

HOUSE BILL 3

C2

~~EMERGENCY BILL~~
(PRE-FILED)

0lr0611
CF SB 233

By: **Delegate D.E. Davis**

Requested: September 4, 2019

Introduced and read first time: January 8, 2020

Assigned to: Economic Matters and Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 9, 2020

CHAPTER _____

1 AN ACT concerning

2 **Business Regulation – ~~Flavored Tobacco Products – Electronic Smoking~~**
3 **Devices, Prohibition on Flavoring, and Sales to Military Members**

4 FOR the purpose of providing that certain licenses to manufacture, sell, buy, and store
5 cigarettes, ~~other tobacco products, and electronic smoking devices~~ do not authorize
6 the licensee to or to attempt to manufacture, ship, import, or sell into or within the
7 State a ~~flavored tobacco product~~ cigarette that has a characterizing flavor; providing
8 that certain licenses to manufacture, sell, buy, and store other tobacco products do
9 not authorize the licensee to or to attempt to manufacture, ship, import, or sell into
10 or within the State certain other tobacco products that have a characterizing flavor
11 in certain circumstances; providing that certain licenses to manufacture, sell, buy,
12 and store electronic smoking devices do not authorize the licensee to or to attempt to
13 manufacture, ship, import, or sell certain types of electronic smoking devices;
14 providing that a public statement that cigarettes, or other tobacco products, ~~or~~
15 ~~electronic smoking devices~~ have or produce a certain smell or taste is presumptive
16 evidence that they ~~are flavored tobacco products~~ have a characterizing flavor if the
17 statement is made by certain persons; providing that a person that violates certain
18 cigarette license requirements is guilty of a misdemeanor and subject to certain
19 penalties; providing that a person who engages in an act or attempted act of
20 manufacturing, shipping, importing, or selling into or within the State ~~flavored~~
21 certain tobacco products violates a certain provision of law; prohibiting a person from
22 selling or dispensing or offering to sell or dispense a ~~flavored tobacco product~~
23 cigarette that has a characterizing flavor through a vending machine; repealing
24 certain authorizations granted to an electronic smoking devices licensee; prohibiting

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.



the sale of electronic smoking devices by mail, computer network, telephonic network, or other electronic network; establishing penalties for a person who sells or ships electronic smoking devices by mail, computer network, telephonic network, or other electronic network; repealing exceptions for certain members of the military to prohibitions relating to the distribution and sale of tobacco products to individuals under a certain age; amending the definition of “vaping liquid” to include liquids that convert to other aerosol substances in addition to vapor; defining certain terms; altering certain definitions; ~~making this Act an emergency measure; providing for a delayed effective date; making the provisions of this Act severable; declaring certain findings and the intent of the General Assembly;~~ and generally relating to the prohibition on manufacturing, shipping, importing, or selling into or within the State ~~flavored~~ certain tobacco products.

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 16–101, 16–206, 16–209, 16–214, ~~16–3A–01~~, 16–3A–02, 16–501(b)(1),
16.5–101, 16.5–205, 16.5–212, 16.5–214.1, 16.7–101, 16.7–204, 16.7–204.1,
and 16.7–211

Annotated Code of Maryland

(2015 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,

Article – Business Regulation

Section ~~16–3A–03~~ 16–223, 16–3A–03, and 16.5–217

Annotated Code of Maryland

(2015 Replacement Volume and 2019 Supplement)

BY adding to

Article – Business Regulation

Section 16.7–215

Annotated Code of Maryland

(2015 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 10–107

Annotated Code of Maryland

(2012 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General

Section 24–305(a) and (c) and 24–307(b) and (c)

Annotated Code of Maryland

(2019 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 24–305(b) and (d) and 24–307(a) and (d)
Annotated Code of Maryland
(2019 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Local Government
Section 1–1203
Annotated Code of Maryland
(2013 Volume and 2019 Supplement)

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

Article – Business Regulation

16–101.

(a) In this title the following words have the meanings indicated.

(b) “Cigarette” means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.

(C) (1) “CHARACTERIZING FLAVOR” MEANS A DISTINGUISHABLE TASTE OR AROMA, OTHER THAN THE TASTE OR AROMA OF TOBACCO, IMPARTED OR DETECTABLE BEFORE OR DURING CONSUMPTION OF A TOBACCO PRODUCT.

(2) “CHARACTERIZING FLAVOR” INCLUDES A TASTE OR AN AROMA OF ANY FRUIT, CANDY, DESSERT, ALCOHOLIC BEVERAGE, HERB, OR SPICE, INCLUDING CHOCOLATE, VANILLA, HONEY, COCOA, MENTHOL, MINT, OR WINTERGREEN.

(3) “CHARACTERIZING FLAVOR” DOES NOT INCLUDE ANY INGREDIENT, INCLUDING ANY ADDITIVE OR FLAVORING, THAT DOES NOT CONTRIBUTE TO THE DISTINGUISHABLE TASTE OR AROMA OF THE PRODUCT.

~~(D)~~ **(D)** “County license” means a license issued by the clerk to sell cigarettes at retail in a county.

~~**(D) (1) “FLAVORED TOBACCO PRODUCT” MEANS A TOBACCO PRODUCT THAT CONTAINS A TASTE OR SMELL, OTHER THAN THAT OF TOBACCO, THAT IS DISTINGUISHABLE BY AN ORDINARY CONSUMER EITHER BEFORE OR DURING THE CONSUMPTION OF THE TOBACCO PRODUCT.**~~

~~**(2) “FLAVORED TOBACCO PRODUCT” INCLUDES A TOBACCO PRODUCT WITH A TASTE OR SMELL OF FRUIT, MENTHOL, MINT, WINTERGREEN,**~~

~~CHOCOLATE, COCOA, VANILLA, HONEY, A CANDY, A DESSERT, AN ALCOHOLIC
BEVERAGE, AN HERB, OR A SPICE.~~

[(d)] (E) “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.

[(e)] (F) (1) “Sell cigarettes at retail” means to sell cigarettes to a consumer.

