

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2007, Legislative Day No. 19

Bill No. 79-07

Councilmembers Kamenetz, Moxley, Bartenfelder, Olszewski, Oliver & McIntire

By the County Council, October 15, 2007

A BILL
ENTITLED

AN ACT concerning

Distribution of Tobacco Products to Minors

FOR the purpose of prohibiting the sale or distribution of tobacco products to minors; defining terms; providing exceptions; regulating the display of tobacco products; providing for penalties and for enforcement; and generally relating to the regulation of the distribution of tobacco products to minors.

BY adding

Sections 13-12-101 to 13-12-105
Article 13 - Public Health, Safety and the Environment
Title 12 - Distribution of Tobacco Products to Minors
Baltimore County Code 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2 MARYLAND, that Sections 13-12-101 to 13-12-105 be and they are hereby added to Article 13 -
3 Public Health, Safety and the Environment, Title 12 - Distribution of Tobacco Products to Minors, of
4 the
5 Baltimore County Code 2003, to read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter stricken from existing law.

~~Strike-out~~ indicates matter stricken from bill.

Underlining indicates amendments to bill.

1 TITLE 12. DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS

2 13-12-101. DEFINITIONS.

3 (A) IN THIS TITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

4 (B) "DISTRIBUTE" MEANS TO:

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

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

7 (3) CAUSE OR HIRE ANY PERSON TO GIVE, SELL, DELIVER, DISPENSE, OR
8 ISSUE OR OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE.

9 (C) "MINOR" MEANS ANY PERSON UNDER EIGHTEEN YEARS OF AGE.

10 (D) "OWNER" MEANS A PERSON ENGAGED IN THE BUSINESS OF SELLING OR
11 OTHERWISE DISTRIBUTING TOBACCO PRODUCTS FOR COMMERCIAL PURPOSES.

12 (E) "TOBACCO PRODUCT" MEANS ANY SUBSTANCE CONTAINING TOBACCO,
13 INCLUDING CIGARETTES, CIGARS, SMOKING TOBACCO, SNUFF, OR SMOKELESS
14 TOBACCO.

15 13-12-102. SCOPE.

16 (A) THIS TITLE DOES NOT APPLY TO THE DISTRIBUTION OF A COUPON THAT IS
17 REDEEMABLE FOR A TOBACCO PRODUCT, IF THE COUPON IS:

18 (1) CONTAINED IN A NEWSPAPER, MAGAZINE, OR OTHER TYPE OF
19 PUBLICATION IN WHICH THE COUPON IS INCIDENTAL TO THE PRIMARY PURPOSE
20 OF THE PUBLICATION; OR

21 (2) SENT THROUGH THE MAIL.

1 (B) THIS TITLE DOES NOT APPLY TO THE DISTRIBUTION OF A TOBACCO PRODUCT
2 TO A MINOR WHO IS ACTING SOLELY AS THE AGENT OF THE MINOR'S EMPLOYER
3 IF THE EMPLOYER DISTRIBUTES TOBACCO PRODUCTS FOR COMMERCIAL
4 PURPOSES.

5 (C) THIS TITLE DOES NOT APPLY TO THE SALE OF ANY TOBACCO PRODUCT FROM A
6 VENDING MACHINE THAT COMPLIES WITH ALL REQUIREMENTS OF STATE LAW.

7 13-12-103. DISTRIBUTION TO MINORS.

8 (A) AN OWNER MAY NOT DISTRIBUTE TO A MINOR:

- 9 (1) ANY TOBACCO PRODUCT;
- 10 (2) TOBACCO PARAPHERNALIA; OR
- 11 (3) A COUPON REDEEMABLE FOR A TOBACCO PRODUCT.

12 ~~(B) A PERSON OTHER THAN AN OWNER MAY NOT BUY FOR A MINOR:~~

- 13 ~~(1) ANY TOBACCO PRODUCT; OR~~
- 14 ~~(2) TOBACCO PARAPHERNALIA.~~

15 (B) A PERSON OTHER THAN AN OWNER MAY NOT:

- 16 (1) BUY FOR OR SELL ANY TOBACCO PRODUCT TO A MINOR; OR
- 17 (2) DISTRIBUTE TOBACCO PARAPHERNALIA TO A MINOR.

18 (C) A VIOLATION OF THIS SECTION HAS NOT OCCURRED IF THE OWNER OR OTHER
19 DISTRIBUTOR:

- 20 (1) EXAMINED THE PURCHASER'S OR RECIPIENT'S DRIVERS LICENSE OR
- 21 ANOTHER VALID IDENTIFICATION ISSUED BY A GOVERNMENT ENTITY OR

1 INSTITUTION OF HIGHER EDUCATION; AND

2 (2) THAT LICENSE OR OTHER IDENTIFICATION POSITIVELY IDENTIFIED THE
3 PURCHASER OR RECIPIENT OF A TOBACCO PRODUCT AS AT LEAST 18 YEARS OF
4 AGE.

5 13-12-104. PLACEMENT OF TOBACCO PRODUCTS.

6 (A) ANY PERSON WHO OWNS OR OPERATES A BUSINESS THAT ENGAGES IN THE
7 RETAIL SALE OF A TOBACCO PRODUCT MAY NOT STORE OR DISPLAY TOBACCO
8 PRODUCTS UNLESS SUCH PRODUCTS:

9 (1) ARE NOT IMMEDIATELY ACCESSIBLE TO CUSTOMERS; AND

10 (2) ARE ACCESSIBLE ONLY TO THE OWNER OR OPERATOR OF THE BUSINESS
11 OR AN AGENT OR EMPLOYEE OF THE OWNER OR OPERATOR.

12 (B) THIS SECTION DOES NOT APPLY TO A TOBACCONIST ESTABLISHMENT THAT
13 ENGAGES PRIMARILY IN THE SALE OF TOBACCO PRODUCTS OTHER THAN
14 CIGARETTES, AS DEFINED IN §16-101 OF THE BUSINESS REGULATIONS ARTICLE OF
15 THE MARYLAND ANNOTATED CODE, WHICH POSTS A SIGN AT EACH ENTRANCE
16 STATING THAT THE ESTABLISHMENT IS ADULTS ONLY.

17 13-12-105. PENALTIES AND ENFORCEMENT.

18 (A) AN OWNER WHO VIOLATES ANY PROVISION OF THIS ARTICLE IS SUBJECT TO A
19 CIVIL PENALTY OF \$300.00 FOR THE FIRST VIOLATION AND \$500.00 FOR
20 SUBSEQUENT VIOLATIONS.

21 (B) ANY OTHER PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE IS

1 SUBJECT TO A CIVIL PENALTY OF \$50.00 FOR THE FIRST VIOLATION AND \$100.00
2 FOR SUBSEQUENT VIOLATIONS.

3 (C) FOR PURPOSES OF THIS SECTION, EACH SEPARATE INCIDENT AT A DIFFERENT
4 TIME AND OCCASION IS A VIOLATION.

5 (D) (1) THE BALTIMORE COUNTY DEPARTMENT OF HEALTH SHALL ENFORCE
6 THE PROVISIONS OF THIS TITLE ~~IN ACCORDANCE WITH ARTICLE 3, TITLE 6 OF THE~~
7 ~~CODE.~~

8 (2) THE DEPARTMENT MAY ADOPT REASONABLE REGULATIONS, IN
9 ACCORDANCE WITH THE PROVISIONS OF ARTICLE 3, TITLE 7, TO CARRY OUT THE
10 PURPOSES OF THIS TITLE.

11 SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take effect 45 days
12 after its enactment.