

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 941

(Cecil County Delegation)

Economic Matters

Judicial Proceedings

Cecil County - Tobacco Products - Distribution to Minors

This bill subjects persons who distribute tobacco products, cigarette rolling papers, and tobacco-related coupons to minors in Cecil County to civil citations. Civil citations, which can only be issued by law enforcement officers, subject violators to civil penalties of \$300 for the first violation, \$500 for the second violation, and \$750 for each subsequent violation. A violation has not occurred if the person distributing the tobacco product examined identification that identifies the recipient as being at least 18 years old. A person who has been issued a civil citation and chooses to stand trial for the offense must file a notice of intention directly with the District Court, rather than the county health officer.

Fiscal Summary

State Effect: Minimal decrease in general fund revenues beginning in FY 2010. This bill effectively reduces a criminal law penalty to a civil infraction in Cecil County. The revenue decrease will depend on the extent to which fines are paid to the county rather than the District Court. No effect on expenditures.

Local Effect: Minimal. Any civil fines from citations accrue to Cecil County, which estimates that the impact will be minimal. Current tobacco control enforcement efforts in the county continue.

Small Business Effect: None.

Analysis

Current Law: A person licensed in the State to distribute cigarettes or other tobacco products may not distribute to a minor a tobacco product, tobacco paraphernalia, or a coupon redeemable for a tobacco product. Distribution includes selling, giving, or offering to sell. A person other than a commercial distributor may not purchase for or sell a tobacco product to a minor or distribute tobacco paraphernalia 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. Alleged violations are tried in the District Court.

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 issued by an employer, government unit, or institution of higher education that positively identified the purchaser or recipient as at least age 18. Additionally, it is a civil offense for a minor to be in possession of a tobacco product or use false identification to obtain one.

St. Mary's, Garrett, and Carroll counties subject persons who distribute tobacco products, cigarette rolling papers, and tobacco-related coupons to minors to civil penalties. Six additional jurisdictions have similar civil enforcement powers through enactment of local ordinances. A person who receives citations in these counties and elects to stand trial for the offense must file a notice of intention to stand trial with the county health officer, who forwards the notice on to the District Court.

Background: Money from the Cigarette Restitution Fund (CRF) is used in part for enforcement of tobacco control laws in each county. The fiscal 2010 budget includes \$3.8 million in local public health programs funded by CRF that must be targeted toward community outreach and education, school-based activities, cessation, and enforcement.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Cecil County, Department of Health and Mental Hygiene,
Department of Legislative Services

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