

SENATE BILL 119

C2

7lr1285
CF 7lr1286

By: **Senator Middleton**

Introduced and read first time: January 13, 2017

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Electronic Nicotine Delivery Systems – Licensing**

3 FOR the purpose of requiring a person to have an appropriate license whenever the person
4 acts in the State as an electronic nicotine delivery systems manufacturer, retailer,
5 storage warehouse, vape shop vendor, or wholesaler; providing for a certain
6 exception for certain retailers and wholesalers; requiring a license to act as an
7 electronic nicotine delivery system retailer or vape shop vendor for each place of
8 business of the retailer or vape shop vendor; making holders of electronic nicotine
9 delivery systems licenses subject to certain restrictions and requirements; providing
10 for certain application procedures and fees; requiring the display of a license in a
11 certain manner; prohibiting a person from reapplying for a license within a certain
12 period after the person's license was revoked; requiring the Comptroller to issue
13 electronic nicotine delivery systems licenses to manufacturers, storage warehouses,
14 and wholesalers in the State under certain circumstances; requiring certain clerks
15 of the circuit court to issue electronic nicotine delivery systems products licenses to
16 retailers and vape shop vendors under certain circumstances; specifying the scope of
17 the licenses; providing for the renewal of a license; authorizing the Comptroller to
18 delegate certain powers and duties; providing for certain disciplinary actions and
19 proceedings; authorizing the Comptroller to adopt certain regulations; granting
20 certain rights to judicial review under certain circumstances; prohibiting a person
21 from acting, attempting to act, or offering to act in the State as an electronic nicotine
22 delivery systems manufacturer, retailer, storage warehouse, vape shop vendor, or
23 wholesaler unless the person has an appropriate license; requiring the Comptroller
24 to pay certain fees into the General Fund of the State; stating the intent of the
25 General Assembly; requiring a person who transports electronic nicotine delivery
26 systems by vehicle on a public road to have certain information; authorizing the
27 Comptroller by regulation to require a common carrier that brings electronic nicotine
28 delivery systems products into the State to submit certain information; prohibiting
29 a person from shipping, importing, or selling electronic nicotine delivery systems into
30 or within the State except under certain circumstances; requiring a person that
31 ships, imports, or sells electronic nicotine delivery systems to take certain actions;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



placing certain restrictions on the sale, storage, and distribution of electronic nicotine delivery systems; establishing certain penalties; prohibiting the sale, distribution, or offer for sale of electronic nicotine delivery systems to minors; defining certain terms; and generally relating to licenses for electronic nicotine distribution systems manufacturers, retailers, storage warehouses, vape shop vendors, and wholesalers in the State.

BY adding to

Article – Business Regulation

Section 16.7–101 through 16.7–218 to be under the new title “Title 16.7. Electronic Nicotine Delivery Systems Licenses”

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 24–305(b)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Business Regulation

TITLE 16.7. ELECTRONIC NICOTINE DELIVERY SYSTEMS LICENSES.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

16.7–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COUNTY LICENSE” MEANS A LICENSE ISSUED BY THE CLERK TO SELL ELECTRONIC NICOTINE DELIVERY SYSTEMS TO CONSUMERS IN A COUNTY.

(C) (1) “ELECTRONIC NICOTINE DELIVERY SYSTEM” MEANS AN ELECTRONIC DEVICE, A COMPONENT FOR AN ELECTRONIC DEVICE, OR A PRODUCT USED TO REFILL OR RESUPPLY AN ELECTRONIC DEVICE THAT CAN BE USED TO DELIVER NICOTINE TO AN INDIVIDUAL INHALING FROM THE DEVICE.

(2) “ELECTRONIC NICOTINE DELIVERY SYSTEM” INCLUDES AN ELECTRONIC CIGARETTE, AN ELECTRONIC CIGAR, AN ELECTRONIC CIGARILLO, OR AN ELECTRONIC PIPE.

1 **(3) “ELECTRONIC NICOTINE DELIVERY SYSTEM” DOES NOT INCLUDE**
2 **A NICOTINE DEVICE THAT CONTAINS OR DELIVERS NICOTINE INTENDED FOR HUMAN**
3 **CONSUMPTION IF THE DEVICE HAS BEEN APPROVED BY THE UNITED STATES FOOD**
4 **AND DRUG ADMINISTRATION FOR SALE AS A TOBACCO CESSATION PRODUCT AND IS**
5 **BEING MARKETED AND SOLD SOLELY FOR THAT PURPOSE.**

6 **(D) “ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER” MEANS**
7 **A PERSON THAT:**

8 **(1) MANUFACTURES OR OTHERWISE PRODUCES ELECTRONIC**
9 **NICOTINE DELIVERY SYSTEMS INTENDED FOR SALE IN THE STATE, INCLUDING**
10 **ELECTRONIC NICOTINE DELIVERY SYSTEMS INTENDED FOR SALE IN THE UNITED**
11 **STATES THROUGH AN IMPORTER; AND**

12 **(2) (I) SELLS ELECTRONIC NICOTINE DELIVERY SYSTEMS TO A**
13 **LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IN THE STATE;**

