

# HOUSE BILL 941

L2

9lr0772

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By: **Cecil County Delegation**

Introduced and read first time: February 12, 2009

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2009

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## CHAPTER \_\_\_\_\_

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:

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 (1) Give, sell, deliver, dispense, or issue;
- 2 (2) Offer to give, sell, deliver, dispense, or issue; or
- 3 (3) Cause or hire any person to give, sell, deliver, dispense, or issue or  
4 offer to give, sell, deliver, dispense, or issue.

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

7 (c) A person may not:

- 8 (1) Distribute any tobacco product to a minor, unless the minor is  
9 acting solely as the agent of the minor's employer who is engaged in the business of  
10 distributing tobacco products;
- 11 (2) Distribute cigarette rolling papers to a minor; or
- 12 (3) Subject to subsection (d) of this section, distribute to a minor a  
13 coupon redeemable for a tobacco product.

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

- 16 (1) Is contained in a newspaper, magazine, or other type of publication  
17 and the coupon is incidental to the primary purpose of the publication; or
- 18 (2) Is sent through the mail.

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

- 20 (1) The person examined the driver's license or other valid  
21 government-issued identification presented by the recipient of a tobacco product,  
22 cigarette rolling paper, or coupon redeemable for a tobacco product; and
- 23 (2) The license or other identification positively identified the recipient  
24 as being at least 18 years old.

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

- 27 (i) \$300 for the first violation; and
- 28 (ii) \$500 for any subsequent violation within a 24-month period  
29 from the previous citation.

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

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

5 (I) **\$300 FOR THE FIRST VIOLATION;**

6 (II) **~~\$1,000~~ \$500 FOR A SECOND VIOLATION; AND**

7 (III) **~~\$2,000~~ \$750 FOR EACH SUBSEQUENT VIOLATION.**

8 15-103.

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

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

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

16 (1) The name and address of the person charged;

17 (2) The nature of the violation;

18 (3) The location and time of the violation;

19 (4) The amount of the civil penalty;

20 (5) The manner, location, and time in which the civil penalty may be  
21 paid;

22 (6) The cited person's right to elect to stand trial for the violation; and

23 (7) A warning that failure to pay the civil penalty or to contest liability  
24 in a timely manner in accordance with the citation:

25 (i) Is an admission of liability; and

26 (ii) May result in an entry of a default judgment that may  
27 include the civil penalty, court costs, and administrative expenses.

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

1 15-104.

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

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

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

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

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

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

22 (f) In a proceeding before the District Court, a violation shall be prosecuted  
23 in the same manner and to the same extent as a municipal infraction under Article  
24 23A, § 3(b)(7) through (15) of the Code.

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

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

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

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