

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1017

(Senators Muse and Miller)

Judicial Proceedings

Judiciary

Crimes - Tobacco Paraphernalia - Distribution to Minors

This emergency bill prohibits the distribution of “tobacco paraphernalia” to a minor. Current law penalties for prohibited distributions of tobacco products apply. The bill substitutes the term “tobacco paraphernalia” for reference to a cigarette rolling paper under the general provisions of the Criminal Law Article relating to crimes against public health and safety and pertaining to tobacco.

Fiscal Summary

State Effect: Potential minimum increase in revenues due to applicability of existing monetary penalty provisions. Expenditures are not affected.

Local Effect: Any increase in civil fines, counseling costs, or supervised work program costs are not expected to significantly affect local revenues or expenditures.

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, it is a defense that the defendant examined the purchaser's or recipient's driver's license or other valid identification that positively identified the purchaser or recipient as at least 18 years of age.

The prohibitions do 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 a 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 a first violation and not more than 40 hours for a second or subsequent violation.

Under provisions relating to prohibited controlled dangerous substances paraphernalia, to determine whether an object is drug paraphernalia, a court must consider, among other specified or logically relevant factors, whether the owner or a person in control of the object is a licensed distributor or dealer of tobacco products or other legitimate supplier of related items to the community. Tobacco is not categorized as a controlled dangerous substance under federal or State law.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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