(2) “Sell cigarettes at retail” includes selling cigarettes through a vending machine.

~~(G) (1) “TOBACCO PRODUCT” MEANS A PRODUCT INTENDED FOR
INHALATION, ABSORPTION, INGESTION, SMOKING, HEATING, CHEWING,
DISSOLVING, OR ANY OTHER MANNER OF CONSUMPTION BY A HUMAN BEING AND
THAT IS MADE OF, DERIVED FROM, OR CONTAINS:~~

~~(I) TOBACCO; OR~~

~~(II) NICOTINE.~~

~~(2) “TOBACCO PRODUCT” INCLUDES:~~

~~(I) CIGARETTES, CIGARS, PIPE TOBACCO, CHEWING TOBACCO,
SNUFF, SNUS, AND ANY OTHER TOBACCO PRODUCT, AS DEFINED IN § 16.5 101 OF
THIS ARTICLE;~~

~~(II) ELECTRONIC SMOKING DEVICES, AS DEFINED IN § 16.7 101
OF THIS ARTICLE; AND~~

~~(III) ANY COMPONENT, PART, OR ACCESSORY OF ITEMS (I) OR (II)
OF THIS PARAGRAPH, REGARDLESS OF NICOTINE CONTENT, INCLUDING FILTERS,
ROLLING PAPERS, BLUNT WRAPS, HEMP WRAPS, HOOKAHS, PIPES, AND LIQUIDS
USED IN ELECTRONIC SMOKING DEVICES.~~

~~(3) “TOBACCO PRODUCT” DOES NOT INCLUDE A DRUG, DEVICE, OR
COMBINATION PRODUCT AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG
ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.~~

16–206.

(a) [A] SUBJECT TO SUBSECTION (G) OF THIS SECTION, A manufacturer license authorizes the licensee to:

(1) sell unstamped cigarettes to:

(i) a licensed cigarette wholesaler located in Maryland; and

(ii) a licensed cigarette wholesaler located outside of Maryland if the unstamped cigarettes may lawfully be sold in Maryland;

(2) except as otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distribute sample cigarettes to consumers located in Maryland;

(3) store unstamped cigarettes in a licensed cigarette storage warehouse for subsequent shipment to licensed wholesalers, federal reservations, or persons out of state; and

(4) upon approval of the Comptroller, act as an agent of a Maryland licensed wholesaler for stamping and distribution of cigarettes.

(b) **[A] SUBJECT TO SUBSECTION (G) OF THIS SECTION,** A retailer license authorizes the licensee to:

(1) act as a retailer; and

(2) buy stamped cigarettes from a subwholesaler or wholesaler.

(c) (1) **[A] SUBJECT TO SUBSECTION (G) OF THIS SECTION,** A storage warehouse license authorizes the licensee to operate a storage facility in Maryland for the purpose of storing unstamped cigarettes on behalf of a licensed cigarette manufacturer.

(2) If a storage warehouse licensee is a licensed cigarette wholesaler or licensed cigarette subwholesaler, the storage warehouse license authorizes the holder, **SUBJECT TO SUBSECTION (G) OF THIS SECTION,** to store stamped cigarettes and cigarettes with another state's tax stamp.

(d) **[A] SUBJECT TO SUBSECTION (G) OF THIS SECTION,** A subwholesaler license authorizes the licensee to:

(1) act as a subwholesaler;

(2) buy stamped cigarettes from a wholesaler or another subwholesaler; and

(3) store stamped cigarettes and cigarettes with another state's tax stamp at a licensed cigarette storage facility.

(e) **[A] SUBJECT TO SUBSECTION (G) OF THIS SECTION,** A vending machine operator license authorizes the licensee to:

(1) act as a vending machine operator; and

(2) buy stamped cigarettes from a subwholesaler or wholesaler.

(f) **[A] SUBJECT TO SUBSECTION (G) OF THIS SECTION, A wholesaler license authorizes the licensee to:**

(1) act as a wholesaler;

(2) buy unstamped cigarettes directly from a cigarette manufacturer;

(3) hold unstamped cigarettes;

(4) buy tobacco tax stamps as authorized by § 12-303 of the Tax – General Article;

(5) transport unstamped cigarettes in the State;

(6) sell unstamped cigarettes to another licensed wholesaler if the Comptroller specifically authorizes;

(7) upon approval of the Comptroller, designate a licensed manufacturer to act as its agent for the stamping and distribution of cigarettes; and

(8) store stamped cigarettes and cigarettes with another state's tax stamp at a licensed cigarette storage facility.

(G) (1) A LICENSE ISSUED UNDER THIS SUBTITLE DOES NOT AUTHORIZE THE LICENSEE TO MANUFACTURE, SHIP, IMPORT, OR SELL INTO OR WITHIN THE STATE A ~~FLAVORED TOBACCO PRODUCT~~ CIGARETTE THAT HAS A CHARACTERIZING FLAVOR.

(2) A PUBLIC STATEMENT THAT A CIGARETTE HAS OR PRODUCES A TASTE OR SMELL OTHER THAN TOBACCO IS PRESUMPTIVE EVIDENCE THAT THE CIGARETTE IS A ~~FLAVORED TOBACCO PRODUCT~~ HAS A CHARACTERIZING FLAVOR, IF THE STATEMENT IS MADE BY:

(I) THE CIGARETTE'S MANUFACTURER;

(II) A PERSON AUTHORIZED BY THE CIGARETTE'S MANUFACTURER TO MAKE PUBLIC STATEMENTS ABOUT THE CIGARETTE;

(III) A LICENSED WHOLESALER OR A PERSON AUTHORIZED BY THE WHOLESALER TO MAKE PUBLIC STATEMENTS ON THE WHOLESALER'S BEHALF;

(IV) A LICENSED SUBWHOLESALE OR A PERSON AUTHORIZED BY THE SUBWHOLESALE TO MAKE PUBLIC STATEMENTS ON THE SUBWHOLESALE'S BEHALF; OR

(V) A LICENSED RETAILER OR A PERSON AUTHORIZED BY THE RETAILER TO MAKE PUBLIC STATEMENTS ON THE RETAILER'S BEHALF.

