

# SENATE BILL 362

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By: **Senator Muse**

Introduced and read first time: January 30, 2008

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Tobacco Paraphernalia**

3 FOR the purpose of establishing certain requirements for the storage, display, and  
4 sale of tobacco paraphernalia; requiring certain information to be recorded for  
5 certain transactions; prohibiting a retailer from selling certain tobacco  
6 paraphernalia unless the purchaser complies with certain requirements;  
7 establishing certain record keeping requirements; providing for the  
8 confidentiality of certain records; establishing certain civil and criminal  
9 penalties for certain violations of this Act; requiring the Comptroller to adopt  
10 certain regulations; defining certain terms; providing for the application of this  
11 Act; and generally relating to the sale of tobacco paraphernalia.

12 BY adding to

13 Article – Business Regulation

14 Section 16–701 through 16–706 to be under the new subtitle “Subtitle 7. Sale of  
15 Tobacco Paraphernalia”

16 Annotated Code of Maryland

17 (2004 Replacement Volume and 2007 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – Criminal Law

20 Section 10–101(c) and 10–107(b), (c), and (d)

21 Annotated Code of Maryland

22 (2002 Volume and 2007 Supplement)

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

25 **Article – Business Regulation**

26 **SUBTITLE 7. SALE OF TOBACCO PARAPHERNALIA.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **16-701.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (B) "LOGBOOK" MEANS A WRITTEN OR ELECTRONIC RECORD  
5 CONTAINING INFORMATION ABOUT THE RETAIL SALE OF TOBACCO  
6 PARAPHERNALIA.

7 (C) "RETAILER" MEANS A PERSON WHO OWNS OR OPERATES A  
8 BUSINESS THAT ENGAGES IN THE RETAIL SALE OF TOBACCO PARAPHERNALIA.

9 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
10 SUBSECTION, "TOBACCO PARAPHERNALIA" HAS THE MEANING STATED IN §  
11 10-101(C) OF THE CRIMINAL LAW ARTICLE.

12 (2) "TOBACCO PARAPHERNALIA" DOES NOT INCLUDE A  
13 CIGARETTE ROLLING PAPER.

14 **16-702.**

15 THIS SUBTITLE DOES NOT APPLY TO THE SALE OR DISTRIBUTION OF A  
16 TOBACCO PRODUCT, AS DEFINED IN § 16-3A-01 OF THIS TITLE.

17 **16-703.**

18 A RETAILER SHALL STORE OR DISPLAY TOBACCO PARAPHERNALIA SO  
19 THAT THE PARAPHERNALIA IS ACCESSIBLE ONLY TO THE RETAILER OR AN  
20 AGENT OR EMPLOYEE OF THE RETAILER.

21 **16-704.**

22 (A) (1) EACH RETAILER SHALL KEEP A LOGBOOK.

23 (2) THE LOGBOOK SHALL INCLUDE THE FOLLOWING  
24 INFORMATION ABOUT EACH TRANSACTION INVOLVING THE RETAIL SALE OF  
25 TOBACCO PARAPHERNALIA:

26 (I) THE NAME OF THE PRODUCT;

27 (II) THE SIGNATURE OF THE PURCHASER;

28 (III) THE NAME AND ADDRESS OF THE PURCHASER;

1 (IV) THE QUANTITY OF PRODUCT SOLD;

2 (V) THE DOLLAR AMOUNT OF THE PURCHASE; AND

3 (VI) THE DATE OF PURCHASE.

4 (B) A RETAILER MAY NOT SELL ANY FORM OF TOBACCO  
5 PARAPHERNALIA UNLESS THE PURCHASER:

6 (1) SIGNS THE LOGBOOK MAINTAINED BY THE RETAILER;

7 (2) PROVIDES ONE OF THE FOLLOWING FORMS OF PHOTO  
8 IDENTIFICATION:

9 (I) A DRIVER'S LICENSE;

10 (II) A MILITARY IDENTIFICATION CARD;

11 (III) A PASSPORT ISSUED BY THE UNITED STATES OR A  
12 FOREIGN COUNTRY;

13 (IV) AN ALIEN REGISTRATION OR PERMANENT RESIDENT  
14 CARD; OR

15 (V) ANY OTHER IDENTIFICATION CARD ISSUED BY A LOCAL,  
16 STATE, OR FEDERAL GOVERNMENT ENTITY; AND

17 (3) PROVIDES THE PURCHASER'S NAME AND ADDRESS.

