

**MEMORANDUM**

September 25, 2015

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Bill 41-15, Health – Distribution of Tobacco Products to Minors – Penalties

Bill 41-15, Health – Distribution of Tobacco Products to Minors – Penalties, sponsored by Lead Sponsor Councilmember Rice and Co-Sponsors Council President Leventhal and Council Vice President Floreen, is scheduled to be introduced on September 29, 2015. A public hearing is tentatively scheduled for October 20, 2015 at 1:30 p.m.

Distributing a tobacco product to minor already violates County law. The current maximum penalty is a Class A civil violation, punishable by a fine of \$500 for a first offense and \$750 for a subsequent offense. Md. Local Gov't Code, §10-202(b) authorizes the County to enforce a County law by a civil fine not exceeding \$1000. Bill 41-15 would increase the maximum civil fine for distributing a tobacco product to a minor to \$1000 for a first offense and \$1000 for a subsequent offense.

Distributing a tobacco product to a minor is also a misdemeanor under Md. Criminal Law Code, §10-107, punishable by a fine of \$300 for a first offense, \$1000 for a second offense, and \$3000 for each subsequent offense within 2 years after the preceding offense. An enforcement official would have the option of citing a violator under the State Criminal Law or under the County law.

This packet contains:

Bill 41-15

Legislative Request Report

Circle #

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Bill No. 41-15  
Concerning: Health – Distribution of Tobacco Products to Minors – Penalties  
Revised: 9-24-15 Draft No. 3  
Introduced: September 29, 2015  
Expires: March 29, 2017  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Rice  
Co-Sponsors: Council President Leventhal and Council Vice President Floreen

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**AN ACT** to:

- (1) increase the maximum civil fine for distributing a tobacco product to a minor; and
- (2) generally amend the law prohibiting the distribution of a tobacco product to a minor.

By amending

Montgomery County Code  
Chapter 24, Health and Sanitation  
Section 24-11

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Section 24-11 is amended as follows:**

**24-11. Distribution of tobacco products to minors.**

(a) Definitions. In this Section the following words have the meanings indicated.

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

(2) Distribute means to:

(A) give away, sell, deliver, dispense, or issue;

(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.

(b) Unlawful distribution.

(1) A person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes must not:

(i) 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;

(ii) distribute cigarette rolling papers to a minor; or

(iii) distribute to a minor a coupon redeemable for any tobacco product.

(2) A person, who is not a person described under paragraph (b)(1), must not:

(i) buy for or sell to a minor any tobacco product; or

(ii) deliver or sell to a minor cigarette rolling papers.

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

32 (d) A person has not violated this Section if:  
33 (1) that person examined a driver's license or another valid  
34 identification issued by an employer, a government entity, or an  
35 institution of higher education; and  
36 (2) that license or other identification positively identified the buyer  
37 or recipient of a tobacco product as at least 18 years old.

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

41 (f) A person who violates this Section is liable for a [class A] civil  
42 violation. The maximum civil fine is \$1000 for a first offense and  
43 \$1000 for each subsequent offense.

44 *Approved:*

45 \_\_\_\_\_  
George Leventhal, President, County Council Date

46 *Approved:*

47 \_\_\_\_\_  
Isiah Leggett, County Executive Date

## LEGISLATIVE REQUEST REPORT

Bill 41-15

### *Health – Distribution of Tobacco Products to Minors – Penalties*

- DESCRIPTION:** Bill 41-15 would increase the civil fine for a violation of County law from \$500 for a first offense and \$750 for a subsequent offense to \$1000 for each offense.
- PROBLEM:** The penalties under County law are too low.
- GOALS AND OBJECTIVES:** Eliminate the distribution of tobacco products to minors in the County.
- COORDINATION:** Police, Department of Liquor Control
- FISCAL IMPACT:** To be determined.
- ECONOMIC IMPACT:** To be determined.
- EVALUATION:** n/a
- EXPERIENCE ELSEWHERE:** To be researched.
- SOURCE OF INFORMATION:** Robert H. Drummer, Senior Legislative Attorney
- APPLICATION WITHIN MUNICIPALITIES:** To be researched.
- PENALTIES:** \$1000 for each offense.