



## HOUSE BILL 185: CIVIL MONEY PENALTIES FOR DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS Fact Sheet

### What is House Bill 185?

House Bill 185 (HB185) establishes civil money penalties for persons or businesses that distribute tobacco products, tobacco paraphernalia, or coupons redeemable for tobacco products to minors. Currently, a person or business that distributes tobacco products to a minor is guilty of a criminal misdemeanor, and subject to escalating fines. HB 185 supplements, but does not replace, the existing criminal provisions with a civil money penalty. The bill, which was passed by the Maryland General Assembly and is awaiting signature by Governor Hogan, also permits non-law enforcement personnel to issue the civil money penalties and establishes certain reporting requirements for the Maryland Department of Health and the Maryland Office of the Comptroller.

### Who is authorized to issue a civil citation for violations of the law?

- A County Health Officer, OR
- A designee of a County Health Officer
- “Designee” includes a law enforcement officer, a retired law enforcement officer, or an employee of the local health department trained in civil enforcement.

### What civil money penalties are imposed?

- \$300 for a first violation
- \$1000 for a second violation within 24 months of the first violation
- \$3000 for each subsequent violation occurring within 24 months after the preceding violation

### The citation **MUST** include the following information:

- Name and address of the person or business distributing tobacco products to minors
- Nature of the violation
- Location and time of the violation

- Amount of the civil penalty (up to \$300 for the first violation)
- Manner, location, and time in which the civil penalty must be paid
- A notice stating that the violator has the right to elect to stand trial
- A warning that failure to pay the civil penalty or contest liability in a timely manner is an admission of liability and may result in entry of a default judgment.

## **How are the citations processed and/or trial dates scheduled?**

1. A County Health Officer or designee retains a copy of the citation.
2. If the violator elects to stand trial, he/she must send notice to the county health officer or designee.
3. A County Health Officer or designee sends the notice and copy of the citation to the District Court.
4. The District Court schedules the case for trial and notifies the defendant of the trial date.
5. Citations are handled in the same way as a municipal infraction per §§6-108 to 6-115 of the Local Government Article.
6. The District Court is required to remit certain collected penalties to the County.

## **Reporting Requirements and Obligations**

### ***Maryland Department of Health***

- Develop ongoing strategies for enforcement of the prohibition on tobacco sales to minors
- On or before October 1 each year, report to the General Assembly on (1) the development of enforcement strategies and (2) training assistance to tobacco retailers to improve compliance.

### ***County Health Departments***

- Report all violations to the Maryland Office of the Comptroller

### ***Office of the Comptroller***

- Provide to the Department of Health with the name/address of each business licensed to sell cigarettes in the State; and
  - Provide the General Assembly with information on: (1) The number of licensed tobacco retailers that sold tobacco products to minors; (2) The number of prior violations for licensed tobacco retailers and minors that committed a violation; and (3) The subsequent action taken by the Comptroller's Office against each violator.

## **Can a person be convicted of the criminal misdemeanor pursuant to Criminal Law, 10-107 AND cited for the civil money penalty per Health General, 24-307?**

- No. Enforcement of the civil penalty is specifically precluded if an individual has been convicted of the misdemeanor pursuant to Criminal Law, 10-107.

*This document was developed by the Legal Resource Center for Public Health Policy at the University of Maryland Francis King Carey School of Law, with funding and support provided in part by the Centers for Disease Control and Prevention. The Legal Resource Center for Public Health Policy provides information and technical assistance on issues related to public health in Maryland. The legal information and assistance does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.*