

HOUSE BILL 447

L2

71r1792

By: **St. Mary's County Delegation**

Introduced and read first time: February 5, 2007

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 13, 2007

CHAPTER _____

1 AN ACT concerning

2 **St. Mary's County – Distribution of Tobacco Products to Minors – Prohibition**
3 **and Penalties**

4 FOR the purpose of prohibiting the distribution of certain tobacco products, cigarette
5 rolling papers, and tobacco-related coupons to minors in St. Mary's County;
6 creating certain defenses to a violation of this Act; establishing certain civil
7 penalties; granting jurisdiction to the District Court to adjudicate violations of
8 this Act; defining certain terms; making certain conforming and clarifying
9 changes; and generally relating to the illegal distribution of tobacco and
10 tobacco-related products to minors in St. Mary's County.

11 BY repealing

12 Article 24 – Political Subdivisions – Miscellaneous Provisions

13 Section 15–101

14 Annotated Code of Maryland

15 (2005 Replacement Volume and 2006 Supplement)

16 BY adding to

17 Article 24 – Political Subdivisions – Miscellaneous Provisions

18 Section 15–101 and 15–102.1

19 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2005 Replacement Volume and 2006 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article 24 – Political Subdivisions – Miscellaneous Provisions
4 Section 15–102 and 15–103
5 Annotated Code of Maryland
6 (2005 Replacement Volume and 2006 Supplement)

7 BY repealing and reenacting, without amendments,
8 Article 24 – Political Subdivisions – Miscellaneous Provisions
9 Section 15–104
10 Annotated Code of Maryland
11 (2005 Replacement Volume and 2006 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Courts and Judicial Proceedings
14 Section 4–401(10)(xiii)
15 Annotated Code of Maryland
16 (2006 Replacement Volume)

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

19 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

20 [15–101.

21 This title applies only in:

22 (1) Carroll County; and

23 (2) Garrett County.]

24 **15–101.**

25 **IN THIS TITLE, “TOBACCO PRODUCT” MEANS CIGARETTES, CIGARS,**
26 **SMOKING TOBACCO, SNUFF, SMOKELESS TOBACCO, OR ANY SIMILAR PRODUCT**
27 **CONTAINING TOBACCO.**

28 15–102.

1 (a) [In this section, “tobacco product” means cigarettes, cigars, smoking
2 tobacco, snuff, smokeless tobacco, or any similar product containing tobacco.] **THIS**
3 **SECTION APPLIES ONLY IN:**

4 (1) **CARROLL COUNTY; AND**

5 (2) **GARRETT COUNTY.**

6 (b) This section does not apply to:

7 (1) The sale of a tobacco product from a vending machine that
8 complies with the requirements of State law;

9 (2) A tobacconist establishment that engages primarily in the sale of
10 tobacco products other than cigarettes, as defined in § 16–101 of the Business
11 Regulation Article; or

12 (3) A business that engages primarily in the sale of beer, wine, and
13 liquor for retail.

14 (c) A person who owns or operates a business that engages in the retail sale
15 of a tobacco product may not store or display a tobacco product unless the tobacco
16 product:

17 (1) Is not immediately accessible to customers; and

18 (2) Is accessible only to the owner or operator of the business or an
19 agent or employee of the owner or operator.

20 (d) A person who violates subsection (c) of this section is committing a civil
21 infraction and is subject to a civil penalty of:

22 (1) \$100 for the first violation; and

23 (2) \$300 for any subsequent violation.

24 (e) A citation for a second violation may not be issued within 30 days after
25 the date of the first citation.

26 (f) After a citation is issued for a second violation, a citation may be issued
27 each day that the violation continues after the date of the second citation.

1 **15-102.1.**

2 (A) **IN THIS SECTION, “DISTRIBUTE” MEANS TO:**

3 (1) **GIVE, SELL, DELIVER, DISPENSE, OR ISSUE;**

4 (2) **OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR**

5 (3) **CAUSE OR HIRE ANY PERSON TO GIVE, SELL, DELIVER,**
6 **DISPENSE, OR ISSUE OR OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE.**

7 (B) **THIS SECTION APPLIES ONLY IN ST. MARY’S COUNTY.**

8 (C) **A PERSON MAY NOT:**

9 (1) **DISTRIBUTE ANY TOBACCO PRODUCT TO A MINOR, UNLESS**
10 **THE MINOR IS ACTING SOLELY AS THE AGENT OF THE MINOR’S EMPLOYER WHO**
11 **IS ENGAGED IN THE BUSINESS OF DISTRIBUTING TOBACCO PRODUCTS;**

