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April 22, 2008

The Honorable Martin J. O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

RE: Senate Bill 822 and House Bill 148

Dear Governor O'Malley:

We have reviewed and hereby approve for constitutionality Senate Bill 822, "Carroll County - Distribution of Tobacco Products to Minors - Prohibition and Penalties," and House Bill 148, "Garrett County - Tobacco Products - Distribution to Minors." We write to discuss the interaction between the two bills.

Senate Bill 822 adds Carroll County to a section of law currently applicable only in St. Mary's County. That section prohibits the distribution of any tobacco product to a minor unless the minor is acting solely as the agent of the minor's employer who is engaged in the business of distributing tobacco products. The section also prohibits the distribution of cigarette rolling papers or coupons redeemable for cigarettes to a minor. Current law imposes a civil penalty of \$300 for a first violation of the section and \$500 for any subsequent violations within a 24-month period from the first violation. As Senate Bill 822 is drafted, this penalty would also apply to violations in Carroll County.

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House Bill 148 adds Garrett County to the same section of law amended by Senate Bill 822. This bill, however, provides that in Garrett County, the civil fine is \$300 for all offenses. In an attempt to preserve the increased penalty for subsequent offenses in St. Mary's County, House Bill 148 amends the existing penalty provision to state that it applies "[i]n St. Mary's County" but omitted Carroll County. Despite this, we believe that it is clear that the intent of the legislature that the existing penalties apply in Carroll County as well, and the section should be amended to make this clear in next year's corrective bill.

Very truly yours,



Douglas P. Gansler
Attorney General

DFG/KMR/kk

cc: The Honorable David R. Brinkley
The Honorable Pamela Beidle
The Honorable Dennis C. Schnepfe
Joseph Bryce
Karl Aro