

HOUSE BILL 941

L2

9lr0772

By: **Cecil County Delegation**

Introduced and read first time: February 12, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Cecil County - Tobacco Products - Distribution to Minors**

3 FOR the purpose of prohibiting a person from distributing certain tobacco-containing
4 and tobacco-related products to a minor in Cecil County; establishing a certain
5 civil infraction and certain civil penalty; authorizing a certain law enforcement
6 officer in Cecil County to issue certain civil citations in certain circumstances;
7 requiring certain persons issued a certain citation in Cecil County to file a
8 certain notice with a certain District Court in order to elect to stand trial for a
9 certain offense; and generally relating to the distribution of tobacco products to
10 minors in Cecil County.

11 BY repealing and reenacting, with amendments,
12 Article 24 – Political Subdivisions – Miscellaneous Provisions
13 Section 15–102.1, 15–103, and 15–104
14 Annotated Code of Maryland
15 (2005 Replacement Volume and 2008 Supplement)

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

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

19 15–102.1.

20 (a) In this section, “distribute” means to:

21 (1) Give, sell, deliver, dispense, or issue;

22 (2) Offer to give, sell, deliver, dispense, or issue; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) Cause or hire any person to give, sell, deliver, dispense, or issue or
2 offer to give, sell, deliver, dispense, or issue.

3 (b) This section applies only in Garrett County, St. Mary's County, [and]
4 Carroll County, **AND CECIL COUNTY.**

5 (c) A person may not:

6 (1) Distribute any tobacco product to a minor, unless the minor is
7 acting solely as the agent of the minor's employer who is engaged in the business of
8 distributing tobacco products;

9 (2) Distribute cigarette rolling papers to a minor; or

10 (3) Subject to subsection (d) of this section, distribute to a minor a
11 coupon redeemable for a tobacco product.

12 (d) Subsection (c)(3) of this section does not apply to the distribution of a
13 coupon that is redeemable for a tobacco product if the coupon:

14 (1) Is contained in a newspaper, magazine, or other type of publication
15 and the coupon is incidental to the primary purpose of the publication; or

16 (2) Is sent through the mail.

17 (e) A person has not violated this section if:

18 (1) The person examined the driver's license or other valid
19 government-issued identification presented by the recipient of a tobacco product,
20 cigarette rolling paper, or coupon redeemable for a tobacco product; and

21 (2) The license or other identification positively identified the recipient
22 as being at least 18 years old.

23 (f) (1) In St. Mary's County, a person who violates this section is
24 committing a civil infraction and is subject to a civil penalty of:

25 (i) \$300 for the first violation; and

26 (ii) \$500 for any subsequent violation within a 24-month period
27 from the previous citation.

28 (2) In Garrett County, a person who violates this section is committing
29 a civil infraction and is subject to a civil penalty not exceeding \$300.

30 **(3) IN CECIL COUNTY, A PERSON WHO VIOLATES THIS SECTION IS**
31 **COMMITTING A CIVIL INFRACTION AND IS SUBJECT TO A CIVIL PENALTY OF:**

- 1 (I) **\$300 FOR THE FIRST VIOLATION;**
- 2 (II) **\$1,000 FOR A SECOND VIOLATION; AND**
- 3 (III) **\$3,000 FOR EACH SUBSEQUENT VIOLATION.**

4 15-103.

5 (a) (1) **[A] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF**
6 **THIS SUBSECTION, A county health officer or a designee of a county health officer**
7 **may issue a civil citation to a person who violates any provision of this title.**

8 (2) **IN CECIL COUNTY, ONLY A SWORN LAW ENFORCEMENT**
9 **OFFICER MAY ISSUE A CIVIL CITATION TO A PERSON WHO VIOLATES ANY**
10 **PROVISION OF THIS TITLE.**

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

- 12 (1) The name and address of the person charged;
- 13 (2) The nature of the violation;
- 14 (3) The location and time of the violation;
- 15 (4) The amount of the civil penalty;
- 16 (5) The manner, location, and time in which the civil penalty may be
17 paid;
- 18 (6) The cited person's right to elect to stand trial for the violation; and
- 19 (7) A warning that failure to pay the civil penalty or to contest liability
20 in a timely manner in accordance with the citation:

- 21 (i) Is an admission of liability; and
- 22 (ii) May result in an entry of a default judgment that may
23 include the civil penalty, court costs, and administrative expenses.

24 (c) The county health officer **OR SWORN LAW ENFORCEMENT OFFICER**
25 shall retain a copy of the citation.

26 15-104.

1 (a) (1) [A] **EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF**
2 **THIS SUBSECTION, A** person who receives a citation under this title may elect to
3 stand trial for the offense by filing with the county health officer a notice of intention
4 to stand trial.

5 (2) **IN CECIL COUNTY, A PERSON WHO RECEIVES A CITATION**
6 **UNDER THIS TITLE MAY ELECT TO STAND TRIAL FOR THE OFFENSE BY FILING A**
7 **NOTICE OF INTENTION TO STAND TRIAL WITH A COPY OF THE CITATION WITH**
8 **THE DISTRICT COURT HAVING VENUE AT LEAST 5 DAYS BEFORE THE DATE SET**
9 **FORTH IN THE CITATION FOR PAYMENT OF THE CIVIL PENALTY.**

10 (b) The person electing to stand trial **UNDER SUBSECTION (A)(1) OF THIS**
11 **SECTION,** shall give notice at least 5 days before the date set forth in the citation for
12 the payment of the civil penalty.

13 (c) After receiving a notice of intention to stand trial **FROM A PERSON**
14 **PROVIDING NOTICE UNDER SUBSECTION (A)(1) OF THIS SECTION,** the county
15 health officer shall forward the notice to the District Court having venue, with a copy
16 of the citation.

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

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

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

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

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

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

31 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
32 October 1, 2009.