

# HOUSE BILL 1497

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By: **Chair, Economic Matters Committee (By Request – Departmental – Health and Mental Hygiene)**

Introduced and read first time: March 3, 2010

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Distribution of Tobacco–Related Products to Minors – Enforcement**

3 FOR the purpose of prohibiting the distribution by certain persons of certain tobacco  
4 products, cigarette rolling papers, and tobacco–related coupons to minors;  
5 establishing a certain defense in an action for a certain violation; requiring a  
6 certain person distributing certain tobacco–related products to verify a  
7 prospective purchaser’s or recipient’s age by means of a certain examination of  
8 certain photo identification except under certain circumstances; providing that  
9 a violation of this Act is a civil infraction; establishing certain civil penalties for  
10 a violation of this Act; repealing a provision concerning civil enforcement of  
11 youth tobacco violations in Carroll County, Cecil County, Garrett County, and  
12 St. Mary’s County; providing that this Act does not preempt any county or  
13 municipal law that regulates tobacco products; providing that the identification  
14 verification provision is modeled after certain federal statutes and regulations;  
15 and generally relating to the distribution of tobacco and tobacco–related  
16 products to minors.

17 BY repealing

18 Article 24 – Political Subdivisions – Miscellaneous Provisions

19 Section 15–102.1

20 Annotated Code of Maryland

21 (2005 Replacement Volume and 2009 Supplement)

22 BY adding to

23 Article – Health – General

24 Section 24–1701 through 24–1706 to be under a new subtitle “Subtitle 17.  
25 Distribution of Tobacco–Related Products to Minors”

26 Annotated Code of Maryland

27 (2009 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That Section(s) 15–102.1 of Article 24 – Political Subdivisions –  
3 Miscellaneous Provisions of the Annotated Code of Maryland be repealed.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
5 read as follows:

6 **Article – Health – General**

7 **SUBTITLE 17. DISTRIBUTION OF TOBACCO–RELATED PRODUCTS TO MINORS.**

8 **24–1701.**

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
10 INDICATED.

11 (B) “DISTRIBUTE” MEANS TO:

12 (1) GIVE, SELL, DELIVER, DISPENSE, OR ISSUE;

13 (2) OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR

14 (3) CAUSE OR HIRE AN INDIVIDUAL TO GIVE, SELL, DELIVER,  
15 DISPENSE, OR ISSUE OR OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE.

16 (C) “TOBACCO PRODUCT” MEANS A SUBSTANCE CONTAINING TOBACCO,  
17 INCLUDING CIGARETTES, CIGARS, SMOKING TOBACCO, SNUFF, SMOKELESS  
18 TOBACCO, AND CANDY–LIKE PRODUCTS THAT CONTAIN TOBACCO.

19 **24–1702.**

20 THIS SUBTITLE DOES NOT APPLY TO THE DISTRIBUTION TO A MINOR OF:

21 (1) A TOBACCO PRODUCT OR CIGARETTE ROLLING PAPERS IF  
22 THE MINOR IS ACTING SOLELY AS THE AGENT OF THE MINOR’S EMPLOYER IF  
23 THE EMPLOYER DISTRIBUTES TOBACCO PRODUCTS OR CIGARETTE ROLLING  
24 PAPERS FOR COMMERCIAL PURPOSES; OR

25 (2) A COUPON THAT IS REDEEMABLE FOR A TOBACCO PRODUCT  
26 IF THE COUPON IS:

27 (I) CONTAINED IN A NEWSPAPER, MAGAZINE, OR OTHER  
28 TYPE OF PUBLICATION AND THE COUPON IS INCIDENTAL TO THE PRIMARY  
29 PURPOSE OF THE PUBLICATION; OR

1 (II) SENT THROUGH THE MAIL.

2 24-1703.

3 (A) A PERSON WHO DISTRIBUTES A TOBACCO PRODUCT FOR  
4 COMMERCIAL PURPOSES MAY NOT DISTRIBUTE TO A MINOR:

5 (1) A TOBACCO PRODUCT;

6 (2) CIGARETTE ROLLING PAPERS; OR

7 (3) A COUPON REDEEMABLE FOR A TOBACCO PRODUCT.

