

HOUSE BILL 1441

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CF SB 918

By: **Delegates Rogers, Boaf, Fraser-Hidalgo, and A. Johnson**

Introduced and read first time: February 7, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Electronic Smoking Devices Manufacturers –**
3 **Certifications**

4 FOR the purpose of authorizing the Executive Director of the Alcohol, Tobacco, and
5 Cannabis Commission and the Attorney General to take certain action relating to
6 the licensure of certain electronic smoking devices manufacturers, wholesalers,
7 importers, and retailers and vape shop vendors in certain circumstances; requiring
8 an electronic smoking devices manufacturer to execute and deliver a certain
9 certification to the Attorney General each year; requiring the Attorney General to
10 develop and make available to the public a certain directory listing certain electronic
11 smoking devices manufacturers; requiring electronic smoking devices
12 manufacturers to place a certain amount of money into a qualified escrow account
13 under certain circumstances; making a certain violation of this Act an unfair,
14 abusive, or deceptive trade practice that is subject to enforcement and penalties
15 under the Maryland Consumer Protection Act; and generally relating to the
16 regulation of electronic smoking devices.

17 BY repealing and reenacting, with amendments,
18 Article – Business Regulation
19 Section 16.7–101 and 16.7–102; and 16.7–202, 16.7–204, 16.7–207, and 16.7–213.1
20 to be under the amended subtitle “Subtitle 2. Electronic Smoking Devices
21 Licenses”
22 Annotated Code of Maryland
23 (2024 Replacement Volume)

24 BY repealing and reenacting, without amendments,
25 Article – Business Regulation
26 Section 16.7–201
27 Annotated Code of Maryland
28 (2024 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to

Article – Business Regulation

Section 16.7–301 through 16.7–309 to be under the new subtitle “Subtitle 3.
Certification Requirements for Electronic Smoking Devices Manufacturers”

Annotated Code of Maryland

(2024 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 13–301(14)(xlii)

Annotated Code of Maryland

(2013 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 13–301(14)(xliii)

Annotated Code of Maryland

(2013 Replacement Volume and 2024 Supplement)

BY adding to

Article – Commercial Law

Section 13–301(14)(xliv)

Annotated Code of Maryland

(2013 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Business Regulation

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 smoking devices to consumers in a county.

(c) (1) “Electronic smoking device” means a device that can be used to deliver aerosolized or vaporized nicotine to an individual inhaling from the device.

(2) “Electronic smoking device” includes:

(i) an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, **NICOTINE SALTS**, and vaping liquid; and

(ii) except as provided in paragraph (3) of this subsection, any component, part, **CARTRIDGE, TANK**, or accessory of such a device regardless of whether or not it is sold separately, including any substance intended to be aerosolized or vaporized during use of the device.

(3) “Electronic smoking device” does not include:

(i) a drug, device, or combination product authorized for sale **AS A NICOTINE REPLACEMENT PRODUCT** by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act; or

(ii) a battery or battery charger when sold separately.

(d) “Electronic smoking devices manufacturer” means a person that:

(1) manufactures, mixes, or otherwise produces electronic smoking devices intended for sale in the State, including electronic smoking devices intended for sale in the United States through an importer; and

(2) (i) sells electronic smoking devices to [a consumer, if the consumer purchases or orders the devices through the mail, a computer network, a telephonic network, or another electronic network,] a licensed electronic smoking devices wholesaler distributor[,] or a licensed electronic smoking devices wholesaler importer [in the State];

(ii) if the electronic smoking devices manufacturer also holds a license to act as an electronic smoking devices retailer or a vape shop vendor, sells electronic smoking devices in the same manner as a vape shop vendor to consumers located in the State; or

(iii) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample electronic smoking devices to a licensed electronic smoking devices retailer or vape shop vendor.

(e) “Electronic smoking devices retailer” means a person that:

(1) sells electronic smoking devices to consumers;

(2) holds electronic smoking devices for sale to consumers; or

(3) unless otherwise prohibited or restricted under local law, this article, the Criminal Law Article, or § 24–305 of the Health – General Article, distributes sample electronic smoking devices to consumers in the State.

(f) “Electronic smoking devices wholesaler distributor” means a person that:

(1) [obtains at least 70% of its electronic smoking devices from a holder of an electronic smoking devices manufacturer license under this subtitle or a business entity located in the United States] **IS NOT AN ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER**; and

(2) (i) holds electronic smoking devices for sale to another person for resale; or

(ii) sells electronic smoking devices to another person for resale.

(g) “Electronic smoking devices wholesaler importer” means a person that:

(1) obtains at least 70% of its electronic smoking devices from a [business entity] **LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER** located in a foreign country; and

(2) (i) holds electronic smoking devices for sale to another person for resale; or

(ii) sells electronic smoking devices to another person for resale.

(h) “Executive Director” means the Executive Director of the Alcohol, Tobacco, and Cannabis Commission.

(i) “License” means:

(1) a license issued by the Executive Director under § 16.7–203(a) of this title to:

(i) act as a licensed electronic smoking devices manufacturer;

(ii) act as a licensed electronic smoking devices wholesaler distributor; or

(iii) act as a licensed electronic smoking devices wholesaler importer; or

(2) a license issued by the clerk under § 16.7–203(b) of this title to:

(i) act as a licensed electronic smoking devices retailer; or

(ii) act as a licensed vape shop vendor.

(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.

(k) “Vape shop vendor” means an electronic smoking devices business that sells electronic smoking devices and related accessories to consumers on the premises of its place of business.

(l) “Vaping liquid” means a liquid that:

(1) consists of propylene glycol, vegetable glycerin, or other similar substance;

(2) may or may not contain 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.

(a) The Executive Director may delegate any power or duty of the Executive Director under this title.

(b) Any person [licensed under Title 16 or Title 16.5 of this article, or an affiliate, as defined under § 16–402(c) of this article, of a person licensed under Title 16 of this article:

(1) is authorized to] **WHO IS SEEKING TO MANUFACTURE, DISTRIBUTE, OR SELL ELECTRONIC SMOKING DEVICES IN THE STATE MUST OBTAIN A LICENSE TO** manufacture, distribute, or sell electronic smoking devices pursuant to this title [in the same capacity as the person is licensed under Title 16 or Title 16.5 of this article; and

(2) may not be required to obtain an additional license under this title].

