

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 995
Judiciary

(Delegate Conaway, *et al.*)

**Criminal Law - Distribution of Tobacco Product or Paraphernalia to Minor -
Penalties**

This bill increases the penalties for a person who distributes tobacco products, tobacco paraphernalia, or coupons redeemable for tobacco products to a minor. Penalties are increased to \$700 for a first offense; \$2,000 for a second offense occurring within two years after the first offense; and \$5,000 for each subsequent offense occurring within two years after the preceding offense.

Fiscal Summary

State Effect: Minimal increase in general fund revenues due to higher penalties imposed for violations relating to the distribution of tobacco products, tobacco paraphernalia, or coupons redeemable for tobacco products to a minor. No effect on expenditures.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Potential minimal.

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 age 18 or older. 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, tobacco paraphernalia, and tobacco-related coupons to minors to civil penalties. Six additional jurisdictions have similar civil enforcement powers through enactment of local ordinances.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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mcp/mwc

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