HOUSE BILL 185

J1, C2 HB 1504/16 – ECM & HGO

By: Delegates Rosenberg and Waldstreicher

Introduced and read first time: January 19, 2017

Assigned to: Economic Matters and Health and Government Operations

Committee Report: Favorable

House action: Adopted

Read second time: March 8, 2017

CHAPTER

1 AN ACT concerning

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Department of Health and Mental Hygiene – Distribution of Tobacco Products to Minors – Prohibition and Enforcement

FOR the purpose of prohibiting certain persons from distributing certain tobacco products, certain paraphernalia, or certain coupons to a minor, with certain exceptions; providing that a person who violates a certain provision of this Act is subject to certain civil penalties; establishing a certain defense in a prosecution for a certain violation; providing that a county health officer, or a designee of a county health officer, may issue a certain civil citation for a violation of a certain provision of this Act; requiring certain civil citations to include certain information and to be processed in a certain manner; providing for a certain election to stand trial; requiring the District Court to remit certain collected penalties in a certain manner; providing that adjudication of a violation of a certain provision of this Act is not a criminal conviction for any purpose; requiring the Comptroller's Office to provide certain information to the Prevention and Health Promotion Administration each year; requiring the Comptroller's Office to provide certain information to the General Assembly on or before a certain date each year; requiring local health departments to report certain violations to the Comptroller's Office; requiring the Department of Health and Mental Hygiene, in collaboration and consultation with certain agencies, to develop certain strategies; requiring the Department to report on the development of certain strategies and certain training and assistance on or before a certain date each year; defining a certain term; providing for the application of certain provisions of this Act; and generally relating to prohibitions on the distribution of tobacco products to minors.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

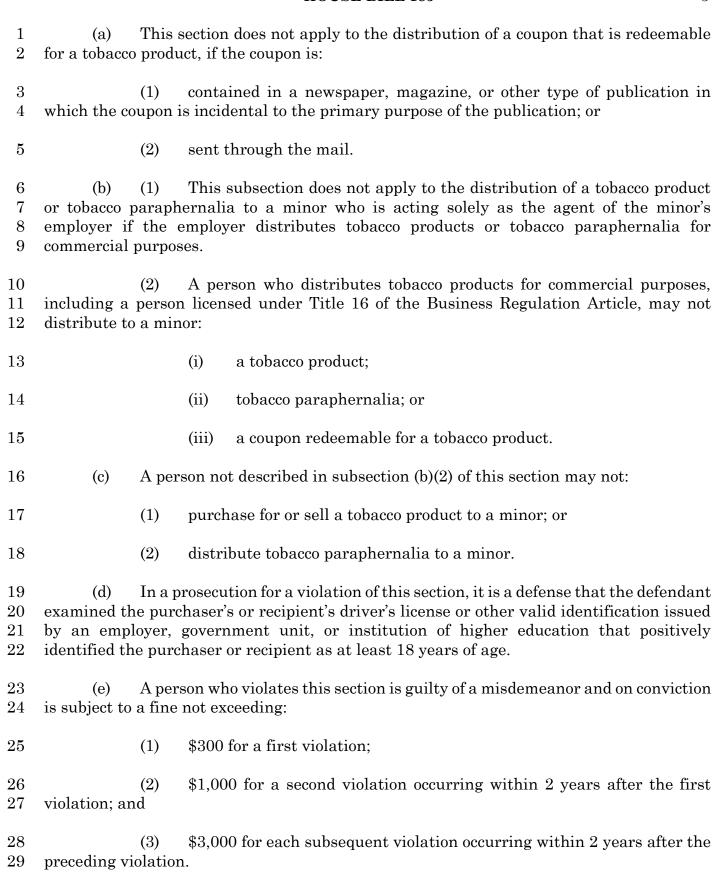
<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

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10-107.