Subtitle 2. Electronic [Nicotine Delivery Systems] **SMOKING DEVICES** Licenses.

16.7–201.

(a) A person must hold an appropriate license before the person may act as:

(1) an electronic smoking devices manufacturer;

(2) an electronic smoking devices retailer;

(3) an electronic smoking devices wholesaler distributor;

(4) an electronic smoking devices wholesaler importer; or

(5) a vape shop vendor.

(b) A place of business in which a person acts as an electronic smoking devices retailer or a vape shop vendor must hold an appropriate license.

16.7–202.

(a) [(1)] An applicant for a license to act as an electronic smoking devices manufacturer, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer shall:

[(i)] (1) obtain an appropriate [county] license by submitting an application to the Executive Director on the form and containing the information that the Executive Director requires;

[(ii)] (2) indicate the licenses for which the applicant is applying; and

[(iii)] (3) [except as provided in paragraph (2) of this subsection,] pay to the Executive Director a fee of [\$25] **\$300** for each license for which the applicant applies.

[(2) An applicant for a license to act as an electronic smoking devices wholesaler distributor or electronic smoking devices wholesaler importer shall pay to the Executive Director a fee of \$150.]

(b) (1) An applicant for a license to act as an electronic smoking devices 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 \$300.

(2) The application shall:

(i) be made on the form that the clerk requires; and

(ii) contain the information that the Executive Director requires.

(3) (i) From each license fee collected under this subsection, the clerk shall distribute:

1. \$25 to the Executive Director; and

2. \$275 to the Maryland Department of Health to be used by the Department or its designee to enforce existing laws prohibiting the sale or distribution of tobacco, tobacco products, or electronic smoking devices, as defined in § 16.7–101 of this title, to individuals under the age of 21 years.

(ii) Funds distributed under this subsection may not be used to supplant existing funding for the enforcement of laws banning the sale or distribution of tobacco, tobacco products, or electronic smoking devices to individuals under the age of 21 years.

(c) A licensee shall display a license in the way that the Executive Director requires by regulation.

(d) If a person has had a license revoked under § 16.7–207 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) An electronic smoking devices manufacturer license authorizes the licensee to:

(1) sell electronic smoking devices to:

(i) a licensed electronic smoking devices wholesaler [located in the State] **DISTRIBUTOR; OR**

(ii) an electronic smoking devices wholesaler [or retailer located outside the State if the electronic smoking devices may be sold lawfully in Maryland;

(iii) a licensed vape shop vendor; and

(iv) a consumer if:

1. the licensee manufactured the devices; and

2. the consumer purchases or orders the devices through the mail, a computer network, a telephonic network, or another electronic network] **IMPORTER;**

(2) if the electronic smoking devices manufacturer licensee also holds a license to act as an electronic smoking devices retailer or a vape shop vendor, transfer electronic smoking devices to inventory for sale under the retail license or vape shop license; and

(3) except as otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distribute electronic smoking devices products to a licensed electronic smoking devices retailer or vape shop vendor.

(b) An electronic smoking devices retailer license authorizes the licensee to:

(1) sell electronic smoking devices to consumers;

(2) buy electronic smoking devices from [an] A **LICENSED** electronic smoking devices wholesaler distributor or **LICENSED** electronic smoking devices wholesaler importer;

(3) if the electronic smoking devices retailer licensee also holds a license to act as an electronic smoking devices manufacturer, sell at retail electronic smoking devices manufactured under the manufacturer license; and

(4) except as otherwise prohibited or restricted under local law, this article, the Criminal Law Article, or § 24–305 of the Health – General Article, distribute sample electronic smoking devices products to consumers in the State.

(c) An electronic smoking devices wholesaler distributor license or electronic smoking devices wholesaler importer license authorizes the licensee to:

(1) sell electronic smoking devices to **LICENSED** electronic smoking devices retailers and **LICENSED** vape shop vendors;

(2) buy electronic smoking devices directly from [an] A **LICENSED** electronic smoking devices manufacturer [and an], A **LICENSED** electronic smoking devices wholesaler distributor, or A **LICENSED** electronic smoking devices wholesaler importer;

(3) hold electronic smoking devices; and

(4) sell electronic smoking devices to another licensed electronic smoking devices wholesaler distributor or **LICENSED** electronic smoking devices wholesaler importer.

(d) A vape shop vendor license authorizes the licensee to:

(1) sell electronic smoking devices as a vape shop vendor to consumers on the premises of the licensee's place of business;

(2) if the vape shop vendor licensee also holds a license to act as an electronic smoking devices manufacturer, sell at retail on the vape shop vendor premises electronic smoking devices manufactured under the manufacturer license; and

(3) buy electronic smoking devices from [an electronic smoking devices manufacturer, an] **A LICENSED** electronic smoking devices wholesaler distributor[,] or [an] **A LICENSED** electronic smoking devices wholesaler importer.

16.7–207.

(a) Subject to the hearing provisions of § 16.7–208 of this subtitle, the Executive Director 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 smoking devices for resale:

(i) in violation of a license; or

(ii) from a person [that is not a licensed electronic smoking devices manufacturer or a licensed electronic smoking devices wholesaler] **IN VIOLATION OF § 16.7–211(A) OF THIS SUBTITLE;**

(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 smoking devices; 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 § 16.7–208 of this subtitle, the Executive Director 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] **THE APPLICANT** satisfactorily [appears] **DEMONSTRATES** to the Executive Director 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 Executive Director 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.

16.7–213.1.

(a) (1) Subject to paragraph (2) of this subsection, the Maryland Department of Health or its designee shall conduct at least one unannounced inspection of licensed retailers or vape shop vendors to ensure the licensee's compliance with the provisions of this title and § 10–107 of the Criminal Law Article each year.

(2) If a licensed retailer or vape shop vendor violates any provision of this title or § 10–107 of the Criminal Law Article, the Maryland Department of Health:

(I) shall conduct an additional unannounced inspection within 180 days after the initial inspection; AND

(II) MAY REFER THE LICENSED RETAILER OR VAPE SHOP VENDOR TO THE EXECUTIVE DIRECTOR FOR DISCIPLINARY ACTION IN ACCORDANCE WITH § 16.7–207 OF THIS SUBTITLE.

(b) The Maryland Department of Health or its designee may use an individual under the age of 21 years to assist in conducting an inspection under this section.