18 (C) A RETAILER SHALL REFUSE TO SELL TOBACCO PARAPHERNALIA IF:

19 (1) THE PURCHASER REFUSES TO SIGN THE LOGBOOK;

20 (2) THE PURCHASER REFUSES TO PROVIDE THE INFORMATION  
21 REQUIRED BY SUBSECTION (B) OF THIS SECTION; OR

22 (3) THE NAME PROVIDED BY THE PURCHASER DOES NOT  
23 CORRESPOND WITH THE NAME ON THE PURCHASER'S PHOTO IDENTIFICATION.

24 16-705.

25 (A) A RETAILER SHALL KEEP THE RECORDS REQUIRED BY THIS  
26 SUBTITLE FOR 2 YEARS AFTER THE DATE OF THE TRANSACTION.

1           **(B) A RETAILER SHALL SUBMIT A COPY OF EACH RECORD TO THE**  
2 **COMPTROLLER AT INTERVALS ESTABLISHED BY THE COMPTROLLER.**

3           **(C) A RETAILER SHALL ALLOW AN AUTHORIZED REPRESENTATIVE OF**  
4 **THE COMPTROLLER TO ENTER THE RETAILER'S PLACE OF BUSINESS DURING**  
5 **BUSINESS HOURS TO INSPECT A RECORD REQUIRED TO BE KEPT UNDER THIS**  
6 **SUBTITLE.**

7           **(D) A COPY OF A RECORD SUBMITTED OR INSPECTED UNDER THIS**  
8 **SECTION:**

9                   **(1) SHALL BE KEPT CONFIDENTIAL;**

10                   **(2) IS NOT A PUBLIC RECORD; AND**

11                   **(3) IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE STATE**  
12 **GOVERNMENT ARTICLE.**

13           **(E) THE COMPTROLLER SHALL ADOPT REGULATIONS REGARDING THE**  
14 **RECORD KEEPING AND RECORD SUBMISSION REQUIREMENTS OF THIS**  
15 **SUBTITLE.**

16 **16-706.**

17           **(A) (1) A RETAILER WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A**  
18 **CIVIL PENALTY NOT EXCEEDING:**

19                   **(I) \$300 FOR A FIRST VIOLATION; AND**

20                   **(II) \$500 FOR A SECOND VIOLATION OCCURRING WITHIN 2**  
21 **YEARS AFTER THE PRECEDING VIOLATION.**

22                   **(2) SUBJECT TO THE HEARING PROVISIONS IN TITLE 10,**  
23 **SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE COMPTROLLER MAY**  
24 **SUSPEND OR REVOKE A RETAILER'S LICENSE FOR A THIRD VIOLATION.**

25           **(B) A PURCHASER WHO PROVIDES FALSE OR MISLEADING**  
26 **INFORMATION OR IDENTIFICATION AS REQUIRED BY THIS SUBTITLE IS GUILTY**  
27 **OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**  
28 **EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.**

1 10–101.

2 (c) (1) “Tobacco paraphernalia” means any object used, intended for use,  
3 or designed for use in inhaling or otherwise introducing tobacco products into the  
4 human body.

5 (2) “Tobacco paraphernalia” includes:

6 (i) a cigarette rolling paper;

7 (ii) a metal, wooden, acrylic, glass, stone, plastic, or ceramic  
8 pipe with or without screen, permanent screen, or punctured metal bowl;

9 (iii) a water pipe;

10 (iv) a carburetion tube or device;

11 (v) a smoking or carburetion mask;

12 (vi) an object known as a roach clip used to hold burning  
13 material, such as a cigarette that has become too small or too short to be held in the  
14 hand;

15 (vii) a chamber pipe;

16 (viii) a carburetor pipe;

17 (ix) an electric pipe;

18 (x) an air–driven pipe;

19 (xi) a chillum;

20 (xii) a bong; and

21 (xiii) an ice pipe or chiller.

22 10–107.

23 (b) (1) This subsection does not apply to the distribution of a tobacco  
24 product or tobacco paraphernalia to a minor who is acting solely as the agent of the  
25 minor’s employer if the employer distributes tobacco products or tobacco  
26 paraphernalia for commercial purposes.

27 (2) A person who distributes tobacco products for commercial  
28 purposes, including a person licensed under Title 16 of the Business Regulation  
29 Article, may not distribute to a minor:

- 1                   (i)     a tobacco product;
- 2                   (ii)    tobacco paraphernalia; or
- 3                   (iii)   a coupon redeemable for a tobacco product.

4           (c)     A person not described in subsection (b)(2) of this section may not:

- 5                   (1)     purchase for or sell a tobacco product to a minor; or
- 6                   (2)     distribute tobacco paraphernalia to a minor.

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

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2008.