

Resolution No.: 18-381
Introduced: November 17, 2015
Adopted: January 19, 2016

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH**

Lead Sponsor: Health and Human Services Committee

SUBJECT: Resolution to adopt Bill 41-15, Health – Distribution of Tobacco Products to Minors – Penalties as a Board of Health Regulation

Background

1. County Code §2-65, as amended, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202 authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. On August 4, 1998, the Council adopted Resolution 13-1410, which adopted Emergency Bill 13-98, Tobacco – Distribution to Minors, as a Board of Health Regulation. Bill 13-98 enacted Code §24-11 establishing penalties for distributing a tobacco product to a minor.
4. On November 17, 2015, the County Council enacted Bill 41-15, Health – Distribution of Tobacco Products to Minors – Penalties, increasing the penalty for distributing a tobacco product to a minor.
5. On January 12, 2016, the Council held a public hearing on this regulation. As required by law, each municipality in the County and the public were properly notified of this hearing.
6. The County Council, sitting as the Board of Health, finds after reviewing the evidence in the record that increasing the penalty for distributing a tobacco product to a minor is necessary to protect the health of County residents.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, adopts Bill 41-15, Health – Distribution of Tobacco Products to Minors – Penalties, as a Board of Health Regulation as follows:

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

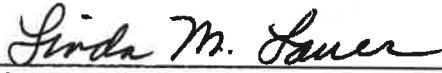
24-11. Distribution of tobacco products to minors.

- (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.
- (c) Subsection (b) 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) that person examined a driver's license or another valid identification issued by an employer, a government entity, or an institution of higher education; and
 - (2) that license or other identification positively identified the buyer or recipient of a tobacco product as 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.
- (f) A person who violates this Section is liable for a [class A] civil violation. The maximum civil fine is \$1000 for a first offense and \$1000 for each subsequent offense.

Effective date: This regulation takes effect on February 21, 2016.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council