1	BY repealing and reenacting, with amendments,
2	Article – Business Regulation
3	Section 16–205
$\frac{4}{5}$	Annotated Code of Maryland (2015 Replacement Volume and 2016 Supplement)
6	BY repealing and reenacting, without amendments,
7	Article – Criminal Law
8	Section 10–107 and 10–108
9	Annotated Code of Maryland
10	(2012 Replacement Volume and 2016 Supplement)
11	BY adding to
12	Article – Health – General
13	Section 24–307
14	Annotated Code of Maryland
15	(2015 Replacement Volume and 2016 Supplement)
16	BY repealing and reenacting, with amendments,
17	Article - Tax - General
18	Section 2–107
19	Annotated Code of Maryland
20	(2010 Replacement Volume and 2016 Supplement)
21 22	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
23	Article – Business Regulation
24	16–205.
25 26 27	(a) The Comptroller shall issue an appropriate license to each applicant who meets the requirements of this subtitle for a license to act as a manufacturer, storage warehouse, subwholesaler, vending machine operator, or wholesaler.
28 29	(b) The clerk shall issue to each applicant who meets the requirements of this subtitle a license to act as a retailer.
30 31 32	(C) THE COMPTROLLER'S OFFICE SHALL PROVIDE TO THE PREVENTION AND HEALTH PROMOTION ADMINISTRATION EACH YEAR THE NAME AND ADDRESS OF EACH PERSON LICENSED UNDER SUBSECTION (B) OF THIS SECTION.
33	Article – Criminal Law

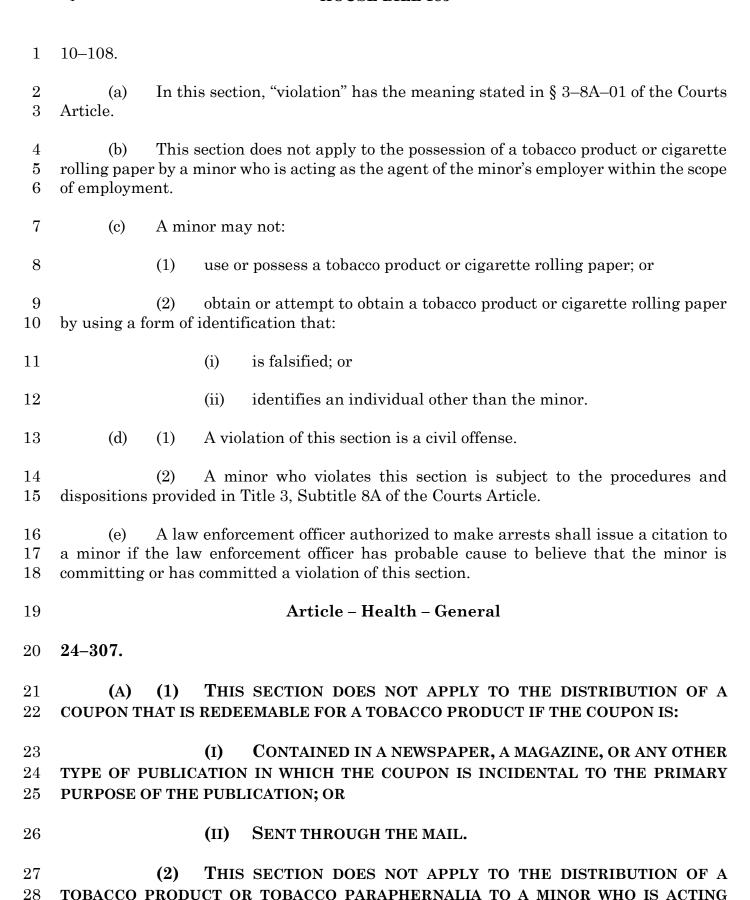


For purposes of this section, each separate incident at a different time and

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occasion is a violation.



- 1 SOLELY AS THE AGENT OF THE MINOR'S EMPLOYER IF THE EMPLOYER DISTRIBUTES
- 2 TOBACCO PRODUCTS OR TOBACCO PARAPHERNALIA FOR COMMERCIAL PURPOSES.
- 3 (B) A PERSON WHO DISTRIBUTES TOBACCO PRODUCTS FOR COMMERCIAL
- 4 PURPOSES, INCLUDING A PERSON LICENSED UNDER TITLE 16 OF THE BUSINESS
- 5 REGULATION ARTICLE, MAY NOT DISTRIBUTE TO A MINOR:
- 6 (1) A TOBACCO PRODUCT;
- 7 (2) TOBACCO PARAPHERNALIA; OR
- 8 (3) A COUPON REDEEMABLE FOR A TOBACCO PRODUCT.
- 9 (C) (1) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS 10 SUBJECT TO A CIVIL PENALTY NOT EXCEEDING:
- 11 (I) \$300 FOR A FIRST VIOLATION;
- 12 (II) \$1,000 FOR A SECOND VIOLATION OCCURRING WITHIN 24
- 13 MONTHS AFTER THE FIRST VIOLATION; AND
- 14 (III) \$3,000 FOR EACH SUBSEQUENT VIOLATION OCCURRING
- 15 WITHIN 24 MONTHS AFTER THE PRECEDING VIOLATION.
- 16 (2) THE LOCAL HEALTH DEPARTMENTS SHALL REPORT VIOLATIONS
- 17 OF SUBSECTION (B) OF THIS SECTION TO THE COMPTROLLER'S OFFICE.
- 18 (D) IN A PROSECUTION FOR A VIOLATION OF SUBSECTION (B) OF THIS
- 19 SECTION, IT IS A DEFENSE THAT THE DEFENDANT EXAMINED THE PURCHASER'S OR
- 20 RECIPIENT'S DRIVER'S LICENSE OR OTHER VALID IDENTIFICATION ISSUED BY AN
- 21 EMPLOYER, A GOVERNMENTAL UNIT, OR AN INSTITUTION OF HIGHER EDUCATION
- 22 THAT POSITIVELY IDENTIFIED THE PURCHASER OR RECIPIENT AS AT LEAST 18
- 23 YEARS OLD.