(c) To determine the location of a licensed retailer or vape shop vendor subject to an unannounced inspection, the Maryland Department of Health or its designee shall use the list of licensed retailers or vape shop vendors as of December 31 of the previous calendar year.

(D) THE EXECUTIVE DIRECTOR MAY CONDUCT UNANNOUNCED INSPECTIONS OF A LICENSEE TO ENSURE THE LICENSEE'S COMPLIANCE WITH THE PROVISIONS OF THIS TITLE AND § 10–107 OF THE CRIMINAL LAW ARTICLE.

SUBTITLE 3. CERTIFICATION REQUIREMENTS FOR ELECTRONIC SMOKING DEVICES MANUFACTURERS.

16.7–301.

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

(B) (1) “BRAND FAMILY” MEANS ALL STYLES AND FLAVORS OF ELECTRONIC SMOKING DEVICES SOLD UNDER THE SAME TRADEMARK, REGARDLESS OF WHETHER THE ELECTRONIC SMOKING DEVICES ARE DIFFERENTIATED FROM ONE ANOTHER BY MEANS OF ADDITIONAL MODIFIERS OR DESCRIPTORS DEPICTING FLAVORS, SHAPES, METHOD OF DELIVERY, DEVICE MODEL, POTENCY, NICOTINE LEVEL, OR ANY OTHER DIFFERENTIATION.

(2) “BRAND FAMILY” INCLUDES ANY USE OF A BRAND NAME, TRADEMARK, LOGO, SYMBOL, MOTTO, SELLING MESSAGE, RECOGNIZABLE PATTERN OF COLORS, OR ANY OTHER INDICIA OF PRODUCT IDENTIFICATION IDENTICAL OR SIMILAR TO OR IDENTIFIABLE WITH A PREVIOUSLY KNOWN BRAND OF ELECTRONIC SMOKING DEVICES, OTHER TOBACCO PRODUCTS, OR ELECTRONIC SMOKING DEVICE PRODUCTS.

(C) “BRAND STYLE” MEANS EACH INDIVIDUAL STYLE OR FLAVOR OF AN ELECTRONIC SMOKING DEVICE SOLD WITHIN A BRAND FAMILY, BUT DIFFERENTIATED FROM ONE ANOTHER BY MEANS OF ADDITIONAL ADJECTIVES, MODIFIERS, OR DESCRIPTORS, INCLUDING THOSE DEPICTING FLAVORS, SHAPES, METHOD OF DELIVERY, DEVICE MODEL, POTENCY, OR NICOTINE LEVEL.

(D) “DIRECTORY” MEANS THE LIST PUBLISHED BY THE ATTORNEY GENERAL OF APPROVED ELECTRONIC SMOKING DEVICES MANUFACTURERS THAT HAVE SUBMITTED A CERTIFICATION IN ACCORDANCE WITH THIS SUBTITLE AND THE BRAND FAMILIES AND BRAND STYLES OF THEIR ELECTRONIC SMOKING DEVICES THAT HAVE BEEN DETERMINED BY THE ATTORNEY GENERAL AS CONFORMING TO THE REQUIREMENTS OF § 16.7–302 OF THIS SUBTITLE.

16.7–302.

(A) AN ELECTRONIC SMOKING DEVICES MANUFACTURER WHOSE PRODUCTS ARE SOLD IN THE STATE SHALL EXECUTE AND DELIVER, ON A FORM PRESCRIBED BY THE ATTORNEY GENERAL, A CERTIFICATION TO THE ATTORNEY GENERAL NOT LATER THAN JUNE 30 EACH YEAR.

(B) IN THE CERTIFICATION SUBMITTED TO THE ATTORNEY GENERAL UNDER THIS SECTION, THE ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL:

(1) IDENTIFY ALL OF ITS ELECTRONIC SMOKING DEVICE BRAND FAMILIES THAT ARE BEING SOLD IN THE UNITED STATES AS OF THE DATE OF CERTIFICATION;

1 **(2) IDENTIFY ANY ELECTRONIC SMOKING DEVICES BRAND FAMILY**
2 **THAT THE ELECTRONIC SMOKING DEVICES MANUFACTURER SEEKS TO SELL IN THE**
3 **STATE IN THE UPCOMING FISCAL YEAR;**

4 **(3) INDICATE WITH AN ASTERISK ANY BRAND FAMILY SOLD IN THE**
5 **STATE DURING THE PRECEDING 3 CALENDAR YEARS THAT IS NO LONGER SOLD IN**
6 **THE STATE AS OF THE DATE OF CERTIFICATION;**

7 **(4) IF A BRAND FAMILY INCLUDED IN THE CERTIFICATION WAS MADE**
8 **BY ANOTHER MANUFACTURER IN THE PRECEDING 3 CALENDAR YEARS, IDENTIFY BY**
9 **NAME AND ADDRESS THE OTHER MANUFACTURER;**

10 **(5) INDICATE WHETHER THE ELECTRONIC SMOKING DEVICES BRAND**
11 **FAMILY AND BRAND STYLE BEING CERTIFIED INCLUDES AN AEROSOLIZING DEVICE**
12 **OR THE VAPING LIQUID, NICOTINE SALT, OR OTHER CONSUMABLE SUBSTANCE TO**
13 **BE AEROSOLIZED OR BOTH;**

14 **(6) PROVIDE IMAGES, SPECIFICATIONS, OR OTHER**
15 **REPRESENTATIONS OF THE SHAPE, DESIGN, LABELING AND PACKAGING, AND A**
16 **SAMPLE OF EACH ELECTRONIC SMOKING DEVICE FOR EACH BRAND FAMILY**
17 **INCLUDED IN THE CERTIFICATION;**

18 **(7) PROVIDE THE MARKETING, ADVERTISING, AND SOCIAL MEDIA**
19 **PLANS OR OTHER MATERIALS FOR EACH BRAND FAMILY INCLUDED IN THE**
20 **CERTIFICATION;**

21 **(8) PROVIDE ANY OTHER INFORMATION NECESSARY TO ENABLE THE**
22 **ATTORNEY GENERAL TO DETERMINE WHETHER THE ELECTRONIC SMOKING DEVICE**
23 **BRAND FAMILIES AND BRAND STYLES BEING CERTIFIED ARE INTENDED TO APPEAL**
24 **TO YOUTH, DISGUISE OR MISREPRESENT THE NATURE OF THE PRODUCT, CLAIM IN**
25 **ANY WAY THAT THE ELECTRONIC SMOKING DEVICE IS A SMOKING CESSATION**
26 **PRODUCT OR NICOTINE REPLACEMENT THERAPY, OR OTHERWISE DECEIVE**
27 **CONSUMERS; AND**

