

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2001 Legislative Session

Bill No. CB-65-2001

Chapter No. 50

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Member Shapiro

Co-Sponsors _____

Date of Introduction October 16, 2001

BILL

1 AN ACT concerning

2 Distribution of Tobacco Products

3 For the purpose of regulating the method of distributing tobacco products to minors for
4 commercial purposes in certain circumstances; regulating the method of displaying tobacco
5 products for commercial purposes in certain circumstances and providing for enforcement of
6 these requirements by civil fines.

7 BY adding:

8 SUBTITLE 12. HEALTH

9 Sections 12-201, 12-202, 12-203 and 12-204,

10 The Prince George's County Code

11 (1999 Edition, 2000 Supplement).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
13 Maryland, that Sections 12-201, 12-202, 12-203 and 12-204 of the Prince George's County Code
14 be and the same are hereby added:

15 SUBTITLE 12. HEALTH.

16 DIVISION 9. ENVIRONMENTAL HEALTH.

17 **Sec. 12-201. Definitions.**

18 (a) In this Division the following words have the meanings indicated.

19 (1) **Distribute** means to:

20 (A) Give away, sell, deliver, dispense, or issue; or

21 (B) Offer to give away, sell, deliver, dispense, or issue; or

(C) Cause or hire any person to give away, sell, deliver, dispense, or issue or offer to give away, sell, deliver, dispense, or issue.

(2) **Employee** means an individual employed by an owner.

(3) **Minor** means an individual under the age of 18.

(4) **Owner** means a person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes.

(5) **Tobacco product** means any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.

Sec. 12-202. Unlawful distribution.

(a) An owner or an employee shall not:

(1) Distribute any tobacco product to a minor, unless the minor is acting solely as the agent of the minor's employer who is engaged in the business of distributing tobacco products;

(2) Distribute cigarette rolling papers to a minor; or

(3) Distribute to a minor a coupon redeemable for tobacco products.

(b) A person, who is not an owner, shall not:

(1) Buy for or sell to a minor any tobacco product; or

(2) Buy for or sell to a minor cigarette rolling papers.

(c) This Section does not apply to the distribution of a coupon which is redeemable for any tobacco product when the coupon is contained in a newspaper, a magazine, or any other type of publication in which the coupon is incidental to the primary purpose of the publication, or sent through the mail.

(d) A person has not violated this Section if:

(1) The person examined a driver's license or another valid identification issued by an employer, a governmental entity, or an institution of higher education; and

(2) The license or other identification identified the buyer or recipient of a tobacco product as being at least 18 years old.

(e) If a minor bought a tobacco product from a vending machine, this Section does not apply to the owner of the vending machine or any other person with control over the vending machine.

Sec. 12-203. Placement of tobacco products.

(a) An owner shall display or store the tobacco product in a manner which by the design

1 demonstrates the owner's intent that the tobacco product is inaccessible to the buyer without the
 2 intervention of the owner or the owner's agent. Designs that demonstrate an intent that the
 3 tobacco product is inaccessible to the buyer without the intervention of the owner or the owner's
 4 agent shall include storing or displaying the tobacco product as follows:

5 (1) Behind the sales counter in a manner which places the tobacco product beyond
 6 the physical reach of the buyer in the absence of extraordinary extension beyond the sales
 7 counter; or

8 (2) In a display case which requires seller assistance to gain access to the tobacco
 9 product contained therein; or

10 (3) In an overhead merchandising rack that is mounted more than six feet above the
 11 floor at the lowest point and from which access to the tobacco product is provided only on the
 12 side facing away from the buyer ;or

13 (4) In any place that is inaccessible to buyers of the tobacco product without the
 14 intervention of the owner or the owner's agent.

15 **Sec. 12-204. Enforcement and penalties.**

16 (a) This Division shall be enforced by the Health Officer or Health Officer's designee.
 17 The Health Officer or designee may issue a citation to any person who violates Sections 12-202
 18 or 12-203 of this Division. The citation shall serve as notification to the person that a civil
 19 violation has been committed and in accordance with the provisions of Division 3, Subtitle 28 of
 20 this Code shall be subject to the monetary civil fine as provided in Subsection (b) & (c) of this
 21 Section, subject to his right to elect to stand trial pursuant to Section 28-257 of this Code.

22 (b) An owner who violates this Division is subject to a civil penalty of not more than
 23 \$300.00 for the first violation and not more than \$1,000.00 for subsequent violations.

24 (c) An employee who violates this Division is subject to a civil penalty of not more
 25 than \$50.00 for the first violation and not more that \$100.00 for subsequent violations.

26 (d) For the purposes of this Division, subsequent violation means a separate and
 27 distinct incident at a different time and occasion.

28 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
 29 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
 30 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
 31 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining

1 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
2 Act, since the same would have been enacted without the incorporation in this Act of any such
3 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

4 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
5 calendar days after it becomes law.

Adopted this 6th day of November, 2001.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Ronald V. Russell
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:
Underscoring indicates language added to existing law.