CITATION.

1 15-104.

2 (A) A PERSON WHO RECEIVES A CITATION UNDER THIS TITLE MAY ELECT TO
3 STAND TRIAL FOR THE OFFENSE BY FILING WITH THE COUNTY HEALTH OFFICER A
4 NOTICE OF INTENTION TO STAND TRIAL.

5 (B) THE PERSON ELECTING TO STAND TRIAL SHALL GIVE NOTICE AT LEAST 5
6 DAYS BEFORE THE DATE SET FORTH IN THE CITATION FOR THE PAYMENT OF THE
7 CIVIL PENALTY.

8 (C) AFTER RECEIVING A NOTICE OF INTENTION TO STAND TRIAL, THE
9 COUNTY HEALTH OFFICER SHALL FORWARD THE NOTICE TO THE DISTRICT COURT
10 HAVING VENUE, WITH A COPY OF THE CITATION.

11 (D) AFTER RECEIVING THE CITATION AND NOTICE, THE DISTRICT COURT
12 SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT OF THE TRIAL
13 DATE.

14 (E) ALL PENALTIES AND FORFEITURES COLLECTED BY THE DISTRICT COURT
15 FOR VIOLATIONS OF THIS TITLE SHALL BE REMITTED TO THE COUNTY IN WHICH THE
16 VIOLATION OCCURRED.

17 (F) IN A PROCEEDING BEFORE THE DISTRICT COURT, A VIOLATION SHALL BE
18 PROSECUTED IN THE SAME MANNER AND TO THE SAME EXTENT AS A MUNICIPAL
19 INFRACTION UNDER ARTICLE 23A, § 3(B)(7) THROUGH (15) OF THE CODE.

20 (G) THE COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE
21 VIOLATION OCCURRED MAY AUTHORIZE THE COUNTY ATTORNEY TO PROSECUTE A
22 CIVIL INFRACTION UNDER THIS TITLE.

23 (H) IF THE DISTRICT COURT FINDS THAT A PERSON HAS COMMITTED A CIVIL
24 INFRACTION UNDER THIS TITLE, THE PERSON SHALL BE LIABLE FOR THE COSTS OF
25 THE COURT PROCEEDINGS.

26 (I) THE FINDING BY THE DISTRICT COURT OF A VIOLATION UNDER THIS
27 TITLE IS NOT A CRIMINAL CONVICTION AND DOES NOT IMPOSE ANY OF THE CIVIL
28 DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

29 **Article - Courts and Judicial Proceedings**

30 4-401.

31 Except as provided in § 4-402 of this subtitle, and subject to the venue
32 provisions of Title 6 of this article, the District Court has exclusive original civil
33 jurisdiction in:

34 (10) A proceeding for adjudication of:

35 (xi) A subdivision violation for which a civil penalty has been
36 provided in accordance with Article 66B, § 14.07(f) of the Code; [or]

1 (xii) A violation under Title 10, Subtitle 1, Part III of the Criminal
2 Law Article; OR

3 (XIII) A CIVIL INFRACTION RELATING TO THE STORAGE OF TOBACCO
4 PRODUCTS UNDER ARTICLE 24, TITLE 15 OF THE CODE;

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2005.