28 **(9) IDENTIFY ANY OTHER INFORMATION REQUIRED BY THE**
29 **ATTORNEY GENERAL TO CONFIRM THAT THE ELECTRONIC SMOKING DEVICES**
30 **MANUFACTURER AND ITS BRAND FAMILIES AND BRAND STYLES ARE IN COMPLIANCE**
31 **WITH THIS TITLE AND ANY OTHER APPLICABLE FEDERAL, STATE, AND LOCAL LAWS.**

32 **(C) AN ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL FURTHER**
33 **CERTIFY THAT THE ELECTRONIC SMOKING DEVICES MANUFACTURER:**

1 (1) IS REGISTERED TO DO BUSINESS IN THE STATE OR HAS
2 APPOINTED A RESIDENT AGENT FOR SERVICE OF PROCESS AND PROVIDED NOTICE
3 OF THE APPOINTMENT AS REQUIRED UNDER § 16.7-304 OF THIS SUBTITLE;

4 (2) IS LICENSED BY THE EXECUTIVE DIRECTOR TO OPERATE AS AN
5 ELECTRONIC SMOKING DEVICES MANUFACTURER IN THE STATE; AND

6 (3) IS IN FULL COMPLIANCE WITH ALL APPLICABLE LOCAL, STATE,
7 AND FEDERAL LAWS REGARDING THE MANUFACTURE AND SALE OF ELECTRONIC
8 SMOKING DEVICES.

9 (D) (1) AN ELECTRONIC SMOKING DEVICES MANUFACTURER MAY NOT
10 INCLUDE A BRAND FAMILY OR BRAND STYLE IN ITS CERTIFICATION UNLESS IT
11 AFFIRMS UNDER PENALTY OF PERJURY THAT:

12 (I) IT IS THE ENTITY THAT FABRICATES, MANUFACTURES,
13 MIXES, OR OTHERWISE PRODUCES THE ELECTRONIC SMOKING DEVICES INCLUDED
14 IN THE CERTIFICATION; AND

15 (II) TO THE BEST OF THE ELECTRONIC SMOKING DEVICES
16 MANUFACTURER'S KNOWLEDGE, NO OTHER ELECTRONIC SMOKING DEVICES
17 MANUFACTURER IS FABRICATING, MANUFACTURING, MIXING, OR OTHERWISE
18 PRODUCING ELECTRONIC SMOKING DEVICES FOR SALE IN THE UNITED STATES
19 WITH THE SAME BRAND NAME AS A BRAND FAMILY INCLUDED IN THE
20 CERTIFICATION.

21 (2) NOTHING IN THIS SECTION MAY BE CONSTRUED AS LIMITING OR
22 OTHERWISE AFFECTING THE STATE'S RIGHT TO REFUSE TO INCLUDE AN
23 ELECTRONIC SMOKING DEVICE ON THE DIRECTORY IF THE ATTORNEY GENERAL
24 HAS REASON TO BELIEVE THAT A BRAND FAMILY OR BRAND STYLE INCLUDED IN A
25 CERTIFICATION IS AN ELECTRONIC SMOKING DEVICE PRODUCED BY A DIFFERENT
26 ELECTRONIC SMOKING DEVICES MANUFACTURER.

27 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN
28 ELECTRONIC SMOKING DEVICES MANUFACTURER THAT HAS NOT PREVIOUSLY
29 SUBMITTED A CERTIFICATION WITH THE STATE OR THAT IS NOT LISTED IN THE
30 DIRECTORY MAY SUBMIT AN INITIAL CERTIFICATION WITH THE ATTORNEY
31 GENERAL AT ANY POINT DURING THE YEAR.

32 (2) AN ELECTRONIC SMOKING DEVICES MANUFACTURER THAT
33 SUBMITS AN INITIAL CERTIFICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION
34 MUST SUBMIT AN ANNUAL CERTIFICATION IN ACCORDANCE WITH SUBSECTION (A)
35 OF THIS SECTION, UNLESS THE INITIAL CERTIFICATION WAS SUBMITTED WITHIN 90

1 DAYS OF THE DATE THE ANNUAL SUBMISSION IS REQUIRED UNDER SUBSECTION (A)
2 OF THIS SECTION.

3 (F) AN ELECTRONIC SMOKING DEVICES MANUFACTURER LISTED ON THE
4 DIRECTORY SHALL UPDATE ITS LISTING ON THE DIRECTORY TO REFLECT ANY
5 MATERIAL CHANGES TO ITS CERTIFICATION, INCLUDING A CHANGE IN
6 MANUFACTURING FACILITY OR AN ADDITION TO, A DISCONTINUANCE FROM, OR A
7 MODIFICATION OF ITS LISTED ELECTRONIC SMOKING DEVICE BRAND FAMILIES OR
8 BRAND STYLES BY EXECUTING AND DELIVERING A SUPPLEMENTAL CERTIFICATION
9 TO THE ATTORNEY GENERAL NOT LESS THAN 30 CALENDAR DAYS PRIOR TO THE
10 CHANGE.

11 (G) (1) FOR EACH CERTIFICATION SUBMITTED UNDER SUBSECTION (A)
12 OF THIS SECTION, THE ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL PAY
13 TO THE ATTORNEY GENERAL A FEE OF \$1,000 FOR EACH ELECTRONIC SMOKING
14 DEVICE BRAND STYLE THE MANUFACTURER IS APPLYING TO INCLUDE IN THE
15 DIRECTORY UNDER § 16.7-303 OF THIS SUBTITLE.

16 (2) THE REVENUES FROM THE CERTIFICATION FEE ESTABLISHED
17 UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DISTRIBUTED TO A SPECIAL
18 FUND TO BE USED BY THE OFFICE OF THE ATTORNEY GENERAL FOR ENFORCEMENT
19 OF THIS SUBTITLE.

20 16.7-303.