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- 24 (E) (1) IN THIS SUBSECTION, "DESIGNEE" MEANS A RETIRED SWORN LAW
- 25 ENFORCEMENT OFFICER EMPLOYED BY A COUNTY HEALTH OFFICER OR AN
- 26 EMPLOYEE OF A LOCAL HEALTH DEPARTMENT TRAINED IN CIVIL ENFORCEMENT.
- 27 (2) A COUNTY HEALTH OFFICER OR A DESIGNEE OF A COUNTY
- 28 HEALTH OFFICER MAY ISSUE A CIVIL CITATION FOR A VIOLATION OF SUBSECTION
- 29 (B) OF THIS SECTION.
 - (3) A CITATION ISSUED UNDER THIS SUBSECTION SHALL INCLUDE:

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1	(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;
2	(II) THE NATURE OF THE VIOLATION;
3	(III) THE LOCATION AND TIME OF THE VIOLATION;
4	(IV) THE AMOUNT OF THE CIVIL PENALTY;
5 6	(V) THE MANNER, LOCATION, AND TIME IN WHICH THE CIVIL PENALTY MAY BE PAID;
7 8	(VI) A NOTICE STATING THE PERSON'S RIGHT TO ELECT TO STAND TRIAL FOR THE VIOLATION; AND
9	(VII) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OF TO CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION
1	1. IS AN ADMISSION OF LIABILITY; AND
2	2. MAY RESULT IN ENTRY OF A DEFAULT JUDGMENT THAT MAY INCLUDE THE CIVIL PENALTY, COURT COSTS, AND ADMINISTRATIVE
4	EXPENSES.
15 16	(4) THE COUNTY HEALTH OFFICER OR DESIGNEE SHALL RETAIN A COPY OF THE CITATION ISSUED UNDER THIS SUBSECTION.
17 18 19	
20 21	WITH THE COUNTY HEALTH OFFICER OR DESIGNEE AT LEAST 5 DAYS BEFORE THE DATE SET IN THE CITATION FOR THE PAYMENT OF THE CIVIL PENALTY.
22 23 24 25	(II) AFTER RECEIVING A NOTICE OF INTENTION TO STAND TRIAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COUNTY HEALTH OFFICER OR DESIGNEE SHALL FORWARD THE NOTICE AND A COPY OF THE CITATION TO THE DISTRICT COURT.
26 27	(6) (I) AFTER RECEIVING A CITATION AND NOTICE UNDER THIS SUBSECTION, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTICE THE TRIAL DATE