(3) A PERSON THAT VIOLATES THIS SUBSECTION 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.

16-209.

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

(b) A licensee who sells cigarettes through a vending machine:

(1) shall place each package of cigarettes in the machine so that when the package is visible the tax stamps required by § 12-304 of the Tax – General Article are also visible; and

(2) in the way that the Comptroller requires by regulation, shall:

(i) identify each vending machine with a conspicuous label that states the licensee's name, address, and telephone number; and

(ii) display on a conspicuous label applicable prohibitions and penalties under § 10-107 of the Criminal Law Article.

(c) (1) A licensee shall post a sign in a location that is clearly visible to the consumer that states:

“No person under the age of 21 may be sold tobacco products [without military identification]”.

(2) The sign required under this subsection shall be written in letters at least one-half inch high.

16-214.

(a) (1) Except as otherwise provided in § 16-202(b) of this subtitle, a person may not act, attempt to act, or offer to act as a manufacturer, retailer, storage warehouse, subwholesaler, vending machine operator, or wholesaler in the State unless the person has an appropriate license.

(2) A PERSON WHO MANUFACTURES, SHIPS, IMPORTS, OR SELLS OR ATTEMPTS TO MANUFACTURE, SHIP, IMPORT, OR SELL INTO OR WITHIN THE STATE ~~A FLAVORED TOBACCO PRODUCT~~ CIGARETTE THAT HAS A CHARACTERIZING FLAVOR VIOLATES PARAGRAPH (1) OF THIS SUBSECTION.

(b) (1) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine of \$1,000 or imprisonment not exceeding 30 days or both.

(2) Each day that a violation of this section continues is a separate offense.

~~16-3A-01.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) "Owner" means the person that owns or operates an establishment in which a vending machine is located.~~

~~(c) [(1) "Tobacco product" means any product that is:~~

~~(i) intended for human inhalation, absorption, ingestion, smoking, heating, chewing, dissolving, or any other manner of consumption that is made of, derived from, or contains:~~

~~1. tobacco; or~~

~~2. nicotine; or~~

~~(ii) an accessory or a component used in any manner of consumption of a product described in item (i) of this paragraph.~~

~~(2) "Tobacco product" includes:~~

~~(i) cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and snus;~~

~~(ii) electronic smoking devices; and~~

~~(iii) filters, rolling papers, pipes, and liquids used in electronic smoking devices regardless of nicotine content.~~

~~(3) "Tobacco product" does not include a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.~~

~~(d)] "Vending machine" means any mechanical, electronic, or similar self-service device that on insertion of a coin, coins, token, or other similar means dispenses a tobacco product.~~

1 16-223.

2 (a) This section applies to a person who is engaged in the business of selling
3 or distributing cigarettes.

4 (b) (1) Except as provided in paragraph (2) of this subsection, a person
5 covered under this section may not:

6 (i) sell or ship cigarettes, ordered or purchased by mail or
7 through a computer network, telephonic network, or other electronic network by a
8 consumer or other unlicensed recipient, directly to a consumer or other unlicensed recipient
9 in this State; or

10 (ii) cause cigarettes, ordered or purchased by mail or through
11 a computer network, telephonic network, or other electronic network by a consumer or
12 other unlicensed recipient, to be shipped directly to a consumer or other unlicensed
13 recipient in this State.

14 (2) A licensed retailer may deliver no more than two cartons of
15 cigarettes directly to a consumer if the delivery is made by the licensed retailer or an
16 employee of the licensed retailer.

17 (c) (1) A licensee who sells or ships cigarettes in violation of this section
18 or causes cigarettes to be shipped in violation of this section is:

19 (i) subject to discipline by the Comptroller under § 16-210 of
20 this subtitle; and

21 (ii) guilty of a felony and, on conviction, is subject to a fine not
22 exceeding \$50 for each carton of cigarettes transported or imprisonment not exceeding 2
23 years or both.

24 (2) A person other than a licensee who sells or ships cigarettes in
25 violation of this section or causes cigarettes to be shipped in violation of this section is guilty
26 of a felony and, on conviction, is subject to a fine not exceeding \$50 for each carton of
27 cigarettes transported or imprisonment not exceeding 2 years or both.

28 16-3A-02.

29 (A) A person may not sell or dispense or offer to sell or dispense a tobacco product
30 through a vending machine in the State, unless the vending machine is located in an
31 establishment that individuals under the age of 21 years are prohibited by law from
32 entering at any time.

33 (B) **A PERSON MAY NOT SELL OR DISPENSE OR OFFER TO SELL OR DISPENSE**
34 **A FLAVORED TOBACCO PRODUCT THROUGH A VENDING MACHINE IN THE STATE.**

1 16-3A-03.

2 A person who violates this subtitle is guilty of a misdemeanor and on conviction is
3 subject to a fine not exceeding \$100.

4 16-501.

5 (b) (1) “Brand family” means all styles of cigarettes sold under the same
6 trademark, regardless of whether the cigarettes are differentiated from one another by
7 means of additional modifiers or descriptors such as [“menthol,”] “lights”, “kings”, “100s”,
8 or other differentiation.

9 16.5-101.

10 (a) In this title the following words have the meanings indicated.

11 (B) (1) “CHARACTERIZING FLAVOR” MEANS A DISTINGUISHABLE TASTE
12 OR AROMA, OTHER THAN THE TASTE OR AROMA OF TOBACCO, IMPARTED OR
13 DETECTABLE BEFORE OR DURING CONSUMPTION OF A TOBACCO PRODUCT.

14 (2) “CHARACTERIZING FLAVOR” INCLUDES A TASTE OR AN AROMA OF
15 ANY FRUIT, CANDY, DESSERT, ALCOHOLIC BEVERAGE, HERB, OR SPICE, INCLUDING
16 CHOCOLATE, VANILLA, HONEY, COCOA, MENTHOL, MINT, OR WINTERGREEN.