21 (A) EXCEPT AS PROVIDED IN SUBSECTION (B)(1) AND (2) OF THIS SECTION,
22 THE ATTORNEY GENERAL SHALL DEVELOP AND MAKE AVAILABLE FOR PUBLIC
23 INSPECTION A DIRECTORY LISTING ALL ELECTRONIC SMOKING DEVICES
24 MANUFACTURERS THAT HAVE PROVIDED CURRENT AND ACCURATE
25 CERTIFICATIONS COMPLYING WITH THE REQUIREMENTS OF § 16.7-302 OF THIS
26 SUBTITLE AND ALL APPROVED ELECTRONIC SMOKING DEVICE BRAND FAMILIES AND
27 BRAND STYLES INCLUDED IN THE CERTIFICATIONS.

28 (B) (1) THE ATTORNEY GENERAL MAY NOT INCLUDE OR RETAIN ON THE
29 DIRECTORY ANY BRAND FAMILIES OR BRAND STYLES OF ANY ELECTRONIC SMOKING
30 DEVICES MANUFACTURER THAT FAILS TO PROVIDE THE REQUIRED CERTIFICATION
31 OR FEE OR WHOSE CERTIFICATION THE ATTORNEY GENERAL DETERMINES IS NOT
32 IN COMPLIANCE WITH § 16.7-302 OF THIS SUBTITLE, UNLESS THE ATTORNEY
33 GENERAL HAS DETERMINED THAT THE DEFICIENCY HAS BEEN CURED TO THE
34 SATISFACTION OF THE ATTORNEY GENERAL.

35 (2) THE ATTORNEY GENERAL SHALL UPDATE THE DIRECTORY AS
36 NECESSARY TO CORRECT MISTAKES AND TO ADD OR REMOVE AN ELECTRONIC

1 SMOKING DEVICES MANUFACTURER OR ANY BRAND FAMILY OR BRAND STYLE OF AN
2 ELECTRONIC SMOKING DEVICE TO KEEP THE DIRECTORY IN CONFORMITY WITH THE
3 REQUIREMENTS OF THIS SUBTITLE.

4 (3) EACH LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER
5 DISTRIBUTOR AND LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER
6 IMPORTER SHALL PROVIDE TO THE ATTORNEY GENERAL, AND UPDATE AS
7 NECESSARY, CURRENT CONTACT INFORMATION FOR THE PURPOSE OF RECEIVING
8 ANY NOTIFICATIONS THAT MAY BE REQUIRED BY THIS SUBTITLE, INCLUDING A
9 POINT OF CONTACT PERSON, A PHYSICAL LOCATION, AND AN E-MAIL ADDRESS.

10 (C) AN ELECTRONIC SMOKING DEVICES MANUFACTURER, AN ELECTRONIC
11 SMOKING DEVICES WHOLESALER DISTRIBUTOR, AND AN ELECTRONIC SMOKING
12 DEVICES WHOLESALER IMPORTER SHALL MAINTAIN ALL INVOICES AND
13 DOCUMENTATION OF SALES, ALL APPROVAL LETTERS AND UNDERLYING
14 APPLICATIONS AND MATERIALS, AND ANY OTHER INFORMATION RELIED ON FOR ITS
15 CERTIFICATION FOR A MINIMUM PERIOD OF 5 YEARS, UNLESS OTHERWISE
16 REQUIRED BY LAW TO MAINTAIN THEM FOR A GREATER PERIOD OF TIME.

17 (D) A PERSON MAY NOT SELL, OFFER FOR SALE, POSSESS FOR SALE IN THE
18 STATE, OR IMPORT FOR PERSONAL CONSUMPTION IN THE STATE, ANY:

19 (1) ELECTRONIC SMOKING DEVICE, BRAND FAMILY, OR BRAND STYLE
20 NOT INCLUDED ON THE DIRECTORY; OR

21 (2) ELECTRONIC SMOKING DEVICES MANUFACTURED BY AN
22 ELECTRONIC SMOKING DEVICES MANUFACTURER THAT IS NOT INCLUDED ON THE
23 DIRECTORY.

24 (E) ANY ELECTRONIC SMOKING DEVICE, BRAND FAMILY, OR BRAND STYLE
25 NOT INCLUDED ON THE DIRECTORY:

26 (1) SHALL BE DEEMED CONTRABAND UNDER §§ 13-836, 13-837, AND
27 13-839 OF THE TAX – GENERAL ARTICLE;

28 (2) MAY NOT BE PURCHASED OR SOLD IN THE STATE; AND

29 (3) MAY BE SUBJECT TO SEIZURE, FORFEITURE, AND DISPOSAL.

30 16.7-304.

31 (A) (1) ANY NONRESIDENT OR FOREIGN ELECTRONIC SMOKING DEVICES
32 MANUFACTURER THAT HAS NOT REGISTERED TO DO BUSINESS IN THE STATE AS A

1 FOREIGN CORPORATION OR BUSINESS ENTITY SHALL APPOINT, AND CONTINUALLY
2 ENGAGE WITHOUT INTERRUPTION, THE SERVICES OF AN AGENT IN THE STATE TO
3 ACT AS AN AGENT FOR THE SERVICE OF PROCESS ON THE NONRESIDENT OR
4 FOREIGN ELECTRONIC SMOKING DEVICES MANUFACTURER BEFORE ITS BRAND
5 FAMILIES OR BRAND STYLES MAY BE INCLUDED OR RETAINED ON THE DIRECTORY
6 DESCRIBED IN § 16.7-303 OF THIS SUBTITLE.

7 (2) ANY PROCESS AND ANY ACTION OR PROCEEDING AGAINST A
8 NONRESIDENT OR FOREIGN ELECTRONIC SMOKING DEVICES MANUFACTURER
9 CONCERNING OR ARISING OUT OF THE ENFORCEMENT OF THIS SUBTITLE OR THIS
10 ARTICLE MAY BE SERVED IN ANY MANNER AUTHORIZED BY LAW.

11 (3) (I) THE SERVICE OF PROCESS ON THE DESIGNATED AGENT
12 SHALL CONSTITUTE LEGAL AND VALID SERVICE OF PROCESS ON THE ELECTRONIC
13 SMOKING DEVICES MANUFACTURER.

14 (II) THE ELECTRONIC SMOKING DEVICES MANUFACTURER
15 SHALL PROVIDE, TO THE SATISFACTION OF THE EXECUTIVE DIRECTOR AND THE
16 ATTORNEY GENERAL, THE NAME, ADDRESS, TELEPHONE NUMBER, AND PROOF OF
17 THE APPOINTMENT AND AVAILABILITY OF THE AGENT TO THE EXECUTIVE
18 DIRECTOR AND THE ATTORNEY GENERAL.