(II) IN A PROCEEDING BEFORE THE DISTRICT COURT, A

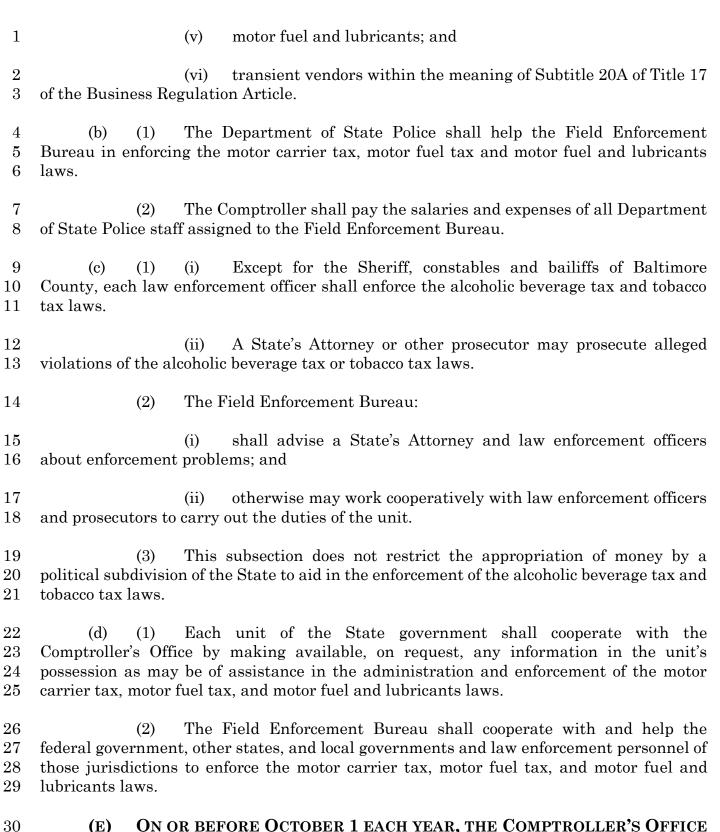
VIOLATION OF SUBSECTION (B) OF THIS SECTION SHALL BE HANDLED IN THE SAME

MANNER AS A MUNICIPAL INFRACTION UNDER §§ 6–108 THROUGH 6–115 OF THE 1 2 LOCAL GOVERNMENT ARTICLE. THE DISTRICT COURT SHALL REMIT ANY PENALTIES COLLECTED 3 4 FOR A VIOLATION OF SUBSECTION (B) OF THIS SECTION TO THE COUNTY IN WHICH THE VIOLATION OCCURRED. 5 6 ADJUDICATION OF A VIOLATION OF SUBSECTION (B) OF THIS 7 SECTION IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE. 8 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, IN **(1)** COLLABORATION AND CONSULTATION WITH THE OFFICE OF THE COMPTROLLER, 9 LOCAL HEALTH DEPARTMENTS, AND LOCAL LAW ENFORCEMENT AGENCIES, SHALL 10 DEVELOP ONGOING STRATEGIES FOR ENFORCEMENT OF §§ 10-107 AND 10-108 OF 11 THE CRIMINAL LAW ARTICLE. 12 13 **(2)** ON OR BEFORE OCTOBER 1 EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE 14 STATE GOVERNMENT ARTICLE, ON: 15 16 **(I)** THE **DEVELOPMENT STRATEGIES** OF **ENFORCEMENT** 17 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND 18 TRAINING AND ASSISTANCE TO TOBACCO RETAILERS TO (II)IMPROVE COMPLIANCE WITH § 10–107 OF THE CRIMINAL LAW ARTICLE. 19 Article - Tax - General 20 2-107.2122Authorized employees of the Field Enforcement Bureau of the Comptroller's (a) Office: 23 24(1) shall be individuals who are sworn police officers; and 25have all the powers, duties, and responsibilities of a peace officer for the 26purpose of enforcing the laws pertaining to: 27 (i) alcoholic beverage tax; 28 (ii) tobacco tax; 29 motor fuel tax; (iii)

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(iv)

motor carrier tax;



30 (E) ON OR BEFORE OCTOBER 1 EACH YEAR, THE COMPTROLLER'S OFFICE 31 SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF 32 THE STATE GOVERNMENT ARTICLE, ON:

$\frac{1}{2}$	(1) THE AGGREGATE NUMBER OF LICENSED TOBACCO RETAILERS THAT COMMITTED A VIOLATION OF § 10–107 OF THE CRIMINAL LAW ARTICLE AND
3 4	THE AGGREGATE NUMBER OF MINORS WHO COMMITTED A VIOLATION OF § 10–108 OF THE CRIMINAL LAW ARTICLE DURING THE REPORTING PERIOD;
5 6 7	(2) THE NUMBER OF PRIOR VIOLATIONS FOR LICENSED TOBACCO RETAILERS AND MINORS THAT COMMITTED A VIOLATION DURING THE REPORTING PERIOD; AND
8 9 10	(3) THE SUBSEQUENT ACTION TAKEN BY THE COMPTROLLER'S OFFICE AGAINST EACH VIOLATOR AND, FOR EACH ACTION TAKEN, THE NUMBER OF VIOLATIONS COMMITTED BY THE VIOLATOR.
11 12	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.
	Approved:
	Governor.
	Speaker of the House of Delegates. Prosident of the Senate
	Progradant at the Sanata