17 (3) “CHARACTERIZING FLAVOR” DOES NOT INCLUDE ANY
18 INGREDIENT, INCLUDING ANY ADDITIVE OR FLAVORING, THAT DOES NOT
19 CONTRIBUTE TO THE DISTINGUISHABLE TASTE OR AROMA OF A TOBACCO PRODUCT.

20 ~~(b)~~ (C) “County license” means a license issued by the clerk to sell other tobacco
21 products at retail in a county.

22 ~~(c) (1) “FLAVORED TOBACCO PRODUCT” MEANS A TOBACCO PRODUCT~~
23 ~~THAT CONTAINS A TASTE OR SMELL, OTHER THAN THAT OF TOBACCO, THAT IS~~
24 ~~DISTINGUISHABLE BY AN ORDINARY CONSUMER EITHER BEFORE OR DURING THE~~
25 ~~CONSUMPTION OF THE TOBACCO PRODUCT.~~

26 ~~(2) “FLAVORED TOBACCO PRODUCT” INCLUDES A TOBACCO~~
27 ~~PRODUCT WITH A TASTE OR SMELL OF FRUIT, MENTHOL, MINT, WINTERGREEN,~~
28 ~~CHOCOLATE, COCOA, VANILLA, HONEY, A CANDY, A DESSERT, AN ALCOHOLIC~~
29 ~~BEVERAGE, AN HERB, OR A SPICE.~~

30 [(c)] (D) “License” means:

31 (1) a license issued by the Comptroller under § 16.5-204(a) of this title to:

(i) act as a licensed other tobacco products manufacturer;

(ii) act as an other tobacco products wholesaler; or

(iii) act as an other tobacco products storage warehouse; or

(2) a license issued by the clerk under § 16.5–204(b) of this title to act as an other tobacco products retailer or a tobacconist.

[(d)] (E) “Licensed other tobacco products manufacturer” means a person licensed by the Comptroller under § 16.5–204(a) of this title who:

(1) manufactures or otherwise produces other tobacco products in the State intended for sale in the State, including other tobacco products intended for sale in the State through an importer; and

(2) (i) sells other tobacco products on which the tobacco tax has not been paid to a licensed other tobacco products wholesaler in the State;

(ii) sells other tobacco products on which the tobacco tax has not been paid and which may lawfully be sold in the State to a licensed other tobacco products wholesaler located outside of the State;

(iii) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample other tobacco products to consumers located in the State; or

(iv) stores other tobacco products in an other tobacco products warehouse in the State for subsequent shipment to licensed wholesalers, federal reservations, or persons outside of the State.

[(e)] (F) “Licensed other tobacco products retailer” means a person licensed by the clerk under § 16.5–204(b) of this title to act as an other tobacco products retailer.

[(f)] (G) “Licensed other tobacco products storage warehouse” means a facility licensed by the Comptroller under § 16.5–204(a) of this title to act as an other tobacco products storage warehouse.

[(g)] (H) “Licensed other tobacco products wholesaler” means a person licensed by the Comptroller under § 16.5–204(a) of this title to act as an other tobacco products wholesaler.

[(h)] (I) “Licensed tobacconist” means a person licensed by the clerk of a circuit court under § 16.5–204(b) of this title to act as a tobacconist.

[(i)] (J) “Other tobacco products” means:

(1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or

(2) any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

[(j)] (K) “Other tobacco products manufacturer” means a person who:

(1) manufactures or otherwise produces other tobacco products intended for sale in this State, including other tobacco products intended for sale in the United States through an importer;

(2) (i) sells other tobacco products on which the tobacco tax has not been paid to a licensed other tobacco products wholesaler in Maryland;

(ii) sells other tobacco products on which the tobacco tax has not been paid and which may lawfully be sold in Maryland to a licensed other tobacco products wholesaler located outside Maryland;

(iii) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample other tobacco products to consumers located in Maryland; or

(iv) stores other tobacco products in an other tobacco products storage warehouse in Maryland for subsequent shipment to licensed other tobacco products wholesalers, federal reservations, or persons out of state; or

(3) is a licensed other tobacco products manufacturer under this title.

[(k)] (L) “Other tobacco products retailer” means a person who:

(1) sells other tobacco products to consumers; or

(2) holds other tobacco products for sale to consumers.

[(l)] (M) “Other tobacco products storage warehouse” means a storage facility in Maryland operated for the purpose of storing other tobacco products on which the tobacco tax has not been paid on behalf of an other tobacco products manufacturer.

[(m)] (N) “Other tobacco products wholesaler” means a person who:

(1) holds other tobacco products for sale to another person for resale; or

(2) sells other tobacco products to another person for resale.

1 **[(n)] (O)** (1) “Package” means a pack, box, carton, can, wrap, pouch, bag, or
2 container of any kind designed for retail consumption in which other tobacco products are
3 offered for sale, sold, or otherwise distributed.

4 (2) “Package” includes not more than 10 cigars offered for sale, sold, or
5 distributed as single cigars.

6 **[(o)] (P)** “Pipe tobacco” means any tobacco that, because of its appearance, type,
7 packaging, or labeling, is suitable for use and likely to be offered to, or purchased by,
8 consumers as tobacco to smoke in a pipe.

9 **[(p)] (Q)** “Premium cigars” means cigars that:

10 (1) have hand-rolled wrappers made from whole tobacco leaves where the
11 filler, binder, and wrapper are made of all tobacco, and may include adhesives or other
12 materials used to maintain size, texture, or flavor; or

13 (2) are designated as premium cigars by the Comptroller by regulation.

14 **[(q)] (R)** “Sell” means to exchange or transfer, or to agree to exchange or
15 transfer, title or possession of property, in any manner or by any means, for consideration.

16 **[(r)] (S)** “Sell other tobacco products at retail” means to sell other tobacco
17 products to a consumer.

18 ~~**(T) (1) “TOBACCO PRODUCT” MEANS ANY PRODUCT INTENDED FOR**~~
19 ~~**INHALATION, ABSORPTION, INGESTION, SMOKING, HEATING, CHEWING,**~~
20 ~~**DISSOLVING, OR ANY OTHER MANNER OF CONSUMPTION BY A HUMAN BEING AND**~~
21 ~~**THAT IS MADE OF, DERIVED FROM, OR CONTAINS:**~~

22 ~~**(I) TOBACCO; OR**~~

23 ~~**(II) NICOTINE.**~~

24 ~~**(2) “TOBACCO PRODUCT” INCLUDES:**~~

25 ~~**(I) CIGARETTES, CIGARS, PIPE TOBACCO, CHEWING TOBACCO,**~~
26 ~~**SNUFF, SNUS, AND ANY OTHER TOBACCO PRODUCT;**~~

27 ~~**(II) ELECTRONIC SMOKING DEVICES, AS DEFINED UNDER §**~~
28 ~~**16.7 101 OF THIS ARTICLE; AND**~~

29 ~~**(III) ANY COMPONENT, PART, OR ACCESSORY OF ITEMS (I) OR (II)**~~
30 ~~**OF THIS PARAGRAPH, REGARDLESS OF NICOTINE CONTENT, INCLUDING FILTERS,**~~

~~ROLLING PAPERS, BLUNT WRAPS, HEMP WRAPS, HOOKAHS, PIPES, AND LIQUIDS
USED IN ELECTRONIC SMOKING DEVICES.~~

~~(3) "TOBACCO PRODUCT" DOES NOT INCLUDE A DRUG, DEVICE, OR
COMBINATION PRODUCT AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG
ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.~~

(T) "SMOKING BAR" MEANS A RETAIL TOBACCO ESTABLISHMENT:

**(1) THAT IS PRIMARILY ENGAGED IN THE RETAIL SALE OF
PREMIUM CIGARS, PIPE TOBACCO, OR OTHER TOBACCO PRODUCTS FOR
ON-PREMISES CONSUMPTION;**

**(2) IN WHICH THE SALE OF OTHER PRODUCTS IS INCIDENTAL;
AND**

(3) THAT PRIMARILY OCCUPIES AN ENCLOSED INDOOR SPACE.

[(s)] (U) "Tobacconist" means an other tobacco products business that derives at least 70% of its revenues, measured by average daily receipts, from the sale of other tobacco products and tobacco-related accessories.

16.5–205.

(a) [An] SUBJECT TO SUBSECTION (F) OF THIS SECTION, AN other tobacco products manufacturer may:

(1) sell other tobacco products on which the tobacco tax has not been paid to:

(i) a licensed other tobacco products wholesaler located in Maryland;

(ii) a licensed other tobacco products wholesaler located outside Maryland if the other tobacco products may be sold lawfully in Maryland; or

(iii) a licensed tobacconist;

(2) sell premium cigars or pipe tobacco on which the tobacco tax has not been paid to a licensed other tobacco products retailer;

(3) except as otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distribute sample other tobacco products to consumers located in Maryland;

(4) store other tobacco products on which the tobacco tax has not been paid in a licensed other tobacco products storage warehouse for subsequent shipment to licensed other tobacco products wholesalers, federal reservations, or persons out of state; and

(5) on approval of the Comptroller, act as an agent of a Maryland other tobacco products wholesaler for distribution of other tobacco products.

(b) **[An] SUBJECT TO SUBSECTION (F) OF THIS SECTION,** AN other tobacco products retailer license authorizes the licensee to:

(1) act as an other tobacco products retailer;

(2) buy other tobacco products on which the tobacco tax has been paid from an other tobacco products wholesaler; and

(3) buy premium cigars or pipe tobacco on which the tobacco tax has not been paid from an other tobacco products manufacturer.

(c) (1) **[An] SUBJECT TO SUBSECTION (F) OF THIS SECTION,** AN other tobacco products storage warehouse license authorizes the licensee to operate a storage facility in Maryland for the purpose of storing other tobacco products on which the tobacco tax has not been paid on behalf of a licensed other tobacco products manufacturer.

(2) If an other tobacco products storage warehouse licensee is a licensed other tobacco products wholesaler, the other tobacco products storage warehouse license authorizes the holder, **SUBJECT TO SUBSECTION (F) OF THIS SECTION,** to store other tobacco products on which the tobacco tax has been paid and other tobacco products on which the tobacco tax has been paid to another state.

(d) **[An] SUBJECT TO SUBSECTION (F) OF THIS SECTION,** AN other tobacco products wholesaler license authorizes the licensee to:

(1) act as an other tobacco products wholesaler;

(2) buy other tobacco products on which the tobacco tax has not been paid directly from an other tobacco products manufacturer;

(3) hold other tobacco products on which the tobacco tax has not been paid;

(4) transport other tobacco products on which the tobacco tax has not been paid in the State;

(5) sell other tobacco products on which the tobacco tax has not been paid to another licensed other tobacco products wholesaler if the Comptroller specifically authorizes; and

(6) store other tobacco products on which the tobacco tax has not been paid at a licensed other tobacco products storage warehouse.

(e) [A] **SUBJECT TO SUBSECTION (F) OF THIS SECTION, A** tobacconist license authorizes the licensee to:

(1) act as a tobacconist; and

(2) buy other tobacco products on which the tobacco tax has not been paid from an other tobacco products manufacturer.

(F) (1) ~~A~~ EXCEPT AS IT APPLIES TO PREMIUM CIGARS, A LICENSE ISSUED UNDER THIS TITLE DOES NOT AUTHORIZE THE LICENSEE TO MANUFACTURE, SHIP, IMPORT, OR SELL INTO OR WITHIN THE STATE A FLAVORED TOBACCO PRODUCT AN OTHER TOBACCO PRODUCT THAT HAS A CHARACTERIZING FLAVOR FOR OFF-PREMISES CONSUMPTION.

(2) THIS SUBSECTION MAY NOT BE INTERPRETED TO PROHIBIT THE HOLDER OF A LICENSE ISSUED UNDER THIS TITLE FROM MANUFACTURING, SHIPPING, IMPORTING, OR SELLING INTO OR WITHIN THE STATE:

(I) PREMIUM CIGARS WITH OR WITHOUT A CHARACTERIZING FLAVOR FOR ON- OR OFF-PREMISES CONSUMPTION;

(II) PIPE TOBACCO WITH A CHARACTERIZING FLAVOR FOR ON-PREMISES CONSUMPTION AT A SMOKING BAR; OR

(III) AN OTHER TOBACCO PRODUCT WITH A CHARACTERIZING FLAVOR FOR ON-PREMISES CONSUMPTION AT A SMOKING BAR.

~~(2)~~ (3) A PUBLIC STATEMENT THAT AN OTHER TOBACCO PRODUCT HAS OR PRODUCES A TASTE OR SMELL OTHER THAN TOBACCO IS PRESUMPTIVE EVIDENCE THAT THE OTHER TOBACCO PRODUCT IS A FLAVORED TOBACCO PRODUCT, IF THE STATEMENT IS MADE BY:

(I) THE MANUFACTURER OF THE OTHER TOBACCO PRODUCT;

(II) A PERSON AUTHORIZED BY THE MANUFACTURER TO MAKE PUBLIC STATEMENTS ABOUT THE OTHER TOBACCO PRODUCT;

(III) A LICENSED RETAILER OR A PERSON AUTHORIZED BY THE RETAILER TO MAKE PUBLIC STATEMENTS ON THE RETAILER'S BEHALF;

(IV) A STORAGE WAREHOUSE LICENSEE OR A PERSON AUTHORIZED BY THE LICENSEE TO MAKE PUBLIC STATEMENTS ON THE LICENSEE'S BEHALF;

(V) A LICENSED WHOLESALER OR A PERSON AUTHORIZED BY THE WHOLESALER TO MAKE PUBLIC STATEMENTS ON THE WHOLESALER'S BEHALF; OR

(VI) A LICENSED TOBACCONIST OR A PERSON AUTHORIZED BY THE TOBACCONIST TO MAKE PUBLIC STATEMENTS ON THE TOBACCONIST'S BEHALF.

16.5–212.

(a) (1) Except as otherwise provided in § 16.5–201(b) of this subtitle, a person may not act, attempt to act, or offer to act as a licensed other tobacco products manufacturer, a licensed other tobacco products retailer, a licensed other tobacco products storage warehouse, a licensed other tobacco products wholesaler, or a licensed tobacconist in the State unless the person has an appropriate license.

(2) ~~A PERSON WHO MANUFACTURES, SHIPS, IMPORTS, OR SELLS OR ATTEMPTS IT IS A VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION FOR A PERSON TO MANUFACTURE, SHIP, IMPORT, OR SELL OR ATTEMPT TO MANUFACTURE, SHIP, IMPORT, OR SELL INTO OR WITHIN THE STATE A FLAVORED TOBACCO PRODUCT VIOLATES PARAGRAPH (1) OF THIS SUBSECTION. FOR OFF-PREMISES CONSUMPTION, AN OTHER TOBACCO PRODUCT WITH A CHARACTERIZING FLAVOR, OTHER THAN PREMIUM CIGARS.~~

(b) (1) A person who 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.

16.5–214.1.

(a) A licensed other tobacco products retailer shall post a sign in a location that is clearly visible to the consumer that states:

“No person under the age of 21 may be sold tobacco products [without military identification]”.

(b) The sign required under this section shall be written in letters at least one-half inch high.

16.5–217.

(a) This section applies to a person who is engaged in the business of selling or distributing other tobacco products.

(b) (1) This subsection does not apply to the order, purchase, sale, or shipment of premium cigars or pipe tobacco by a licensed other tobacco products retailer or licensed tobacconist.

(2) Except as provided in paragraph (3) of this subsection, a person covered under this section may not:

(i) sell or ship other tobacco products, 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 this State; or

(ii) cause other tobacco products, 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 this State.

(3) A licensed other tobacco products retailer or licensed tobacconist may deliver not more than two packages of other tobacco products directly to a consumer if the delivery is made by the licensed other tobacco products retailer or licensed tobacconist or an employee of the licensed other tobacco products retailer or licensed tobacconist.

(c) (1) A licensee who sells or ships other tobacco products in violation of this section or causes other tobacco products to be shipped in violation of this section is:

(i) subject to discipline by the Comptroller under § 16.5–208 of this subtitle; and

(ii) guilty of a felony and on conviction is subject to a fine not exceeding \$50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both.

(2) A person other than a licensee who sells or ships other tobacco products in violation of this section or causes other tobacco products to be shipped in violation of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both.

16.7–101.

(a) In this title the following words have the meanings indicated.

(B) (1) “CARTRIDGE-BASED ESD” MEANS AN ELECTRONIC SMOKING DEVICE THAT CONSISTS OF, INCLUDES, OR INVOLVES A CARTRIDGE OR POD THAT HOLDS LIQUID THAT IS TO BE AEROSOLIZED THROUGH PRODUCT USE.

(2) “CARTRIDGE-BASED ESD” INCLUDES AN ELECTRONIC SMOKING DEVICE THAT INCLUDES A CARTRIDGE, A POD, OR ANY SMALL ENCLOSED UNIT, SEALED OR UNSEALED, THAT IS DESIGNED TO FIT WITHIN OR OPERATE AS PART OF AN ELECTRONIC SMOKING DEVICE.

(C) “CLOSED ESD” MEANS AN ELECTRONIC SMOKING DEVICE, WHETHER DISPOSABLE, RECHARGEABLE, OR REUSABLE, THAT IS SEALED AND PREFILLED WITH VAPING LIQUID IN A CONTAINER THAT AFFIXES DIRECTLY TO THE BATTERY OR HEATING MECHANISM OF THE ELECTRONIC SMOKING DEVICE.

~~(D)~~ **(D)** “County license” means a license issued by the clerk to sell electronic smoking devices to consumers in a county.

~~(E)~~ **(E)** (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, and vaping liquid; and

(ii) any component, part, 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 a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.