14 **(II) SELLS ELECTRONIC NICOTINE DELIVERY SYSTEMS THAT**
15 **MAY BE LAWFULLY SOLD IN THE STATE TO A LICENSED ELECTRONIC NICOTINE**
16 **DELIVERY SYSTEMS WHOLESALER LOCATED OUTSIDE THE STATE;**

17 **(III) UNLESS OTHERWISE PROHIBITED OR RESTRICTED UNDER**
18 **LOCAL LAW, THIS ARTICLE, OR THE CRIMINAL LAW ARTICLE, DISTRIBUTES SAMPLE**
19 **ELECTRONIC NICOTINE DELIVERY SYSTEMS TO CONSUMERS LOCATED IN THE**
20 **STATE; OR**

21 **(IV) STORES ELECTRONIC NICOTINE DELIVERY SYSTEMS IN A**
22 **STORAGE WAREHOUSE IN THE STATE FOR SUBSEQUENT SHIPMENT TO LICENSED**
23 **ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALERS, FEDERAL**
24 **RESERVATIONS, OR PERSONS OUTSIDE THE STATE.**

25 **(E) “ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER” MEANS A**
26 **PERSON THAT:**

27 **(1) SELLS ELECTRONIC NICOTINE DELIVERY SYSTEMS TO**
28 **CONSUMERS; OR**

29 **(2) HOLDS ELECTRONIC NICOTINE DELIVERY SYSTEMS FOR SALE TO**
30 **CONSUMERS.**

31 **(F) “ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE”**
32 **MEANS A STORAGE FACILITY IN THE STATE OPERATED FOR THE PURPOSE OF**

1 STORING ELECTRONIC NICOTINE DELIVERY SYSTEMS ON BEHALF OF AN
2 ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER.

3 (G) "ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER" MEANS A
4 PERSON THAT:

5 (1) HOLDS ELECTRONIC NICOTINE DELIVERY SYSTEMS FOR SALE TO
6 ANOTHER PERSON FOR RESALE; OR

7 (2) SELLS ELECTRONIC NICOTINE DELIVERY SYSTEMS TO ANOTHER
8 PERSON FOR RESALE.

9 (H) "LICENSE" MEANS:

10 (1) A LICENSE ISSUED BY THE COMPTROLLER UNDER § 16.7-204(A)
11 OF THIS TITLE TO:

12 (I) ACT AS A LICENSED ELECTRONIC NICOTINE DELIVERY
13 SYSTEMS MANUFACTURER;

14 (II) ACT AS A LICENSED ELECTRONIC NICOTINE DELIVERY
15 SYSTEMS WHOLESALER; OR

16 (III) ACT AS A LICENSED ELECTRONIC NICOTINE DELIVERY
17 SYSTEMS STORAGE WAREHOUSE; OR

18 (2) A LICENSE ISSUED BY THE CLERK UNDER § 16.7-204(B) OF THIS
19 TITLE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER OR A
20 VAPE SHOP VENDOR.

21 (I) "SELL" MEANS TO EXCHANGE OR TRANSFER, OR TO AGREE TO
22 EXCHANGE OR TRANSFER, TITLE OR POSSESSION OF PROPERTY, IN ANY MANNER OR
23 BY ANY MEANS, FOR CONSIDERATION.

24 (J) "VAPE SHOP VENDOR" MEANS AN ELECTRONIC NICOTINE DELIVERY
25 SYSTEMS BUSINESS THAT DERIVES AT LEAST 70% OF ITS REVENUES, MEASURED BY
26 AVERAGE DAILY RECEIPTS, FROM THE SALE OF ELECTRONIC NICOTINE DELIVERY
27 SYSTEMS AND RELATED ACCESSORIES.

28 16.7-102.

29 THE COMPTROLLER MAY DELEGATE ANY POWER OR DUTY OF THE
30 COMPTROLLER UNDER THIS TITLE.

SUBTITLE 2. ELECTRONIC NICOTINE DELIVERY SYSTEMS LICENSES.

16.7-201.

(A) A PERSON MUST HOLD AN APPROPRIATE LICENSE BEFORE THE PERSON MAY ACT AS:

(1) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER;

(2) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER;

(3) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE;

(4) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER; OR

(5) A VAPE SHOP VENDOR.

(B) A PLACE OF BUSINESS IN WHICH A PERSON ACTS AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER OR A VAPE SHOP VENDOR MUST HOLD AN APPROPRIATE LICENSE.

16.7-202.

(A) AN APPLICANT FOR A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER SHALL MAINTAIN IN THE STATE AN ESTABLISHED PLACE OF BUSINESS FOR THE MANUFACTURE AND STORAGE OF ELECTRONIC NICOTINE DELIVERY SYSTEMS.

(B) AN APPLICANT FOR A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE SHALL MAINTAIN AN ESTABLISHED PLACE OF BUSINESS FOR STORAGE OF ELECTRONIC NICOTINE DELIVERY SYSTEMS.

(C) AN APPLICANT FOR A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER SHALL MAINTAIN AN ESTABLISHED PLACE OF BUSINESS, INCLUDING WAREHOUSE FACILITIES, FOR THE SALE OF ELECTRONIC NICOTINE DELIVERY SYSTEMS.

16.7-203.

(A) AN APPLICANT FOR A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER SHALL:

1 (1) SUBMIT AN APPLICATION TO THE COMPTROLLER ON THE FORM
2 AND CONTAINING THE INFORMATION THAT THE COMPTROLLER REQUIRES; AND

3 (2) PAY TO THE COMPTROLLER A FEE OF \$25.

4 (B) (1) AN APPLICANT FOR A LICENSE TO ACT AS AN ELECTRONIC
5 NICOTINE DELIVERY SYSTEMS RETAILER OR A VAPE SHOP VENDOR:

6 (I) SHALL OBTAIN A COUNTY LICENSE BY SUBMITTING TO THE
7 CLERK AN APPLICATION FOR EACH PERMANENT OR TEMPORARY PLACE OF
8 BUSINESS LOCATED IN THE SAME ENCLOSURE AND OPERATED BY THE SAME
9 APPLICANT; AND

10 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
11 SUBSECTION, SHALL PAY TO THE CLERK A FEE OF \$25.

12 (2) A PERSON THAT HAS A LICENSE ISSUED UNDER TITLE 16 OR
13 TITLE 16.5 OF THIS ARTICLE TO ACT AS A CIGARETTE RETAILER OR OTHER TOBACCO
14 PRODUCTS RETAILER IS NOT REQUIRED TO PAY THE LICENSE FEE.

15 (3) THE APPLICATION SHALL:

16 (I) BE MADE ON THE FORM THAT THE CLERK REQUIRES; AND

17 (II) CONTAIN THE INFORMATION THAT THE COMPTROLLER
18 REQUIRES.

19 (C) AN APPLICANT FOR A LICENSE TO ACT AS AN ELECTRONIC NICOTINE
20 DELIVERY SYSTEMS STORAGE WAREHOUSE SHALL:

21 (1) SUBMIT AN APPLICATION TO THE COMPTROLLER ON THE FORM
22 AND CONTAINING THE INFORMATION THAT THE COMPTROLLER REQUIRES; AND

23 (2) PAY TO THE COMPTROLLER A FEE OF \$25.

24 (D) (1) AN APPLICANT FOR A LICENSE TO ACT AS AN ELECTRONIC
25 NICOTINE DELIVERY SYSTEMS WHOLESALER SHALL:

26 (I) SUBMIT AN APPLICATION TO THE COMPTROLLER ON THE
27 FORM AND CONTAINING THE INFORMATION THAT THE COMPTROLLER REQUIRES;
28 AND

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, PAY TO THE COMPTROLLER A FEE OF \$250.

(2) A PERSON THAT HAS A LICENSE ISSUED UNDER TITLE 16 OR TITLE 16.5 OF THIS ARTICLE TO ACT AS A CIGARETTE WHOLESALER OR OTHER TOBACCO PRODUCTS WHOLESALER OR TO ACT AS A CIGARETTE SUBWHOLESALER OR OTHER TOBACCO PRODUCTS SUBWHOLESALER IS NOT REQUIRED TO PAY THE LICENSE FEE.

(E) A LICENSEE SHALL DISPLAY A LICENSE IN THE WAY THAT THE COMPTROLLER REQUIRES BY REGULATION.

(F) IF A PERSON HAS HAD A LICENSE REVOKED UNDER § 16.7–208 OF THIS SUBTITLE, THE PERSON MAY NOT REAPPLY FOR A LICENSE WITHIN 1 YEAR AFTER THE DATE WHEN THE PRIOR LICENSE WAS REVOKED.

16.7–204.

(A) THE COMPTROLLER SHALL ISSUE AN APPROPRIATE LICENSE TO EACH APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE FOR A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER, ELECTRONIC NICOTINE DELIVERY SYSTEMS WAREHOUSE, OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER.

(B) THE CLERK SHALL ISSUE TO EACH APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER OR A VAPE SHOP VENDOR.

16.7–205.

(A) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER LICENSE AUTHORIZES THE LICENSEE TO:

(1) SELL ELECTRONIC NICOTINE DELIVERY SYSTEMS TO:

(I) A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER LOCATED IN THE STATE;

(II) A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER LOCATED OUTSIDE THE STATE IF THE ELECTRONIC NICOTINE DELIVERY SYSTEMS MAY BE SOLD LAWFULLY IN MARYLAND; AND

(III) A LICENSED VAPE SHOP VENDOR;

(2) EXCEPT AS OTHERWISE PROHIBITED OR RESTRICTED UNDER LOCAL LAW, THIS ARTICLE, OR THE CRIMINAL LAW ARTICLE, DISTRIBUTE SAMPLE ELECTRONIC NICOTINE DELIVERY SYSTEMS PRODUCTS TO CONSUMERS LOCATED IN THE STATE;

(3) STORE ELECTRONIC NICOTINE DELIVERY SYSTEMS IN A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE FOR SUBSEQUENT SHIPMENT TO LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALERS, FEDERAL RESERVATIONS, OR PERSONS OUT OF STATE; AND

(4) ON APPROVAL OF THE COMPTROLLER, ACT AS AN AGENT OF A STATE-LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALE FOR DISTRIBUTION OF ELECTRONIC NICOTINE DELIVERY SYSTEMS.

(B) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER LICENSE AUTHORIZES THE LICENSEE TO:

(1) SELL ELECTRONIC NICOTINE DELIVERY SYSTEMS TO CONSUMERS; AND

(2) BUY ELECTRONIC NICOTINE DELIVERY SYSTEMS FROM AN ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALE.

(C) (1) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS WAREHOUSE STORAGE LICENSE AUTHORIZES THE LICENSEE TO OPERATE A STORAGE FACILITY FOR THE PURPOSE OF STORING ELECTRONIC NICOTINE DELIVERY SYSTEMS ON BEHALF OF A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER.

(2) IF AN ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE LICENSEE IS A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALE, THE ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE LICENSE AUTHORIZES THE HOLDER TO STORE ELECTRONIC NICOTINE DELIVERY SYSTEMS.

(D) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALE LICENSE AUTHORIZES THE LICENSEE TO:

(1) SELL ELECTRONIC NICOTINE DELIVERY SYSTEMS TO ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILERS;

1 **(2) BUY ELECTRONIC NICOTINE DELIVERY SYSTEMS DIRECTLY FROM**
2 **AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER AND AN**
3 **ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER;**

4 **(3) HOLD ELECTRONIC NICOTINE DELIVERY SYSTEMS;**

5 **(4) TRANSPORT ELECTRONIC NICOTINE DELIVERY SYSTEMS IN THE**
6 **STATE;**

7 **(5) SELL ELECTRONIC NICOTINE DELIVERY SYSTEMS TO ANOTHER**
8 **LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IF THE**
9 **COMPTROLLER SPECIFICALLY AUTHORIZES THE SALE; AND**

10 **(6) STORE ELECTRONIC NICOTINE DELIVERY SYSTEMS AT A**
11 **LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE.**

12 **(E) A VAPE SHOP VENDOR LICENSE AUTHORIZES THE LICENSEE TO:**

13 **(1) SELL ELECTRONIC NICOTINE DELIVERY SYSTEMS AS A VAPE SHOP**
14 **VENDOR; AND**

15 **(2) BUY ELECTRONIC NICOTINE DELIVERY SYSTEMS FROM AN**
16 **ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER.**

17 **16.7–206.**

18 **(A) UNLESS A LICENSE IS RENEWED FOR A 1–YEAR TERM AS PROVIDED IN**
19 **THIS SECTION, THE LICENSE EXPIRES ON THE DATE SET BY THE ISSUING OFFICIAL.**

20 **(B) AT LEAST 1 MONTH BEFORE A LICENSE ISSUED UNDER THIS SUBTITLE**
21 **EXPIRES, THE ISSUING OFFICIAL SHALL SEND TO THE LICENSEE A RENEWAL NOTICE**
22 **THAT STATES THE DATE ON WHICH THE CURRENT LICENSE EXPIRES.**

23 **(C) BEFORE A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES, THE**
24 **LICENSEE MAY RENEW THE LICENSE FOR AN ADDITIONAL 1–YEAR TERM, IF THE**
25 **LICENSEE:**

26 **(1) OTHERWISE IS ENTITLED TO BE LICENSED;**

27 **(2) SUBMITS TO THE ISSUING OFFICIAL A RENEWAL APPLICATION ON**
28 **THE FORM THAT THE ISSUING OFFICIAL REQUIRES; AND**

1 **(3) PAYS TO THE ISSUING OFFICIAL THE LICENSE FEE REQUIRED**
2 **UNDER § 16.7-203 OF THIS SUBTITLE.**

3 **(D) THE ISSUING OFFICIAL SHALL RENEW THE LICENSE OF EACH LICENSEE**
4 **THAT MEETS THE REQUIREMENTS OF THIS SECTION.**

5 **16.7-207.**

6 **(A) (1) A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS**
7 **RETAILER OR A LICENSED VAPE SHOP VENDOR MAY NOT ASSIGN THE LICENSE.**

8 **(2) IF A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS**
9 **WHOLESALE SELLER SELLS THE LICENSEE'S ELECTRONIC NICOTINE DELIVERY SYSTEMS**
10 **BUSINESS AND PAYS TO THE COMPTROLLER A LICENSE ASSIGNMENT FEE OF \$10,**
11 **THE LICENSEE MAY ASSIGN THE LICENSE TO THE BUYER OF THE BUSINESS IF THE**
12 **BUYER OTHERWISE QUALIFIES UNDER THIS TITLE FOR AN ELECTRONIC NICOTINE**
13 **DELIVERY SYSTEMS WHOLESALE SELLER'S LICENSE.**

14 **(B) IF THE ELECTRONIC NICOTINE DELIVERY SYSTEMS BUSINESS OF A**
15 **LICENSEE IS TRANSFERRED BECAUSE OF BANKRUPTCY, DEATH, INCOMPETENCY,**
16 **RECEIVERSHIP, OR OTHERWISE BY OPERATION OF LAW, THE COMPTROLLER SHALL**
17 **TRANSFER THE LICENSE WITHOUT CHARGE TO THE NEW OWNER OF THE LICENSEE'S**
18 **BUSINESS IF THE TRANSFEREE OTHERWISE QUALIFIES UNDER THIS TITLE FOR THE**
19 **LICENSE BEING TRANSFERRED.**

20 **(C) (1) IF A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS**
21 **WHOLESALE SURRENDERS THE LICENSE TO THE COMPTROLLER AND IF NO**
22 **DISCIPLINARY PROCEEDINGS ARE PENDING AGAINST THE LICENSEE, THE**
23 **COMPTROLLER SHALL REFUND A PRO RATA PORTION OF THE LICENSE FEE FOR THE**
24 **UNEXPIRED TERM OF THE LICENSE.**

25 **(2) A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS**
26 **RETAILER OR A LICENSED VAPE SHOP VENDOR IS NOT ALLOWED A REFUND FOR THE**
27 **UNEXPIRED TERM OF THE LICENSE.**

28 **16.7-208.**

29 **(A) SUBJECT TO THE HEARING PROVISIONS OF § 16.7-209 OF THIS**
30 **SUBTITLE, THE COMPTROLLER MAY DENY A LICENSE TO AN APPLICANT,**
31 **REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR**
32 **LICENSEE:**

1 **(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO**
2 **OBTAIN A LICENSE FOR THE APPLICANT, LICENSEE, OR ANOTHER PERSON;**

3 **(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;**

4 **(3) BUYS ELECTRONIC NICOTINE DELIVERY SYSTEMS FOR RESALE:**

5 **(I) IN VIOLATION OF A LICENSE; OR**

6 **(II) FROM A PERSON THAT IS NOT A LICENSED ELECTRONIC**
7 **NICOTINE DELIVERY SYSTEMS MANUFACTURER OR A LICENSED ELECTRONIC**
8 **NICOTINE DELIVERY SYSTEMS WHOLESALER;**

9 **(4) IS CONVICTED, UNDER THE LAWS OF THE UNITED STATES OR OF**
10 **ANY OTHER STATE, OF:**

11 **(I) A FELONY; OR**

12 **(II) A MISDEMEANOR THAT IS A CRIME OF MORAL TURPITUDE**
13 **AND IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE**
14 **APPLICANT OR LICENSEE;**

15 **(5) VIOLATES FEDERAL, STATE, OR LOCAL LAW REGARDING THE SALE**
16 **OF ELECTRONIC NICOTINE DELIVERY SYSTEMS; OR**

17 **(6) VIOLATES THIS TITLE, TITLE 16, OR TITLE 16.5 OF THIS ARTICLE**
18 **OR REGULATIONS ADOPTED UNDER THESE TITLES.**

19 **(B) SUBJECT TO THE HEARING PROVISIONS OF § 16.7–209 OF THIS**
20 **SUBTITLE, THE COMPTROLLER SHALL DENY A LICENSE TO ANY APPLICANT THAT**
21 **HAS HAD A LICENSE REVOKED UNDER THIS SECTION UNTIL:**

22 **(1) 1 YEAR HAS PASSED SINCE THE LICENSE WAS REVOKED; AND**

23 **(2) IT SATISFACTORILY APPEARS TO THE COMPTROLLER THAT THE**
24 **APPLICANT WILL COMPLY WITH THIS TITLE AND ANY REGULATIONS ADOPTED**
25 **UNDER THIS TITLE.**

26 **(C) PRIOR TO THE ISSUANCE OR RENEWAL OF ANY LICENSE, THE**
27 **COMPTROLLER SHALL CONDUCT AN INVESTIGATION WITH REGARD TO:**

28 **(1) THE APPLICANT;**

(2) THE BUSINESS TO BE OPERATED; AND

(3) THE FACTS SET FORTH IN THE APPLICATION.

16.7–209.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 10–226 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE COMPTROLLER TAKES ANY FINAL ACTION UNDER § 16.7–208 OF THIS SUBTITLE, THE COMPTROLLER SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE COMPTROLLER.

(B) THE COMPTROLLER SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) THE COMPTROLLER MAY ADMINISTER OATHS IN A PROCEEDING UNDER THIS SECTION.

(D) THE PERSON AGAINST WHICH THE ACTION IS CONTEMPLATED MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

(E) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHICH THE ACTION IS CONTEMPLATED DOES NOT APPEAR, THE COMPTROLLER MAY NEVERTHELESS HEAR AND DETERMINE THE MATTER.

16.7–210.

(A) SUBJECT TO THE NOTICE REQUIREMENT OF SUBSECTION (C) OF THIS SECTION, IF A LICENSEE ENGAGES IN AN ACT OR OMISSION THAT IS GROUNDS FOR DISCIPLINE UNDER § 16.7–208 OF THIS SUBTITLE, THE COMPTROLLER MAY SUSPEND THE LICENSE FOR A CONSECUTIVE PERIOD OF TIME THAT:

(1) FOR A FIRST OFFENSE, IS NOT LESS THAN 5 AND NOT MORE THAN 20 BUSINESS DAYS; AND

(2) FOR A SUBSEQUENT OFFENSE, IS NOT LESS THAN 20 BUSINESS DAYS AND NOT MORE THAN 6 MONTHS.

(B) SUBJECT TO THE NOTICE REQUIREMENT UNDER SUBSECTION (C) OF THIS SECTION, THE COMPTROLLER MAY REVOKE A LICENSE IF A LICENSEE WILLFULLY AND PERSISTENTLY ENGAGES IN AN ACT OR OMISSION THAT IS GROUNDS FOR DISCIPLINE UNDER § 16.7–208(A) OF THIS SUBTITLE.

(C) IF A LICENSE IS SUSPENDED OR REVOKED UNDER THIS SECTION:

(1) THE COMPTROLLER SHALL GIVE THE LICENSEE NOTICE OF THE SUSPENSION OR REVOCATION; AND

(2) THE SUSPENSION OR REVOCATION OF A LICENSE MAY NOT BAR OR ABATE A DISCIPLINARY ACTION UNDER THIS SECTION.

(D) THE TRANSFER, RENEWAL, OR EXPIRATION OF A LICENSE MAY NOT BAR OR ABATE A DISCIPLINARY ACTION UNDER THIS SECTION.

(E) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF A LICENSE ISSUED UNDER THE PROVISIONS OF THIS SUBTITLE IS SUSPENDED OR REVOKED BY THE COMPTROLLER, THE LICENSEE MAY, BEFORE THE EFFECTIVE DATE OF THE SUSPENSION OR REVOCATION, PETITION THE COMPTROLLER FOR PERMISSION TO MAKE AN OFFER OF COMPROMISE CONSISTING OF A SUM OF MONEY IN LIEU OF SERVING THE SUSPENSION OR REVOCATION.

(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY IF A LICENSE IS SUSPENDED OR REVOKED FOR A VIOLATION OF § 24-305 OF THE HEALTH – GENERAL ARTICLE, OR ANY OTHER FEDERAL, STATE, OR LOCAL LAW PROHIBITING THE SALE OF ELECTRONIC NICOTINE DELIVERY SYSTEMS TO MINORS.

(2) MONEY PAID IN LIEU OF SUSPENSION OR REVOCATION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

(3) AN OFFER OF COMPROMISE MAY NOT EXCEED \$2,000 FOR RETAIL LICENSEES OR \$50,000 FOR OTHER LICENSEES.

(4) THE COMPTROLLER MAY ACCEPT THE OFFER OF COMPROMISE IF:

(I) THE PUBLIC WELFARE AND MORALS WOULD NOT BE IMPAIRED BY ALLOWING THE LICENSEE TO OPERATE DURING THE PERIOD SET FOR THE SUSPENSION OR REVOCATION; AND

(II) THE PAYMENT OF THE SUM OF MONEY WILL ACHIEVE THE DESIRED DISCIPLINARY PURPOSES.

(5) THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

16.7-211.

1 A PARTY TO A PROCEEDING BEFORE THE COMPTROLLER THAT IS AGGRIEVED
2 BY A FINAL DECISION OF THE COMPTROLLER IN A CONTESTED CASE, AS DEFINED
3 IN § 10-202 OF THE STATE GOVERNMENT ARTICLE, IS ENTITLED TO JUDICIAL
4 REVIEW AS PROVIDED IN §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT
5 ARTICLE.

6 **16.7-212.**

7 (A) A PERSON MAY NOT ACT, ATTEMPT TO ACT, OR OFFER TO ACT AS AN
8 ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER, AN ELECTRONIC
9 NICOTINE DELIVERY SYSTEMS RETAILER, AN ELECTRONIC NICOTINE DELIVERY
10 SYSTEMS STORAGE WAREHOUSE, AN ELECTRONIC NICOTINE DELIVERY SYSTEMS
11 WHOLESALE, OR A VAPE SHOP VENDOR IN THE STATE UNLESS THE PERSON HAS AN
12 APPROPRIATE LICENSE.

13 (B) (1) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A
14 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
15 OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.

16 (2) EACH DAY THAT A VIOLATION OF THIS SECTION CONTINUES IS A
17 SEPARATE OFFENSE.

18 **16.7-213.**

19 (A) (1) THE COMPTROLLER SHALL PAY INTO THE GENERAL FUND OF
20 THE STATE ALL LICENSE FEES COLLECTED UNDER THIS TITLE.

21 (2) ALL LICENSE FEES COLLECTED BY THE COUNTIES UNDER THIS
22 TITLE ARE SUBJECT TO THE DISTRIBUTION PROVISIONS OF § 17-206 OF THIS
23 ARTICLE.

24 (B) THE GENERAL ASSEMBLY INTENDS THAT THESE LICENSE FEES BE
25 USED TO ADMINISTER THIS TITLE.

26 **16.7-214.**

27 (A) EACH ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALE:

28 (1) SHALL OBTAIN AN INVOICE FOR EACH PURCHASE OF ELECTRONIC
29 NICOTINE DELIVERY SYSTEMS;

1 **(2) SHALL KEEP A RECORD OF ALL ELECTRONIC NICOTINE DELIVERY**
2 **SYSTEMS RECEIVED, TO WHICH THE ELECTRONIC NICOTINE DELIVERY SYSTEMS**
3 **WHOLESALE SHALL POST EACH DAY:**

4 **(I) THE INVOICE NUMBER;**

5 **(II) THE DATE OF RECEIPT;**

6 **(III) THE QUANTITY RECEIVED;**

7 **(IV) THE BRAND;**

8 **(V) THE MANUFACTURER; AND**

9 **(VI) THE NAME OF THE PERSON FROM WHOM THE ELECTRONIC**
10 **NICOTINE DELIVERY SYSTEMS ARE RECEIVED;**

11 **(3) FOR ELECTRONIC NICOTINE DELIVERY SYSTEMS SALES TO OTHER**
12 **ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILERS AND VAPE SHOP VENDORS:**

13 **(I) SHALL KEEP A RECORD OF THE NAME AND ADDRESS OF**
14 **EACH ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER AND VAPE SHOP**
15 **VENDOR TO WHOM A SALE IS MADE; AND**

16 **(II) EXCEPT FOR A TRANSFER OF ELECTRONIC NICOTINE**
17 **DELIVERY SYSTEMS TO RETAIL STOCK BY A WRITTEN MEMORANDUM, SHALL**
18 **PREPARE FOR EACH SALE AN INVOICE THAT SHOWS THE POLITICAL SUBDIVISION**
19 **WHERE EACH ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER AND VAPE**
20 **SHOP VENDOR IS LOCATED; AND**

21 **(4) SHALL KEEP A COMPLETE AND ACCURATE RECORD OF EACH SALE**
22 **OF ELECTRONIC NICOTINE DELIVERY SYSTEMS TO AN OUT-OF-STATE PERSON FOR**
23 **RESALE TO OUT-OF-STATE CONSUMERS.**

24 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
25 **EACH ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALE SHALL MAKE AN**
26 **INVENTORY RECORD EACH MONTH OF ALL ELECTRONIC NICOTINE DELIVERY**
27 **SYSTEMS ON THE PREMISES OR UNDER THE CONTROL OF THE ELECTRONIC**
28 **NICOTINE DELIVERY SYSTEMS WHOLESALE:**

29 **(I) AT THE BEGINNING OR END OF THE MONTH; OR**

(II) ON ANOTHER SPECIFIC DAY OF THE MONTH, IF THE ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER FINDS IT MORE PRACTICABLE TO TAKE INVENTORY ON THAT DAY AND NOTIFIES THE COMPTROLLER THAT THE INVENTORY WILL BE TAKEN ON THAT DAY.

(2) ELECTRONIC NICOTINE DELIVERY SYSTEMS TRANSFERRED TO RETAIL STOCK BY WRITTEN MEMORANDUM NEED NOT BE INCLUDED IN THE INVENTORY RECORD.

(C) EACH ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER SHALL:

(1) KEEP THE RECORDS REQUIRED BY THIS SECTION FOR 6 YEARS OR FOR A SHORTER TIME SET BY THE COMPTROLLER; AND

(2) ALLOW THE COMPTROLLER TO EXAMINE THE RECORDS.

16.7-215.

(A) A PERSON THAT TRANSPORTS ELECTRONIC NICOTINE DELIVERY SYSTEMS BY VEHICLE ON A PUBLIC ROAD SHALL HAVE IN THE VEHICLE A DELIVERY TICKET OR AN INVOICE THAT STATES:

(1) THE NAME AND ADDRESS OF THE SELLER OR CONSIGNOR;

(2) THE NAME AND ADDRESS OF A BUYER OR CONSIGNEE THAT IS AUTHORIZED TO HOLD ELECTRONIC NICOTINE DELIVERY SYSTEMS; AND

(3) THE QUANTITY AND BRANDS OF THE ELECTRONIC NICOTINE DELIVERY SYSTEMS THAT ARE BEING TRANSPORTED.

(B) THE COMPTROLLER BY REGULATION MAY REQUIRE A COMMON CARRIER THAT BRINGS ELECTRONIC NICOTINE DELIVERY SYSTEMS INTO THE STATE TO SUBMIT TO THE COMPTROLLER A COPY OF ANY FREIGHT BILL RELATING TO THE ELECTRONIC NICOTINE DELIVERY SYSTEMS SHIPMENT.

16.7-216.

(A) A PERSON MAY NOT SHIP, IMPORT, OR SELL INTO OR WITHIN THE STATE ANY ELECTRONIC NICOTINE DELIVERY SYSTEMS UNLESS THE PERSON:

(1) (I) IS THE OWNER OF THE BRAND;

(II) IS THE UNITED STATES IMPORTER FOR THE BRAND; OR

1 (III) IS A DESIGNATED AGENT IN MARYLAND OF:

2 1. THE OWNER OF THE BRAND; OR

3 2. THE UNITED STATES IMPORTER OF THE BRAND; AND

4 (2) HOLDS ANY LICENSE REQUIRED BY THIS SUBTITLE.

5 (B) A PERSON THAT SHIPS, IMPORTS, OR SELLS ELECTRONIC NICOTINE
6 DELIVERY SYSTEMS INTO OR WITHIN THE STATE:

7 (1) SHALL COMPLY WITH ANY FEDERAL AND STATE REQUIREMENTS
8 CONCERNING THE PLACEMENT OF WARNING LABELS OR OTHER INFORMATION ON
9 THE CONTAINERS OR INDIVIDUAL PACKAGES OF ELECTRONIC NICOTINE DELIVERY
10 SYSTEMS; AND

11 (2) SHALL ENSURE THAT THE CONTAINERS OR INDIVIDUAL
12 PACKAGES OF ELECTRONIC NICOTINE DELIVERY SYSTEMS DO NOT CONTAIN ANY
13 INFORMATION OR MARKINGS THAT ARE FALSE, MISLEADING, OR CONTRARY TO:

14 (I) FEDERAL TRADEMARK LAWS; OR

15 (II) THE TRADEMARK LAW OF THE STATE UNDER TITLE 1,
16 SUBTITLE 4 OF THIS ARTICLE.

17 (C) A PERSON THAT SHIPS, IMPORTS, OR SELLS ELECTRONIC NICOTINE
18 DELIVERY SYSTEMS INTO OR WITHIN THE STATE IN VIOLATION OF THIS SECTION IS
19 SUBJECT TO DISCIPLINARY ACTION BY THE COMPTROLLER UNDER §16.7-208 OF
20 THIS SUBTITLE.

21 16.7-217.

22 (A) THIS SECTION APPLIES TO A PERSON THAT IS ENGAGED IN THE
23 BUSINESS OF SELLING OR DISTRIBUTING ELECTRONIC NICOTINE DELIVERY
24 SYSTEMS.

25 (B) A PERSON MAY NOT:

26 (1) SELL OR SHIP ELECTRONIC NICOTINE DELIVERY SYSTEMS,
27 ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK,
28 TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR

1 OTHER UNLICENSED RECIPIENT, DIRECTLY TO A CONSUMER OR OTHER
2 UNLICENSED RECIPIENT IN THE STATE; OR

3 (2) CAUSE ELECTRONIC NICOTINE DELIVERY SYSTEMS, ORDERED OR
4 PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC
5 NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER
6 UNLICENSED RECIPIENT, TO BE SHIPPED DIRECTLY TO A CONSUMER OR OTHER
7 UNLICENSED RECIPIENT IN THE STATE.

8 (c) (1) A PERSON OTHER THAN A LICENSEE THAT SELLS OR SHIPS
9 ELECTRONIC NICOTINE DELIVERY SYSTEMS IN VIOLATION OF THIS SECTION OR
10 CAUSES ELECTRONIC NICOTINE DELIVERY SYSTEMS TO BE SHIPPED IN VIOLATION
11 OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE
12 NOT EXCEEDING \$500 PER TRANSACTION OR IMPRISONMENT NOT EXCEEDING 2
13 YEARS OR BOTH.

14 (2) A LICENSEE THAT SELLS AND SHIPS ELECTRONIC NICOTINE
15 DELIVERY SYSTEMS IN VIOLATION OF THIS SECTION OR CAUSES ELECTRONIC
16 NICOTINE DELIVERY SYSTEMS TO BE SHIPPED IN VIOLATION OF THIS SECTION IS:

17 (i) SUBJECT TO DISCIPLINE BY THE COMPTROLLER UNDER §
18 16.7–208 OF THIS SUBTITLE; AND

19 (ii) GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A
20 FINE NOT EXCEEDING \$500 FOR EACH PACKAGE OF ELECTRONIC NICOTINE
21 DELIVERY SYSTEMS TRANSPORTED OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR
22 BOTH.

23 16.7–218.

24 UNLESS OTHERWISE SPECIFIED IN THIS TITLE, A PERSON THAT VIOLATES ANY
25 PROVISION OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
26 SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 30
27 DAYS OR BOTH.

28 Article – Health – General

29 24–305.

30 (b) (1) Except as provided in paragraph (2) of this subsection, a person may
31 not sell, distribute, or offer for sale to a minor an [electronic device, a component for an
32 electronic device, or a product used to refill or resupply an electronic device that can be
33 used to deliver nicotine to the individual inhaling from the device, including an electronic

1 cigarette, cigar, cigarillo, or pipe] **ELECTRONIC NICOTINE DELIVERY SYSTEM, AS**
2 **DEFINED IN § 16.7–101(C) OF THE BUSINESS REGULATION ARTICLE.**

3 (2) This subsection does not apply to [a] **AN ELECTRONIC** nicotine [device]
4 **DELIVERY SYSTEM** that contains or delivers nicotine intended for human consumption if
5 the device has been approved by the United States Food and Drug Administration for sale
6 as a tobacco cessation product and is being marketed and sold solely for this purpose.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2017.