12 (2) **DISTRIBUTE CIGARETTE ROLLING PAPERS TO A MINOR; OR**

13 (3) **SUBJECT TO SUBSECTION (D) OF THIS SECTION, DISTRIBUTE**
14 **TO A MINOR A COUPON REDEEMABLE FOR A TOBACCO PRODUCT.**

15 (D) **SUBSECTION (C)(3) OF THIS SECTION DOES NOT APPLY TO THE**
16 **DISTRIBUTION OF A COUPON THAT IS REDEEMABLE FOR A TOBACCO PRODUCT**
17 **IF THE COUPON:**

18 (1) **IS CONTAINED IN A NEWSPAPER, MAGAZINE, OR OTHER TYPE**
19 **OF PUBLICATION AND THE COUPON IS INCIDENTAL TO THE PRIMARY PURPOSE**
20 **OF THE PUBLICATION; OR**

21 (2) **IS SENT THROUGH THE MAIL.**

22 (E) **A PERSON HAS NOT VIOLATED THIS SECTION IF:**

23 (1) **THE PERSON EXAMINED THE DRIVER’S LICENSE OR OTHER**
24 **VALID GOVERNMENT-ISSUED IDENTIFICATION PRESENTED BY THE RECIPIENT**

1 OF A TOBACCO PRODUCT, CIGARETTE ROLLING PAPER, OR COUPON
2 REDEEMABLE FOR A TOBACCO PRODUCT; AND

3 (2) THE LICENSE OR OTHER IDENTIFICATION POSITIVELY
4 IDENTIFIED THE RECIPIENT AS BEING AT LEAST 18 YEARS OLD.

5 (F) A PERSON WHO VIOLATES THIS SECTION IS COMMITTING A CIVIL
6 INFRACTION AND IS SUBJECT TO A CIVIL PENALTY OF:

7 (1) \$300 FOR THE FIRST VIOLATION; AND

8 (2) \$500 FOR ANY SUBSEQUENT VIOLATION WITHIN A 24-MONTH
9 PERIOD FROM THE PREVIOUS CITATION.

10 15–103.

11 (a) A county health officer or a designee of a county health officer may issue
12 a civil citation to a person who violates [§ 15–102] ANY PROVISION of this title.

13 (b) A citation issued under this title shall include:

14 (1) The name and address of the person charged;

15 (2) The nature of the violation;

16 (3) The location and time of the violation;

17 (4) The amount of the civil penalty;

18 (5) The manner, location, and time in which the civil penalty may be
19 paid;

20 (6) The cited person's right to elect to stand trial for the violation; and

21 (7) A warning that failure to pay the civil penalty or to contest liability
22 in a timely manner in accordance with the citation:

23 (i) Is an admission of liability; and

24 (ii) May result in an entry of a default judgment that may
25 include the civil penalty, court costs, and administrative expenses.

1 (c) The county health officer shall retain a copy of the citation.

2 15–104.

3 (a) A person who receives a citation under this title may elect to stand trial
4 for the offense by filing with the county health officer a notice of intention to stand
5 trial.

6 (b) The person electing to stand trial shall give notice at least 5 days before
7 the date set forth in the citation for the payment of the civil penalty.

8 (c) After receiving a notice of intention to stand trial, the county health
9 officer shall forward the notice to the District Court having venue, with a copy of the
10 citation.

11 (d) After receiving the citation and notice, the District Court shall schedule
12 the case for trial and notify the defendant of the trial date.

13 (e) All penalties and forfeitures collected by the District Court for violations
14 of this title shall be remitted to the county in which the violation occurred.

15 (f) In a proceeding before the District Court, a violation shall be prosecuted
16 in the same manner and to the same extent as a municipal infraction under Article
17 23A, § 3(b)(7) through (15) of the Code.

18 (g) The county commissioners of the county in which the violation occurred
19 may authorize the county attorney to prosecute a civil infraction under this title.

20 (h) If the District Court finds that a person has committed a civil infraction
21 under this title, the person shall be liable for the costs of the court proceedings.

22 (i) The finding by the District Court of a violation under this title is not a
23 criminal conviction and does not impose any of the civil disabilities ordinarily imposed
24 by a criminal conviction.

25 **Article – Courts and Judicial Proceedings**

26 4–401.

27 Except as provided in § 4–402 of this subtitle, and subject to the venue
28 provisions of Title 6 of this article, the District Court has exclusive original civil
29 jurisdiction in:

1 (10) A proceeding for adjudication of:
2 (xiii) A civil infraction relating to the storage **OR DISTRIBUTION**
3 of tobacco products under Article 24, Title 15 of the Code;
4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.