~~(F)~~ **(F)** “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 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)~~ **(G)** “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)~~ **(H)** “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; 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)~~ **(I)** “Electronic smoking devices wholesaler importer” means a person that:

(1) obtains at least 70% of its electronic smoking devices from a business entity 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)** **(1)** “FLAVORED TOBACCO PRODUCT” MEANS A TOBACCO PRODUCT THAT CONTAINS A TASTE OR SMELL, OTHER THAN THAT OF TOBACCO, THAT IS DISTINGUISHABLE BY AN ORDINARY CONSUMER EITHER BEFORE OR DURING THE CONSUMPTION OF THE TOBACCO PRODUCT.~~

~~**(2)** “FLAVORED TOBACCO PRODUCT” INCLUDES A TOBACCO PRODUCT WITH A TASTE OR SMELL OF FRUIT, MENTHOL, MINT, WINTERGREEN,~~

~~CHOCOLATE, COCOA, VANILLA, HONEY, A CANDY, A DESSERT, AN ALCOHOLIC
BEVERAGE, AN HERB, OR A SPICE.~~

~~[(h)]~~ **(J)** “License” means:

(1) a license issued by the Comptroller 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.

**(K) “OPEN ESD” MEANS AN ELECTRONIC SMOKING DEVICE THAT HAS A
TANK, RESERVOIR, OR OTHER CONTAINER FOR VAPING LIQUID THAT CAN BE
MANUALLY FILLED AND REFILLED WITH VAPING LIQUID.**

~~[(i)]~~ **(L)** “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) (1) “TOBACCO PRODUCT” MEANS ANY PRODUCT INTENDED FOR
INHALATION, ABSORPTION, INGESTION, SMOKING, HEATING, CHEWING,
DISSOLVING, OR ANY OTHER MANNER OF CONSUMPTION BY A HUMAN BEING AND
THAT IS MADE OF, DERIVED FROM, OR CONTAINS:**~~

~~**(I) TOBACCO; OR**~~

~~**(II) NICOTINE.**~~

~~**(2) “TOBACCO PRODUCT” INCLUDES:**~~

~~**(I) CIGARETTES, CIGARS, PIPE TOBACCO, CHEWING TOBACCO,
SNUFF, SNUS, AND OTHER TOBACCO PRODUCTS, AS DEFINED IN § 16.5 101 OF THIS
TITLE;**~~

~~**(II) ELECTRONIC SMOKING DEVICES; AND**~~

~~(HH) ANY COMPONENT, PART, OR ACCESSORY OF ITEMS (I) OR (H) OF THIS PARAGRAPH, REGARDLESS OF NICOTINE CONTENT, INCLUDING FILTERS, ROLLING PAPERS, BLUNT WRAPS, HEMP WRAPS, HOOKAHS, PIPES, AND LIQUIDS USED IN ELECTRONIC SMOKING DEVICES.~~

~~(3) "TOBACCO PRODUCT" DOES NOT INCLUDE A DRUG, DEVICE, OR COMBINATION PRODUCT AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.~~

~~[(j)]~~ (M) "Vape shop vendor" means an electronic smoking devices business that derives at least 70% of its revenues, measured by average daily receipts, from the sale of electronic smoking devices and related accessories.

~~[(k)]~~ ~~(M)~~ (N) "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 **OR OTHER AEROSOL SUBSTANCE** intended for inhalation when heated in an electronic device.

16.7–204.

(a) **[An] SUBJECT TO SUBSECTION (E) OF THIS SECTION,** 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;
 - (ii) an electronic smoking devices wholesaler or retailer located outside the State if the electronic smoking devices may be sold lawfully in Maryland; **AND**
 - (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;~~

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

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

8 (b) **[An] SUBJECT TO SUBSECTION (E) OF THIS SECTION, AN** electronic
9 smoking devices retailer license authorizes the licensee to:

10 (1) sell electronic smoking devices to consumers;

11 (2) buy electronic smoking devices from an electronic smoking devices
12 wholesaler distributor or electronic smoking devices wholesaler importer;

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

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

19 (c) **[An] SUBJECT TO SUBSECTION (E) OF THIS SECTION, AN** electronic
20 smoking devices wholesaler distributor license or electronic smoking devices wholesaler
21 importer license authorizes the licensee to:

22 (1) sell electronic smoking devices to electronic smoking devices retailers
23 and vape shop vendors;

24 (2) buy electronic smoking devices directly from an electronic smoking
25 devices manufacturer and an electronic smoking devices wholesaler distributor or
26 electronic smoking devices wholesaler importer;

27 (3) hold electronic smoking devices; and

28 (4) sell electronic smoking devices to another licensed electronic smoking
29 devices wholesaler distributor or electronic smoking devices wholesaler importer.

30 (d) **[A] SUBJECT TO SUBSECTION (E) OF THIS SECTION, A** vape shop vendor
31 license authorizes the licensee to:

32 (1) sell electronic smoking devices as a vape shop vendor;

(2) if the vape shop vendor 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

(3) buy electronic smoking devices from an electronic smoking devices manufacturer, an electronic smoking devices wholesaler distributor, or an electronic smoking devices wholesaler importer.

(E) (1) A LICENSE ISSUED UNDER THIS SUBTITLE DOES NOT AUTHORIZE THE LICENSEE TO MANUFACTURE, SHIP, IMPORT, OR SELL INTO OR WITHIN THE STATE ~~A FLAVORED TOBACCO PRODUCT.~~ A CARTRIDGE-BASED ESD OR CLOSED ESD.