19 (B) (1) THE ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL
20 PROVIDE:

21 (I) NOTICE TO THE EXECUTIVE DIRECTOR AND THE ATTORNEY
22 GENERAL NOT LESS THAN 30 CALENDAR DAYS PRIOR TO THE TERMINATION OF THE
23 AUTHORITY OF AN AGENT; AND

24 (II) PROOF TO THE SATISFACTION OF THE ATTORNEY GENERAL
25 OF THE APPOINTMENT OF A NEW AGENT NOT LESS THAN 5 CALENDAR DAYS PRIOR
26 TO THE TERMINATION OF AN EXISTING AGENT APPOINTMENT.

27 (2) IF AN AGENT TERMINATES AN AGENCY APPOINTMENT, THE
28 ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL:

29 (I) NOTIFY THE EXECUTIVE DIRECTOR AND THE ATTORNEY
30 GENERAL OF THE TERMINATION WITHIN 5 CALENDAR DAYS; AND

31 (II) INCLUDE PROOF TO THE SATISFACTION OF THE ATTORNEY
32 GENERAL OF THE APPOINTMENT OF A NEW AGENT.

33 16.7-305.

1 (A) (1) NOT LATER THAN 21 DAYS AFTER THE END OF EACH CALENDAR
2 MONTH, OR OTHER REPORTING PERIOD ESTABLISHED BY THE ATTORNEY GENERAL,
3 EACH LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR AND
4 LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT ALSO HOLDS A
5 LICENSE TO ACT AS AN ELECTRONIC SMOKING DEVICES RETAILER OR VAPE SHOP
6 VENDOR SHALL SUBMIT TRUE AND ACCURATE INFORMATION IN THE FORM AND
7 MANNER THE ATTORNEY GENERAL REQUIRES TO FACILITATE COMPLIANCE WITH
8 THIS SUBTITLE, INCLUDING A LIST BY BRAND FAMILY AND BRAND STYLE OF THE
9 TOTAL QUANTITY OF ELECTRONIC SMOKING DEVICES SOLD DURING THE
10 REPORTING PERIOD BY THE LICENSED ELECTRONIC SMOKING DEVICES
11 WHOLESALER DISTRIBUTOR TO:

12 (I) A LICENSED ELECTRONIC SMOKING DEVICES RETAILER OR
13 LICENSED VAPE SHOP VENDOR; OR

14 (II) THE LICENSED ELECTRONIC SMOKING DEVICES
15 MANUFACTURER THAT ALSO HOLDS A LICENSE TO ACT AS AN ELECTRONIC SMOKING
16 DEVICES RETAILER OR VAPE SHOP VENDOR.

17 (2) A LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER
18 DISTRIBUTOR OR LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT
19 ALSO HOLDS A LICENSE TO ACT AS AN ELECTRONIC SMOKING DEVICES RETAILER OR
20 VAPE SHOP VENDOR SHALL MAINTAIN AND MAKE AVAILABLE TO THE EXECUTIVE
21 DIRECTOR, THE ATTORNEY GENERAL, AND THE COMPTROLLER FOR A PERIOD OF 5
22 YEARS ALL INVOICES AND DOCUMENTATION OF SALES OF ALL ELECTRONIC
23 SMOKING DEVICES AND ANY OTHER INFORMATION RELIED ON IN REPORTING TO
24 THE EXECUTIVE DIRECTOR, THE ATTORNEY GENERAL, AND THE COMPTROLLER.

25 (B) (1) THE ATTORNEY GENERAL MAY DISCLOSE TO THE EXECUTIVE
26 DIRECTOR AND THE COMPTROLLER ANY INFORMATION RECEIVED UNDER THIS
27 SUBTITLE AND REQUESTED BY THE EXECUTIVE DIRECTOR OR THE COMPTROLLER
28 FOR THE PURPOSES OF DETERMINING COMPLIANCE WITH AND ENFORCEMENT OF
29 THE PROVISIONS OF THIS SUBTITLE.

30 (2) THE EXECUTIVE DIRECTOR, THE COMPTROLLER, AND THE
31 ATTORNEY GENERAL, ONLY FOR PURPOSES OF ENFORCEMENT OF THIS TITLE OR
32 CORRESPONDING LAWS OF OTHER STATES:

33 (I) SHALL SHARE WITH EACH OTHER THE INFORMATION
34 RECEIVED UNDER THIS SUBTITLE OR TITLE 11 OF THE TAX – GENERAL ARTICLE;
35 AND

(II) MAY SHARE THE INFORMATION WITH OTHER FEDERAL, STATE, OR LOCAL AGENCIES.

(C) IN ADDITION TO ANY OTHER INFORMATION REQUIRED TO BE SUBMITTED BY LAW, THE EXECUTIVE DIRECTOR OR THE ATTORNEY GENERAL MAY REQUIRE A LICENSEE TO SUBMIT ANY ADDITIONAL INFORMATION, INCLUDING INVOICES, RECEIPTS, CORRESPONDENCE, CONFIRMATIONS OF APPROVAL, MARKETING, ADVERTISING MATERIALS, AND SAMPLES OF PACKAGING OR LABELING OF EACH BRAND FAMILY, AS IS NECESSARY TO ENABLE THE ATTORNEY GENERAL TO DETERMINE WHETHER A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER IS IN COMPLIANCE WITH THIS SUBTITLE AND ALL OTHER APPLICABLE FEDERAL, STATE, AND LOCAL LAWS.

(D) THE EXECUTIVE DIRECTOR, THE ATTORNEY GENERAL, OR THE COMPTROLLER MAY ADOPT REGULATIONS REQUIRING A LICENSEE TO SUBMIT ANY ADDITIONAL INFORMATION OR DOCUMENTATION AS NECESSARY TO DETERMINE THE ACCURACY OF ANY INFORMATION SUBMITTED OR OTHERWISE PROMOTE COMPLIANCE WITH THIS SUBTITLE.

16.7-306.

(A) (1) BEFORE INCLUSION ON THE DIRECTORY UNDER § 16.7-303 OF THIS SUBTITLE, A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL DEPOSIT AND MAINTAIN \$75,000 IN AN ESCROW FUND ESTABLISHED AT A FEDERALLY OR STATE CHARTERED FINANCIAL INSTITUTION AND GOVERNED BY A QUALIFIED ESCROW AGREEMENT THAT HAS BEEN REVIEWED AND APPROVED BY THE ATTORNEY GENERAL.

(2) THE ATTORNEY GENERAL MAY AUTHORIZE A REDUCTION OF THE AMOUNT REQUIRED TO BE DEPOSITED INTO A QUALIFIED ESCROW FUND BY A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER OF UP TO \$50,000 IF THE ELECTRONIC SMOKING DEVICE BRAND FAMILIES AND BRAND STYLES INCLUDED IN THE MANUFACTURER'S CERTIFICATION SUBMITTED UNDER THIS SUBTITLE HAVE RECEIVED A FINAL MARKETING ORDER AND ARE AUTHORIZED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION.

(B) A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT PLACES FUNDS INTO ESCROW IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL RECEIVE THE INTEREST OR OTHER APPRECIATION ON THE FUNDS AS EARNED.

(C) THE ATTORNEY GENERAL MAY RELEASE THE FUNDS FROM ESCROW ONLY TO:

1 (1) THE EXECUTIVE DIRECTOR TO SATISFY ANY UNPAID COSTS
2 ARISING OUT OF THE COLLECTION, SEIZURE, STORAGE, DISPOSAL, OR OTHER
3 ENFORCEMENT COSTS RESULTING FROM A VIOLATION OF AN APPLICABLE FEDERAL,
4 STATE, OR LOCAL LAW BY THE LICENSED ELECTRONIC SMOKING DEVICES
5 MANUFACTURER; OR

6 (2) A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER IF
7 THE LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER:

8 (I) ELECTS TO CEASE SELLING ELECTRONIC SMOKING DEVICES
9 IN THE STATE;

10 (II) DEMONSTRATES TO THE SATISFACTION OF THE ATTORNEY
11 GENERAL THAT THE LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER
12 HAS REMOVED ALL BRAND FAMILIES AND BRAND STYLES MANUFACTURED BY THE
13 LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER FROM THE STATE; AND

14 (III) APPLIES TO THE ATTORNEY GENERAL FOR A RELEASE OF
15 THE FUNDS IN ESCROW.

16 (D) (1) EACH LICENSED ELECTRONIC SMOKING DEVICES
17 MANUFACTURER THAT PLACES FUNDS INTO ESCROW IN ACCORDANCE WITH
18 SUBSECTION (A) OF THIS SECTION SHALL ANNUALLY CERTIFY TO THE ATTORNEY
19 GENERAL THAT IT IS IN COMPLIANCE WITH SUBSECTION (A) OF THIS SECTION.

20 (2) IF THE ATTORNEY GENERAL NOTIFIES A LICENSED ELECTRONIC
21 SMOKING DEVICES MANUFACTURER THAT THE AMOUNT IN ESCROW HAS FALLEN
22 BELOW THE APPLICABLE AMOUNT REQUIRED UNDER SUBSECTION (A) OF THIS
23 SECTION, THE LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL
24 BRING THE AMOUNT IN ESCROW INTO COMPLIANCE WITHIN 15 DAYS.

25 (3) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION ON BEHALF
26 OF THE STATE AGAINST ANY LICENSED ELECTRONIC SMOKING DEVICES
27 MANUFACTURER THAT FAILS TO PLACE INTO ESCROW THE FUNDS REQUIRED UNDER
28 SUBSECTION (A) OF THIS SECTION.

29 (4) (I) A LICENSED ELECTRONIC SMOKING DEVICES
30 MANUFACTURER THAT FAILS TO PLACE INTO ESCROW THE FUNDS REQUIRED UNDER
31 SUBSECTION (A) OF THIS SECTION SHALL BE REQUIRED WITHIN 15 DAYS TO PLACE
32 SUCH FUNDS INTO ESCROW SO AS TO BRING THE MANUFACTURER INTO
33 COMPLIANCE WITH THIS SECTION.

(II) EACH DAY THAT A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER IS LISTED ON THE DIRECTORY AND HAS LESS THAN THE AMOUNT REQUIRED TO BE MAINTAINED IN AN ESCROW ACCOUNT UNDER SUBSECTION (A) OF THIS SECTION SHALL BE A SEPARATE VIOLATION.

(III) THE COURT, ON A FINDING OF A VIOLATION OF SUBSECTION (A) OF THIS SECTION, MAY IMPOSE A CIVIL PENALTY TO BE PAID TO THE GENERAL FUND OF THE STATE OF \$500 FOR EACH DAY OF EACH VIOLATION.

16.7-307.

(A) A DETERMINATION BY THE ATTORNEY GENERAL TO OMIT OR TO DELETE FROM THE DIRECTORY DESCRIBED IN § 16.7-303 OF THIS SUBTITLE A BRAND FAMILY, A BRAND STYLE, OR AN ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL BE SUBJECT TO REVIEW IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(B) (1) THE ATTORNEY GENERAL MAY NOT REMOVE A BRAND FAMILY, A BRAND STYLE, OR AN ELECTRONIC SMOKING DEVICES MANUFACTURER FROM THE DIRECTORY UNTIL AT LEAST 15 DAYS AFTER THE ELECTRONIC SMOKING DEVICES MANUFACTURER IS GIVEN NOTICE OF THE INTENDED ACTION.

(2) NOTICE UNDER THIS SUBSECTION SHALL BE SUFFICIENT AND SHALL BE DEEMED RECEIVED BY AN ELECTRONIC SMOKING DEVICES MANUFACTURER IF THE NOTICE IS SENT ELECTRONICALLY TO THE ELECTRONIC SMOKING DEVICES MANUFACTURER'S E-MAIL ADDRESS FROM THE MOST RECENT CERTIFICATION FILED, TO THE ELECTRONIC SMOKING DEVICES MANUFACTURER'S ADDRESS FROM THE MOST RECENT CERTIFICATION FILED, OR TO THE MANUFACTURER'S REGISTERED AGENT FOR SERVICE OF PROCESS IN THE STATE.

(C) (1) IF THE ATTORNEY GENERAL REMOVES A BRAND FAMILY, A BRAND STYLE, OR AN ELECTRONIC SMOKING DEVICE FROM THE DIRECTORY, EACH LICENSED RETAILER AND LICENSED VAPE SHOP VENDOR SHALL HAVE 15 DAYS TO REMOVE THE PRODUCT FROM ITS INVENTORY AND RETURN THE PRODUCT TO THE ELECTRONIC SMOKING DEVICES MANUFACTURER FOR DISPOSAL.

