

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 11/6/2001**Reference No.:** CB-65-2001**Proposer:** County Executive**Draft No.:** 2**Sponsors:** Shapiro

Item Title: An Act regulating the method of distributing tobacco products to minors for commercial purposes in certain circumstances; regulating the method of displaying tobacco products for commercial purposes in certain circumstances and providing for enforcement of these requirements by civil fines

Drafter: Donna W. Russell
Office of Law**Resource** Arthur G. Thacher
Personnel: Health Officer

LEGISLATIVE HISTORY:**Date Presented:** 9/11/2001**Executive Action:** 11/19/2001 S**Committee Referral:** 9/11/2001 HEHS**Effective Date:** 1/4/2002**Committee Action:** 10/9/2001 FAV(A)**Date Introduced:** 10/16/2001**Public Hearing:** 11/6/2001 1:30 P.M.**Council Action:** 11/6/2001 ENACTED**Council Votes:** RVR:A, DB:A, JE:A, IG:A, TH:A, AS:A, PS:-, MW:A**Pass/Fail:** P**Remarks:** _____

HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE

DATE: 10/9/01

Committee Vote: Favorable with amendments, 5-0, (In favor: Council Members Gourdine, Hendershot, Bailey, Scott and Wilson)

Staff gave an overview of the legislation and informed the Committee of referral comments that were received. CB-65-2001 will allow the Health Officer or his designee to implement regulations pertaining to the sale and distribution of tobacco products to minors and the method of displaying tobacco products for commercial purposes. To strengthen local enforcement of these provisions, the legislation will allow the Health Officer/designee to issue civil fines to violators. All program expenses will be covered by the Cigarette Restitution Fund (CRF) and no

County general funds will be required. CB-65-2001 supplements State regulations. The result is to reduce access by minors to tobacco products through these establishments.

Currently, Montgomery, Howard, Talbert counties and Baltimore City have already implemented tobacco enforcement programs.

Council Member Dorothy Bailey expressed her continued support for this much needed legislation. She stated that this is a start in the right direction in assisting minors in delaying the smoking process. Council Member Bailey stated that the County has an obligation to reduce the health hazard associated with the use of tobacco products by minors.

The Health Officer stated that preventing the sale and distribution of tobacco products to minors is one of the highly recommended strategies of the Communicable Disease Control (CDC) “Best Practices.” Based on these recommendations, the State Department of Health and Mental Hygiene has required an enforcement program be addressed in the grant application for CRF. The Health Officer further stated that a media campaign to educate merchants and the community will precede their enforcement efforts and subsequently determine how vigorously their enforcement protocol is conducted.

Office of Law representative indicated that an Attorney General’s opinion had been rendered regarding Federal and State Preemption. The opinion concluded that a tobacco placement ordinance is not preempted by State or Federal law.

Council Member Maloney questioned what enforcement mechanism would be used to get offenders to pay the fines. The County Attorney on behalf of the Health Department would institute an action to enforce the payment of the fine in District Court.

Wordy Nicolas, Adventist Community Services, Julie Brown, American Lung Association, Mark Breaux, Smoke Free Maryland, John O’Hara, Maryland Group Against Smokers Pollution, Janice Euell, Reaching Objectives Through Joint Action, (ROJA), Kelly Dolan, University of Maryland and Frank McGloin, American Lung Association testified in support of CB-65-2001. Bruce Bereano, Safeway, Maryland Association of Tobacco and Candy Distributors, Maryland and District of Columbia Vending Association testified in opposition to CB-65-2001.

The County Executive supports CB-65-2001. The Office of Law finds CB-65-2001 to be in proper legislative form and provided technical amendments to Draft 2. The Legislative Officer provided written comments stating that CB-65 defines several terms and then uses those terms inconsistently in the text of the bill. The Legislative Officer prepared a proposed Draft 2 for the Committee’s consideration that attempts to correct the drafting deficiency. The Office of Audits and Investigations determined that there should be positive fiscal impact on the County as a result of enacting CB-65-2001 resulting from the collection of civil fines imposed for violations.

Council Member Hendershot's motion failed for lack of a second to hold CB-65-2001 pending the result of the Montgomery County litigation regarding similar legislation.

The Committee recommended approval of CB-65-2001 Draft 2. The Draft 2 represents no change of substance.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

This legislation supplements State regulations and will enhance new County tobacco use prevention, cessation and enforcement initiatives being developed with appropriations from the State Cigarette Restitution Fund.

CODE INDEX TOPICS: