

HOUSE BILL 523

C2

7lr1286
CF SB 119

By: **Delegates Jameson, Barron, Chang, Frick, Frush, Healey, Hixson, Jalisi, Kelly, Kramer, Krimm, Lafferty, Lam, Luedtke, Morales, Morhaim, Patterson, Rosenberg, Sanchez, Sophocleus, Stein, Valderrama, Valentino-Smith, ~~and Waldstreicher~~ Waldstreicher, Aumann, Barkley, Brooks, Fennell, Glenn, Lisanti, and C. Wilson**

Introduced and read first time: January 27, 2017

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2017

CHAPTER _____

1 AN ACT concerning

2 **Electronic Nicotine Delivery Systems and Vaping Liquid – 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 distributor, or wholesaler
6 importer; providing for a certain exception for certain retailers and wholesalers;
7 requiring a license to act as an electronic nicotine delivery system retailer or vape
8 shop vendor for each place of business of the retailer or vape shop vendor; making
9 holders of electronic nicotine delivery systems licenses subject to certain restrictions
10 and requirements; providing for certain application procedures and fees; requiring
11 the display of a license in a certain manner; prohibiting a person from reapplying for
12 a license within a certain period after the person's license was revoked; requiring ~~the~~
13 ~~Comptroller~~ certain clerks of the circuit court to issue electronic nicotine delivery
14 systems licenses to manufacturers, storage warehouses, ~~and wholesalers~~ wholesaler
15 distributors, and wholesaler importers in the State under certain circumstances;
16 requiring certain clerks of the circuit court to issue electronic nicotine delivery
17 systems products licenses to retailers and vape shop vendors under certain
18 circumstances; requiring certain clerks of the circuit court to forward certain
19 applications to the Comptroller within a certain time; specifying the scope of the
20 licenses; providing for the renewal of a license; ~~authorizing the Comptroller to~~
21 ~~delegate certain powers and duties; providing for certain disciplinary actions and~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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



~~proceedings; authorizing the Comptroller to adopt certain regulations; granting certain rights to judicial review under certain circumstances; prohibiting a person from acting, attempting to act, or offering to act in the State as an electronic nicotine delivery systems manufacturer, retailer, storage warehouse, vape shop vendor, or wholesaler distributor, or wholesaler importer unless the person has an appropriate license; requiring the Comptroller to pay certain fees into the General Fund of the State; stating the intent of the General Assembly; requiring a person who transports electronic nicotine delivery systems by vehicle on a public road to have certain information; authorizing the Comptroller by regulation to require a common carrier that brings electronic nicotine delivery systems products into the State to submit certain information;~~ prohibiting a person from shipping, importing, or selling electronic nicotine delivery systems into or within the State except under certain circumstances; requiring a person that ships, imports, or sells electronic nicotine delivery systems to take certain actions; 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~~ wholesaler distributors, and wholesaler importers in the State.

BY adding to

Article – Business Regulation

Section 16.7–101 through ~~16.7–218~~ 16.7–214 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, AND VAPING LIQUID.

(3) "ELECTRONIC NICOTINE DELIVERY SYSTEM" DOES NOT INCLUDE:

(I) A NICOTINE DEVICE THAT CONTAINS OR DELIVERS NICOTINE INTENDED FOR HUMAN CONSUMPTION IF THE DEVICE HAS BEEN APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION FOR SALE AS A TOBACCO CESSATION PRODUCT AND IS BEING MARKETED AND SOLD SOLELY FOR THAT PURPOSE;

(II) CANNABIS OIL OR ANY OTHER UNLAWFUL SUBSTANCE; OR

(III) AN ELECTRONIC DEVICE THAT IS BEING USED TO DELIVER CANNABIS OIL OR ANOTHER UNLAWFUL SUBSTANCE.

(D) "ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER" MEANS A PERSON THAT:

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

(2) (I) SELLS ELECTRONIC NICOTINE DELIVERY SYSTEMS TO A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER IN THE STATE;

(II) SELLS ELECTRONIC NICOTINE DELIVERY SYSTEMS THAT MAY BE LAWFULLY SOLD IN THE STATE TO A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER LOCATED OUTSIDE THE STATE;

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

(IV) STORES ELECTRONIC NICOTINE DELIVERY SYSTEMS IN A STORAGE WAREHOUSE IN THE STATE FOR SUBSEQUENT SHIPMENT TO LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALERS, FEDERAL RESERVATIONS, OR PERSONS OUTSIDE THE STATE; OR

(V) IF THE ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER ALSO HOLDS A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER OR A VAPE SHOP VENDOR, SELLS ELECTRONIC NICOTINE DELIVERY SYSTEMS TO CONSUMERS LOCATED IN THE STATE.

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

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

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

(F) “ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE” MEANS A STORAGE FACILITY IN THE STATE OPERATED FOR THE PURPOSE OF STORING ELECTRONIC NICOTINE DELIVERY SYSTEMS ON BEHALF OF AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER.

(G) “ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR” MEANS A PERSON THAT:

(1) OBTAINS AT LEAST 70% OF ITS ELECTRONIC NICOTINE DELIVERY SYSTEMS FROM A HOLDER OF AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER LICENSE UNDER THIS SUBTITLE OR A BUSINESS ENTITY LOCATED IN THE UNITED STATES; AND

(2) (I) HOLDS ELECTRONIC NICOTINE DELIVERY SYSTEMS FOR SALE TO ANOTHER PERSON FOR RESALE; OR

~~(2)~~ (II) SELLS ELECTRONIC NICOTINE DELIVERY SYSTEMS TO ANOTHER PERSON FOR RESALE.

(H) “ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER”
MEANS A PERSON THAT:

(1) OBTAINS AT LEAST 70% OF ITS ELECTRONIC NICOTINE DELIVERY
SYSTEMS FROM A BUSINESS ENTITY LOCATED IN A FOREIGN COUNTRY; AND

(2) (I) HOLDS ELECTRONIC NICOTINE DELIVERY SYSTEMS FOR
SALE TO ANOTHER PERSON FOR RESALE; OR

(II) SELLS ELECTRONIC NICOTINE DELIVERY SYSTEMS TO
ANOTHER PERSON FOR RESALE.

(I) “LICENSE” MEANS:

~~(H)~~ A LICENSE ISSUED BY THE ~~COMPTROLLER~~ CLERK UNDER
~~§ 16.7-204(A)~~ 16.7-204 OF THIS TITLE TO:

~~(H)~~ (1) ACT AS A LICENSED ELECTRONIC NICOTINE DELIVERY
SYSTEMS MANUFACTURER;

~~(H)~~ (2) ACT AS A LICENSED ELECTRONIC NICOTINE DELIVERY
SYSTEMS WHOLESALER DISTRIBUTOR; ~~OR~~

(3) ACT AS A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS
WHOLESALER IMPORTER;

~~(H)~~ (4) ACT AS A LICENSED ELECTRONIC NICOTINE DELIVERY
SYSTEMS STORAGE WAREHOUSE; ~~OR~~

~~(2)~~ (5) ~~A LICENSE ISSUED BY THE CLERK UNDER § 16.7-204(B) OF~~
~~THIS TITLE TO~~ ACT AS AN A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS
RETAILER; OR ~~A~~

(6) ACT AS A LICENSED VAPE SHOP VENDOR.

~~(H)~~ (J) “SELL” MEANS TO EXCHANGE OR TRANSFER, OR TO AGREE TO
EXCHANGE OR TRANSFER, TITLE OR POSSESSION OF PROPERTY, IN ANY MANNER OR
BY ANY MEANS, FOR CONSIDERATION.

~~(H)~~ (K) “VAPE SHOP VENDOR” MEANS AN ELECTRONIC NICOTINE
DELIVERY SYSTEMS BUSINESS THAT DERIVES AT LEAST 70% OF ITS REVENUES,
MEASURED BY AVERAGE DAILY RECEIPTS, FROM THE SALE OF ELECTRONIC
NICOTINE DELIVERY SYSTEMS AND RELATED ACCESSORIES.

(L) “VAPING LIQUID” MEANS A LIQUID THAT:

(1) CONSISTS OF PROPLYENE GLYCOL, VEGETABLE GLYCERIN, OR
OTHER SIMILAR SUBSTANCE;

(2) CONTAINS NATURAL OR ARTIFICIAL FLAVORS;

(3) MAY OR MAY NOT CONTAIN NICOTINE; AND

(4) CONVERTS TO VAPOR INTENDED FOR INHALATION WHEN HEATED
IN AN ELECTRONIC DEVICE.

~~16.7-102.~~

~~THE COMPTROLLER MAY DELEGATE ANY POWER OR DUTY OF THE
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 ~~WHOLESALE~~;
WHOLESALE DISTRIBUTOR;

(5) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER
IMPORTER OR

~~(5)~~ (6) 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 DISTRIBUTOR OR AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER SHALL MAINTAIN AN ESTABLISHED PLACE OF BUSINESS, INCLUDING WAREHOUSE FACILITIES, FOR THE SALE OF ELECTRONIC NICOTINE DELIVERY SYSTEMS.

16.7-203.

(A) (1) AN APPLICANT FOR A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER, ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE, ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR, OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER SHALL:

~~(1)~~ (I) SUBMIT OBTAIN AN APPROPRIATE COUNTY LICENSE BY SUBMITTING AN APPLICATION TO THE COMPTROLLER CLERK ON THE FORM AND CONTAINING THE INFORMATION THAT THE COMPTROLLER CLERK REQUIRES; AND

(II) INDICATE THE LICENSES FOR WHICH THE APPLICANT IS APPLYING; AND

~~(2)~~ (III) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, PAY TO THE COMPTROLLER CLERK A FEE OF \$25 FOR EACH LICENSE FOR WHICH THE APPLICANT APPLIES.

(2) AN APPLICANT FOR A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER SHALL PAY TO THE CLERK A FEE OF \$150.

(3) A PERSON THAT IS ISSUED A LICENSE 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

FOR AN ELECTRONIC DELIVERY SYSTEM WHOLESALER DISTRIBUTOR OR AN
ELECTRONIC NICOTINE DELIVERY SYSTEM WHOLESALER IMPORTER.

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

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

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

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

(3) THE APPLICATION SHALL:

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

(II) CONTAIN THE INFORMATION THAT THE ~~COMPTROLLER~~
CLERK REQUIRES.

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

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

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

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

~~(I) SUBMIT AN APPLICATION TO THE COMPTROLLER ON THE
FORM AND CONTAINING THE INFORMATION THAT THE COMPTROLLER REQUIRES;
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)~~ (C) A LICENSEE SHALL DISPLAY A LICENSE IN THE WAY THAT THE
COMPTROLLER REQUIRES BY REGULATION.

~~(F)~~ (D) 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~~ CLERK 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 DISTRIBUTOR, OR
ELECTRONIC NICOTINE DELIVERY WHOLESALER IMPORTER.

(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.

(C) THE CLERK SHALL FORWARD A COPY OF AN APPLICATION RECEIVED
FOR EACH LICENSE ISSUED UNDER THIS SECTION TO THE COMPTROLLER WITHIN 30
DAYS OF ISSUANCE OF THE LICENSE.

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) IF THE ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER LICENSEE ALSO HOLDS A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER OR A VAPE SHOP VENDOR, TRANSFER ELECTRONIC NICOTINE DELIVERY SYSTEMS TO INVENTORY FOR SALE UNDER THE RETAIL LICENSE OR VAPE SHOP LICENSE; AND

(5) 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 DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALE IMPORTER; AND

(3) IF THE ELECTRONIC NICOTINE DELIVERY SYSTEMS RETAILER LICENSEE ALSO HOLDS A LICENSE TO ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER, SELL AT RETAIL ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURED UNDER THE MANUFACTURER LICENSE.

(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.

1 (2) IF AN ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE
2 WAREHOUSE LICENSEE IS A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS
3 WHOLESALER DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS
4 WHOLESALER IMPORTER, THE ELECTRONIC NICOTINE DELIVERY SYSTEMS
5 STORAGE WAREHOUSE LICENSE AUTHORIZES THE HOLDER TO STORE ELECTRONIC
6 NICOTINE DELIVERY SYSTEMS.

7 (D) AN ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER
8 DISTRIBUTOR LICENSE OR ELECTRONIC NICOTINE DELIVERY SYSTEMS
9 WHOLESALER IMPORTER LICENSE AUTHORIZES THE LICENSEE TO:

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

12 (2) BUY ELECTRONIC NICOTINE DELIVERY SYSTEMS DIRECTLY FROM
13 AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER AND AN
14 ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR OR
15 ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER;

16 (3) HOLD ELECTRONIC NICOTINE DELIVERY SYSTEMS;

17 (4) TRANSPORT ELECTRONIC NICOTINE DELIVERY SYSTEMS IN THE
18 STATE;

19 (5) SELL ELECTRONIC NICOTINE DELIVERY SYSTEMS TO ANOTHER
20 LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR
21 OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER IF THE
22 COMPTROLLER SPECIFICALLY AUTHORIZES THE SALE; AND

23 (6) STORE ELECTRONIC NICOTINE DELIVERY SYSTEMS AT A
24 LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS STORAGE WAREHOUSE.

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

26 (1) SELL ELECTRONIC NICOTINE DELIVERY SYSTEMS AS A VAPE SHOP
27 VENDOR; ~~AND~~

28 (2) IF THE VAPE SHOP VENDOR LICENSEE ALSO HOLDS A LICENSE TO
29 ACT AS AN ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER, SELL AT
30 RETAIL ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURED UNDER THE
31 MANUFACTURER LICENSE; AND

32 (3) BUY ELECTRONIC NICOTINE DELIVERY SYSTEMS FROM AN
33 ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER.

1 **16.7–206.**

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

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

7 (C) BEFORE A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES, THE
8 LICENSEE MAY RENEW THE LICENSE FOR AN ADDITIONAL 1–YEAR TERM, IF THE
9 LICENSEE:

10 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

11 (2) SUBMITS TO THE ISSUING OFFICIAL A RENEWAL APPLICATION ON
12 THE FORM THAT THE ISSUING OFFICIAL REQUIRES; AND

13 (3) PAYS TO THE ISSUING OFFICIAL THE LICENSE FEE REQUIRED
14 UNDER § 16.7–203 OF THIS SUBTITLE.

15 (D) THE ISSUING OFFICIAL SHALL RENEW THE LICENSE OF EACH LICENSEE
16 THAT MEETS THE REQUIREMENTS OF THIS SECTION.

17 **16.7–207.**

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

20 (2) IF A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS
21 WHOLESALE DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS
22 WHOLESALE IMPORTER SELLS THE LICENSEE'S ELECTRONIC NICOTINE DELIVERY
23 SYSTEMS BUSINESS AND PAYS TO THE ~~COMPTROLLER~~ CLERK A LICENSE
24 ASSIGNMENT FEE OF \$10, THE LICENSEE MAY ASSIGN THE LICENSE TO THE BUYER
25 OF THE BUSINESS IF THE BUYER OTHERWISE QUALIFIES UNDER THIS TITLE FOR AN
26 ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALE'S LICENSE.

27 (B) IF THE ELECTRONIC NICOTINE DELIVERY SYSTEMS BUSINESS OF A
28 LICENSEE IS TRANSFERRED BECAUSE OF BANKRUPTCY, DEATH, INCOMPETENCY,
29 RECEIVERSHIP, OR OTHERWISE BY OPERATION OF LAW, THE ~~COMPTROLLER~~ CLERK
30 SHALL TRANSFER THE LICENSE WITHOUT CHARGE TO THE NEW OWNER OF THE
31 LICENSEE'S BUSINESS IF THE TRANSFEREE OTHERWISE QUALIFIES UNDER THIS
32 TITLE FOR THE LICENSE BEING TRANSFERRED.

(C) (1) IF A LICENSED ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER SURRENDERS THE LICENSE TO THE ~~COMPTROLLER~~ CLERK AND IF NO DISCIPLINARY PROCEEDINGS ARE PENDING AGAINST THE LICENSEE, THE ~~COMPTROLLER~~ CLERK SHALL REFUND A PRO RATA PORTION OF THE LICENSE FEE FOR THE UNEXPIRED TERM OF THE LICENSE.

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

16.7-208.

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

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

(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(3) BUYS ELECTRONIC NICOTINE DELIVERY SYSTEMS FOR RESALE:

(I) IN VIOLATION OF A LICENSE; OR

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

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

(I) A FELONY; OR

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

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

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

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

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

(2) IT SATISFACTORILY APPEARS TO THE ~~COMPTROLLER~~ CLERK THAT THE APPLICANT WILL COMPLY WITH THIS TITLE AND ANY REGULATIONS ADOPTED UNDER THIS TITLE.

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

(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~~ CLERK TAKES ANY FINAL ACTION UNDER § 16.7–208 OF THIS SUBTITLE, THE ~~COMPTROLLER~~ CLERK SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE ~~COMPTROLLER~~ CLERK.

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

(C) THE ~~COMPTROLLER~~ CLERK 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~~ CLERK MAY NEVERTHELESS HEAR AND DETERMINE THE MATTER.

1 16.7-210.

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

6 (1) FOR A FIRST OFFENSE, IS NOT LESS THAN 5 AND NOT MORE THAN
7 20 BUSINESS DAYS; AND

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

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

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

15 (1) THE ~~COMPTROLLER~~ CLERK SHALL GIVE THE LICENSEE NOTICE
16 OF THE SUSPENSION OR REVOCATION; AND

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

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

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

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

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

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

~~(4)~~ (3) THE ~~COMPTROLLER~~ CLERK 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.

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

~~16.7-212.~~

(A) A PERSON MAY NOT ACT, ATTEMPT TO ACT, OR OFFER TO ACT AS AN
ELECTRONIC NICOTINE DELIVERY SYSTEMS MANUFACTURER, AN ELECTRONIC
NICOTINE DELIVERY SYSTEMS RETAILER, AN ELECTRONIC NICOTINE DELIVERY
SYSTEMS STORAGE WAREHOUSE, AN ELECTRONIC NICOTINE DELIVERY SYSTEMS
WHOLESALE~~R~~, OR DISTRIBUTOR, AN ELECTRONIC NICOTINE DELIVERY SYSTEMS
WHOLESALE IMPORTER, OR A VAPE SHOP VENDOR IN THE STATE UNLESS THE
PERSON HAS AN APPROPRIATE LICENSE.

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

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

~~16.7-213.~~

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

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

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

~~16.7-214.~~ 16.7-212.

(A) EACH ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER:

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

(2) SHALL KEEP A RECORD OF ALL ELECTRONIC NICOTINE DELIVERY SYSTEMS RECEIVED, TO WHICH THE ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER SHALL POST EACH DAY:

(I) THE INVOICE NUMBER;

(II) THE DATE OF RECEIPT;

(III) THE QUANTITY RECEIVED;

(IV) THE BRAND;

(V) THE MANUFACTURER; AND

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

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

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

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

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

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER SHALL MAKE AN INVENTORY RECORD EACH MONTH OF ALL ELECTRONIC NICOTINE DELIVERY SYSTEMS ON THE PREMISES OR UNDER THE CONTROL OF THE ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER:

(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 DISTRIBUTOR OR ELECTRONIC NICOTINE DELIVERY SYSTEMS WHOLESALER IMPORTER 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.~~ 16.7-213.

(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

(III) IS A DESIGNATED AGENT IN MARYLAND OF:

1. THE OWNER OF THE BRAND; OR

2. THE UNITED STATES IMPORTER OF THE BRAND; AND

(2) HOLDS ANY LICENSE REQUIRED BY THIS SUBTITLE.

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

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

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

(I) FEDERAL TRADEMARK LAWS; OR

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

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

~~16.7-217.~~

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

~~(B) A PERSON MAY NOT:~~

~~(1) SELL OR SHIP ELECTRONIC NICOTINE DELIVERY SYSTEMS, ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER UNLICENSED RECIPIENT, DIRECTLY TO A CONSUMER OR OTHER UNLICENSED RECIPIENT IN THE STATE; OR~~

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

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

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

~~(I) SUBJECT TO DISCIPLINE BY THE COMPTROLLER UNDER § 16.7-208 OF THIS SUBTITLE; AND~~

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

1 ~~16.7-218.~~ 16.7-214.

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

6 Article – Health – General

7 24–305.

8 (b) (1) Except as provided in paragraph (2) of this subsection, a person may
9 not sell, distribute, or offer for sale to a minor an [electronic device, a component for an
10 electronic device, or a product used to refill or resupply an electronic device that can be
11 used to deliver nicotine to the individual inhaling from the device, including an electronic
12 cigarette, cigar, cigarillo, or pipe] **ELECTRONIC NICOTINE DELIVERY SYSTEM, AS
13 DEFINED IN § 16.7–101(C) OF THE BUSINESS REGULATION ARTICLE.**

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.