(2) AFTER 15 DAYS FOLLOWING THE REMOVAL OF A BRAND FAMILY, A BRAND STYLE, OR AN ELECTRONIC SMOKING DEVICE FROM THE DIRECTORY, THE PRODUCT:

(I) SHALL BE DEEMED CONTRABAND UNDER §§ 13-836, 13-837, AND 13-839 OF THE TAX - GENERAL ARTICLE;

1 (II) MAY NOT BE PURCHASED OR SOLD IN THE STATE; AND

2 (III) MAY BE SUBJECT TO SEIZURE, FORFEITURE, AND DISPOSAL.

3 (D) IN ANY ACTION BROUGHT BY THE STATE TO ENFORCE THIS SUBTITLE,
4 THE STATE SHALL BE ENTITLED TO RECOVER THE COSTS OF SEIZURE, STORAGE,
5 AND DISPOSAL, EXPERT WITNESS FEES, COSTS OF THE ACTION, AND REASONABLE
6 ATTORNEY'S FEES.

7 (E) (1) IF A COURT OR OTHER ADJUDICATIVE BODY DETERMINES THAT A
8 PERSON HAS VIOLATED THIS SUBTITLE, THE COURT OR OTHER ADJUDICATIVE BODY
9 SHALL ORDER ANY PROFITS, GAIN, GROSS RECEIPTS, OR OTHER BENEFIT FROM THE
10 VIOLATION TO BE PAID TO THE ATTORNEY GENERAL.

11 (2) UNLESS OTHERWISE EXPRESSLY PROVIDED, THE REMEDIES OR
12 PENALTIES PROVIDED BY THIS SUBTITLE ARE CUMULATIVE TO EACH OTHER AND TO
13 THE REMEDIES OR PENALTIES AVAILABLE UNDER ALL OTHER LAWS OF THE STATE.

14 16.7-308.

15 THE ATTORNEY GENERAL OR THE EXECUTIVE DIRECTOR MAY ADOPT
16 REGULATIONS TO CARRY OUT THIS SUBTITLE.

17 16.7-309.

18 (A) IN ADDITION TO OR INSTEAD OF ANY OTHER CIVIL OR CRIMINAL
19 REMEDY PROVIDED BY LAW:

20 (1) SUBJECT TO THE HEARING PROVISIONS OF § 16.7-208 OF THIS
21 TITLE, ON A DETERMINATION THAT A LICENSEE HAS VIOLATED § 16.7-303(D) OF
22 THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE, OR A LICENSED
23 ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR OR LICENSED
24 ELECTRONIC SMOKING DEVICES MANUFACTURER HAS VIOLATED § 16.7-305(A) OF
25 THIS SUBTITLE, THE EXECUTIVE DIRECTOR MAY IMPOSE A CIVIL PENALTY IN AN
26 AMOUNT NOT EXCEEDING THE GREATER OF:

27 (I) 500% OF THE RETAIL VALUE OF THE ELECTRONIC SMOKING
28 DEVICES THAT ARE THE SUBJECT OF THE VIOLATION; OR

29 (II) \$5,000; AND

30 (2) ON A DETERMINATION THAT A LICENSEE HAS COMMITTED A
31 SUBSEQUENT VIOLATION WITHIN 2 YEARS AFTER A VIOLATION OF § 16.7-303(D) OR

1 **§ 16.7–305(A) OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE,**
2 **THE EXECUTIVE DIRECTOR MAY REVOKE OR SUSPEND THE LICENSE OF THE**
3 **LICENSEE IN THE MANNER PROVIDED UNDER § 16.7–209 OF THIS TITLE.**

4 **(B) EACH SALE OF AND EACH OFFER TO SELL ELECTRONIC SMOKING**
5 **DEVICES IN VIOLATION OF § 16.7–303(D) OF THIS SUBTITLE SHALL CONSTITUTE A**
6 **SEPARATE VIOLATION.**

7 **(C) IN ADDITION TO ANY PENALTIES OTHERWISE PROVIDED BY LAW, A**
8 **VIOLATION OF § 16.7–303(D) OF THIS SUBTITLE IS:**

9 **(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN**
10 **THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND**

11 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS**
12 **CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

13 **(D) THE ATTORNEY GENERAL, ON THE ATTORNEY GENERAL’S OWN**
14 **INITIATIVE OR ON BEHALF OF THE EXECUTIVE DIRECTOR, MAY SEEK AN**
15 **INJUNCTION TO RESTRAIN A THREATENED OR ACTUAL VIOLATION OF § 16.7–303(D)**
16 **OR § 16.7–305(A) OR (D) OF THIS SUBTITLE BY A LICENSEE AND COMPEL THE**
17 **LICENSEE TO COMPLY WITH THOSE SECTIONS.**

18 **(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**
19 **PERSON WHO SELLS, DISTRIBUTES, ACQUIRES, HOLDS, OWNS, POSSESSES,**
20 **TRANSPORTS, IMPORTS, OR CAUSES TO BE IMPORTED ELECTRONIC SMOKING**
21 **DEVICES FOR RESALE TO A CONSUMER THAT THE PERSON KNOWS OR SHOULD HAVE**
22 **KNOWN ARE INTENDED FOR DISTRIBUTION OR SALE IN THE STATE IN VIOLATION OF**
23 **§ 16.7–303(D) OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON**
24 **CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT**
25 **EXCEEDING 1 YEAR OR BOTH.**

26 **(2) THE PENALTIES IN PARAGRAPH (1) OF THIS SUBSECTION DO NOT**
27 **APPLY TO A PERSON WHO POSSESSES LESS THAN \$100 WORTH OF ELECTRONIC**
28 **SMOKING DEVICES SOLELY FOR PERSONAL CONSUMPTION AND NOT FOR RESALE TO**
29 **A CONSUMER.**

30 **Article – Commercial Law**

31 **13–301.**

32 **Unfair, abusive, or deceptive trade practices include any:**

33 **(14) Violation of a provision of:**

(xlii) Section 12–6C–09.1 of the Health Occupations Article; [or]

(xliii) Title 14, Subtitle 48 of this article; or

**(XLIV) SECTION 16.7–303(D) OF THE BUSINESS
REGULATION ARTICLE; OR**

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.