8 (B) IN AN ACTION FOR A VIOLATION OF THIS SECTION, IT IS A DEFENSE  
9 THAT THE DEFENDANT EXAMINED THE PURCHASER'S OR RECIPIENT'S  
10 PHOTOGRAPHIC IDENTIFICATION ISSUED BY A GOVERNMENTAL UNIT,  
11 EMPLOYER, OR INSTITUTION OF HIGHER EDUCATION THAT POSITIVELY  
12 IDENTIFIED THE PURCHASER OR RECIPIENT AS AT LEAST 18 YEARS OF AGE.

13 24-1704.

14 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A  
15 PERSON WHO DISTRIBUTES A TOBACCO PRODUCT FOR COMMERCIAL PURPOSES  
16 MAY NOT DISTRIBUTE A TOBACCO PRODUCT, CIGARETTE ROLLING PAPERS, OR  
17 A COUPON REDEEMABLE FOR A TOBACCO PRODUCT UNLESS THAT PERSON:

18 (1) REQUESTS THAT THE PROSPECTIVE PURCHASER OR  
19 RECIPIENT PROVIDES PHOTOGRAPHIC IDENTIFICATION ISSUED BY A  
20 GOVERNMENTAL UNIT, EMPLOYER, OR INSTITUTION OF HIGHER EDUCATION  
21 THAT CONTAINS THE PROSPECTIVE PURCHASER'S OR RECIPIENT'S DATE OF  
22 BIRTH;

23 (2) EXAMINES THE IDENTIFICATION AND REASONABLY  
24 CONCLUDES THAT THE PROSPECTIVE PURCHASER OR RECIPIENT IS THE SAME  
25 PERSON IN THE PHOTOGRAPH CONTAINED ON THE IDENTIFICATION;

26 (3) EXAMINES THE DATE OF BIRTH ON THE IDENTIFICATION AND  
27 FINDS THAT THE PROSPECTIVE PURCHASER OR RECIPIENT IS AT LEAST 18  
28 YEARS OLD; AND

29 (4) EXAMINES THE IDENTIFICATION AND FINDS NO INDICATION  
30 THAT THE IDENTIFICATION HAS BEEN TAMPERED WITH, ALTERED, OR FORGED.

1           **(B) THE IDENTIFICATION VERIFICATION DESCRIBED IN THIS SECTION**  
2 **IS NOT REQUIRED IF A PROSPECTIVE PURCHASER OR RECIPIENT IS AT LEAST 27**  
3 **YEARS OLD.**

4 **24-1705.**

5           **A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE COMMITS A**  
6 **CIVIL INFRACTION AND IS SUBJECT TO:**

7                   **(1) FOR THE FIRST VIOLATION, A CIVIL PENALTY OF \$300; OR**

8                   **(2) FOR ANY SUBSEQUENT VIOLATION WITHIN A 24-MONTH**  
9 **PERIOD FROM THE PREVIOUS CITATION, A CIVIL PENALTY OF \$500.**

10 **24-1706.**

11           **(A) A COUNTY HEALTH OFFICER OR A DESIGNEE OF A COUNTY HEALTH**  
12 **OFFICER MAY ISSUE A CIVIL CITATION TO A PERSON WHO VIOLATES ANY**  
13 **PROVISION OF THIS SUBTITLE IN THE SAME MANNER AS DESCRIBED UNDER**  
14 **ARTICLE 24, § 15-103 OF THE CODE.**

15           **(B) A JUDICIAL PROCEEDING FOR A VIOLATION OF THIS SUBTITLE IS**  
16 **GOVERNED BY ARTICLE 24, § 15-104 OF THE CODE.**

17           SECTION 3. AND BE IT FURTHER ENACTED, That this Act does not  
18 preempt any county or municipal law that regulates tobacco products.

19           SECTION 4. AND BE IT FURTHER ENACTED, That the identification  
20 verification provisions in this Act are intended to be consistent with the federal Family  
21 Smoking Prevention and Control Act and any regulations promulgated under that Act.

22           SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2010.