

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 447
Judiciary

(St. Mary's County Delegation)

Judicial Proceedings

St. Mary's County - Distribution of Tobacco Products to Minors - Prohibition
and Penalties

This bill prohibits the "distribution" of any tobacco products, cigarette rolling papers, and tobacco-related coupons to minors in St. Mary's County. A violator of this civil infraction is subject to a civil penalty of \$300 for a first violation and \$500 for any subsequent violation within a 24-month period from the previous violation. A violation has not occurred, if the person examined specified identification and that identification identifies the recipient as being at least 18 years old. The bill grants jurisdiction for violations of these provisions to the District Court.

Fiscal Summary

State Effect: Minimal. This bill effectively reduces a criminal law penalty in St. Mary's County to a civil infraction. General fund revenues would likely decrease, depending on the extent to which civil citations are paid to the county rather than contested in District Court. No effect on expenditures.

Local Effect: Minimal. Any civil fines from citations would accrue to St. Mary's County, which estimates that 30 civil citations would be paid each year. Assuming first violations, this would produce \$9,000 annually in new revenue. Any fines from contested cases would continue to go to the State general fund. Current tobacco control enforcement efforts in the county would continue.

Small Business Effect: Minimal.

Analysis

Current Law: A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16 of the Business Regulation Article, may not distribute to a minor a tobacco product, a cigarette rolling paper, or a coupon redeemable for a tobacco product. A person other than a commercial distributor may not purchase for or sell a tobacco product to a minor or distribute cigarette rolling papers to a minor.

These prohibitions do not apply to the distribution of a tobacco product to a minor who is acting solely as the agent of the minor's employer if the employer distributes tobacco products for commercial purposes.

A violator is guilty of a misdemeanor and subject to the following penalties:

- \$300 for a first offense;
- \$1,000 for a second offense occurring within two years after the first offense; and
- \$3,000 for each subsequent violation occurring within two years after the preceding offense.

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

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

Carroll and Garrett counties have specified tobacco product storage and display prohibitions for a person who owns or operates a business that engages in the retail sale of a tobacco product. A violator is subject to civil penalties.

A minor may not:

- use or possess a tobacco product or cigarette rolling paper; or
- obtain or attempt to obtain a tobacco product or cigarette rolling paper by using a form of identification that is falsified or identifies an individual other than the minor.

A violation of this prohibition is a civil offense.

After a finding that a child has used or possessed a tobacco product or cigarette rolling paper or obtained or attempted to obtain a tobacco product or cigarette rolling papers by using a false form of identification, the court may:

- counsel the child and/or the parent, or order the child to participate in a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use that is in the best interest of the child;
- impose a civil fine of not more than \$25 for the first violation and not more than \$100 for a second or subsequent violation; or
- order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for a second or subsequent violation.

Background: Money from the Cigarette Restitution Fund currently appropriated to the St. Mary's County health department for enforcement of tobacco control laws in the county must be used for these purposes. The county sheriff's office uses these funds to perform compliance checks on tobacco retailers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): St. Mary's County, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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