

HOUSE BILL 583

C2, J1

11r0643

By: **Delegates Rosenberg, Feldman, and Kramer**

Introduced and read first time: February 9, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Products – Distribution – Requirements**

3 FOR the purpose of prohibiting the distribution of tobacco products to minors except
4 in certain circumstances; requiring photo identification checks in connection
5 with the distribution of tobacco products to minors; prohibiting tobacco product
6 retailers from storing or displaying tobacco products unless the tobacco products
7 are stored, displayed, and accessed in a certain manner; prohibiting a tobacco
8 product retailer from distributing cigarettes unless the packages of cigarettes
9 contain at least a certain number of cigarettes; prohibiting a tobacco product
10 retailer from distributing tobacco products for free; establishing a certain civil
11 penalty; authorizing the issuance of a certain civil citation under certain
12 circumstances; providing that this Act does not preempt any county or
13 municipal law that regulates tobacco products; repealing certain provisions of
14 law relating to the regulation of tobacco products in vending machines; defining
15 certain terms; stating the intent of the General Assembly as to certain
16 provisions of this Act; and generally relating to requirements for the
17 distribution of tobacco products.

18 BY repealing

19 Article – Business Regulation

20 Section 16–3A–01 through 16–3A–03 and the subtitle “Subtitle 3A. Tobacco
21 Product Vending Machines”

22 Annotated Code of Maryland

23 (2010 Replacement Volume and 2010 Supplement)

24 BY adding to

25 Article – Health – General

26 Section 24–1601 through 24–1608 to be under the new subtitle “Subtitle 16.
27 Distribution of Tobacco Products”

28 Annotated Code of Maryland

29 (2009 Replacement Volume and 2010 Supplement)

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) 16-3A-01 through 16-3A-03 and the subtitle "Subtitle
3 3A. Tobacco Product Vending Machines" of Article - Business Regulation of the
4 Annotated Code of Maryland be repealed.

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

7 **Article - Health - General**

8 **SUBTITLE 16. DISTRIBUTION OF TOBACCO PRODUCTS.**

9 **24-1601.**

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

12 (B) "DISTRIBUTE" MEANS TO:

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

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

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

17 (C) "TOBACCO PRODUCT" MEANS A SUBSTANCE CONTAINING TOBACCO,
18 INCLUDING CIGARETTES, CIGARS, SMOKING TOBACCO, SNUFF, SMOKELESS
19 TOBACCO, AND CANDY-LIKE PRODUCTS THAT CONTAIN TOBACCO.

20 (D) "TOBACCO PRODUCT RETAILER" MEANS A PERSON WHO OWNS OR
21 OPERATES A BUSINESS THAT ENGAGES IN THE RETAIL SALE OF TOBACCO
22 PRODUCTS.

23 **24-1602.**

24 THIS SUBTITLE DOES NOT APPLY TO THE DISTRIBUTION TO A MINOR OF A
25 TOBACCO PRODUCT IF THE MINOR IS ACTING AS THE AGENT OF THE MINOR'S
26 EMPLOYER IF THE EMPLOYER IS A TOBACCO PRODUCT RETAILER.

27 **24-1603.**

28 A TOBACCO PRODUCT RETAILER MAY NOT DISTRIBUTE A TOBACCO
29 PRODUCT TO A MINOR.

1 24-1604.

2 (A) THIS SECTION DOES NOT APPLY IF THE PURCHASER OR RECIPIENT
3 OF A TOBACCO PRODUCT REASONABLY APPEARS TO BE AT LEAST 27 YEARS OLD.

4 (B) BEFORE DISTRIBUTING A TOBACCO PRODUCT, THE INDIVIDUAL
5 DISTRIBUTING THE TOBACCO PRODUCT SHALL EXAMINE THE PROSPECTIVE
6 PURCHASER'S OR RECIPIENT'S DRIVER'S LICENSE OR OTHER VALID
7 IDENTIFICATION ISSUED BY AN EMPLOYER, A GOVERNMENT UNIT, OR AN
8 INSTITUTION OF HIGHER EDUCATION TO ENSURE THAT:

9 (1) THE PHOTOGRAPH IN THE IDENTIFICATION REASONABLY
10 APPEARS TO BE THAT OF THE PROSPECTIVE PURCHASER OR RECIPIENT;

11 (2) THE BIRTH DATE ON THE IDENTIFICATION INDICATES THAT
12 THE BEARER IS AT LEAST 18 YEARS OLD; AND

13 (3) THERE IS NO REASONABLE INDICATION THAT THE
14 IDENTIFICATION HAS BEEN TAMPERED WITH, ALTERED, OR FORGED.

15 24-1605.

16 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
17 TOBACCO PRODUCT RETAILER MAY NOT STORE OR DISPLAY A TOBACCO
18 PRODUCT UNLESS THE TOBACCO PRODUCT:

19 (1) IS NOT IMMEDIATELY ACCESSIBLE TO CUSTOMERS,
20 INCLUDING IN A VENDING MACHINE OR SELF-SERVICE DISPLAY; AND

21 (2) IS ACCESSIBLE ONLY TO THE TOBACCO PRODUCT RETAILER
22 OR EMPLOYEE OF THE TOBACCO PRODUCT RETAILER.

23 (B) THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION DO NOT
24 APPLY TO TOBACCO PRODUCT RETAILERS THAT DO NOT PERMIT MINORS TO BE
25 PRESENT OR TO ENTER THE PREMISES OF THE RETAIL ESTABLISHMENT WHERE
26 TOBACCO PRODUCTS ARE DISTRIBUTED AT ANY TIME.

27 24-1606.

28 A TOBACCO PRODUCT RETAILER MAY NOT:

29 (1) DISTRIBUTE CIGARETTES UNLESS THE PACKAGE OF
30 CIGARETTES CONTAINS AT LEAST 20 CIGARETTES; AND

1 **(2) DISTRIBUTE ANY TOBACCO PRODUCT FOR FREE.**

2 **24-1607.**

3 **A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE COMMITS A**
4 **CIVIL INFRACTION AND IS SUBJECT TO A CIVIL PENALTY OF \$500.**

5 **24-1608.**

6 **(A) A COUNTY HEALTH OFFICER, A DESIGNEE OF A COUNTY HEALTH**
7 **OFFICER, OR A LAW ENFORCEMENT OFFICER MAY ISSUE A CIVIL CITATION TO A**
8 **PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IN THE SAME**
9 **MANNER DESCRIBED UNDER ARTICLE 24, § 15-103 OF THE CODE.**

10 **(B) JUDICIAL PROCEEDINGS FOR VIOLATIONS OF THIS SUBTITLE ARE**
11 **GOVERNED BY ARTICLE 24, § 15-104 OF THE CODE.**

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

14 SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the
15 General Assembly that the provisions of §§ 24-1601 through 24-1608 of the Health –
16 General Article, as enacted by Section 2 of this Act, shall be construed as conforming
17 to the federal Family Smoking Prevention and Tobacco Control Act and any
18 regulations promulgated under that Act.

19 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2011.