~~(2) A PUBLIC STATEMENT THAT AN ELECTRONIC SMOKING DEVICE HAS OR PRODUCES A TASTE OR SMELL OTHER THAN TOBACCO IS PRESUMPTIVE EVIDENCE THAT THE ELECTRONIC SMOKING DEVICE IS A FLAVORED TOBACCO PRODUCT, IF THE STATEMENT IS MADE BY:~~

~~(I) THE MANUFACTURER OF THE ELECTRONIC SMOKING DEVICE;~~

~~(II) A PERSON AUTHORIZED BY THE MANUFACTURER TO MAKE PUBLIC STATEMENTS ABOUT THE ELECTRONIC SMOKING DEVICE;~~

~~(III) A LICENSED RETAILER OR A PERSON AUTHORIZED BY THE RETAILER TO MAKE PUBLIC STATEMENTS ON THE RETAILER'S BEHALF;~~

~~(IV) A LICENSED WHOLESALER OR A PERSON AUTHORIZED BY THE WHOLESALER TO MAKE PUBLIC STATEMENTS ON THE WHOLESALER'S BEHALF;~~
~~OR~~

~~(V) A LICENSED VAPE SHOP VENDOR OR A PERSON AUTHORIZED BY THE VAPE SHOP VENDOR TO MAKE PUBLIC STATEMENTS ON THE VAPE SHOP VENDOR'S BEHALF.~~

16.7-204.1.

(a) A retail licensee shall post a sign in a location that is clearly visible to the consumer that states:

"No person under the age of 21 may be sold tobacco products [without military identification]".

(b) The sign required under this section shall be written in letters at least one-half inch high.

1 16.7-211.

2 (a) (1) A person may not act, attempt to act, or offer to act as an electronic
3 smoking devices manufacturer, an electronic smoking devices retailer, an electronic
4 smoking devices wholesaler distributor, an electronic smoking devices wholesaler importer,
5 or a vape shop vendor in the State unless the person has an appropriate license.

6 (2) ~~A PERSON WHO MANUFACTURES, SHIPS, IMPORTS, OR SELLS OR~~
7 ~~ATTEMPTS IT SHALL BE A VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION FOR~~
8 ~~A PERSON TO MANUFACTURE, SHIP, IMPORT, OR SELL OR ATTEMPT TO~~
9 ~~MANUFACTURE, SHIP, IMPORT, OR SELL INTO OR WITHIN THE STATE A FLAVORED~~
10 ~~TOBACCO PRODUCT VIOLATES PARAGRAPH (1) OF THIS SUBSECTION A~~
11 ~~CARTRIDGE-BASED ESD OR CLOSED ESD.~~

12 (b) (1) A person that violates this section is guilty of a misdemeanor and on
13 conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 30 days
14 or both.

15 (2) Each day that a violation of this section continues is a separate offense.

16 16.7-215.

17 (A) THIS SECTION APPLIES ONLY TO A PERSON WHO IS ENGAGED IN THE
18 BUSINESS OF SELLING OR DISTRIBUTING ELECTRONIC SMOKING DEVICES.

19 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
20 PERSON COVERED UNDER THIS SECTION MAY NOT:

21 (I) SELL OR SHIP ELECTRONIC SMOKING DEVICES, ORDERED
22 OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC
23 NETWORK, OR OTHER ELECTRONIC NETWORK, BY A CONSUMER OR OTHER
24 UNLICENSED RECIPIENT, DIRECTLY TO A CONSUMER OR OTHER UNLICENSED
25 RECIPIENT IN THE STATE; OR

26 (II) CAUSE ELECTRONIC SMOKING DEVICES, ORDERED OR
27 PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC
28 NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER
29 UNLICENSED RECIPIENT, TO BE SHIPPED DIRECTLY TO A CONSUMER OR OTHER
30 UNLICENSED RECIPIENT IN THE STATE.

31 (2) A LICENSED ELECTRONIC SMOKING DEVICES RETAILER MAY
32 DELIVER NOT MORE THAN TWO ELECTRONIC SMOKING DEVICES DIRECTLY TO A
33 CONSUMER IF THE DELIVERY IS MADE BY THE LICENSED ELECTRONIC SMOKING

DEVICES RETAILER OR AN EMPLOYEE OF THE LICENSED ELECTRONIC SMOKING
DEVICES RETAILER.

(C) (1) A LICENSEE WHO SELLS OR SHIPS ELECTRONIC SMOKING
DEVICES IN VIOLATION OF THIS SECTION OR CAUSES ELECTRONIC SMOKING
DEVICES TO BE SHIPPED IN VIOLATION OF THIS SECTION IS:

(I) SUBJECT TO DISCIPLINE BY THE EXECUTIVE DIRECTOR
UNDER § 16.7–207 OF THIS ARTICLE; AND

(II) 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) A PERSON OTHER THAN A LICENSEE WHO SELLS OR SHIPS
ELECTRONIC SMOKING DEVICES IN VIOLATION OF THIS SECTION OR CAUSES
ELECTRONIC SMOKING DEVICES TO BE SHIPPED IN VIOLATION OF THIS SECTION IS
GUILTY OF A FELONY AND ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING
\$50 FOR EACH ELECTRONIC SMOKING DEVICE TRANSPORTED OR IMPRISONMENT
NOT EXCEEDING 2 YEARS OR BOTH.

Article – Criminal Law

10–107.

(a) This section does not apply to the distribution of a coupon that is redeemable
for a tobacco product, if the coupon is:

(1) contained in a newspaper, magazine, or other type of publication in
which the coupon is incidental to the primary purpose of the publication; or

(2) sent through the mail.

(b) (1) This subsection does not apply to the distribution of a tobacco product
or tobacco paraphernalia to[:

(i) an individual under the age of 21 years who is acting solely as
the agent of the individual's employer if the employer distributes tobacco products or
tobacco paraphernalia for commercial purposes[; or

(ii) a purchaser or recipient who:

1. is at least 18 years of age;

2. is an active duty member of the military; and

1 3. presents a valid military identification].

2 (2) A person who distributes tobacco products for commercial purposes,
3 including a person licensed under Title 16 of the Business Regulation Article, may not
4 distribute to an individual under the age of 21 years:

5 (i) a tobacco product;

6 (ii) tobacco paraphernalia; or

7 (iii) a coupon redeemable for a tobacco product.

8 (c) A person not described in subsection (b)(2) of this section may not[:

9 (1)] purchase for or sell a tobacco product to an individual under the age of
10 21 years[, unless the individual:

11 (i) is at least 18 years of age;

12 (ii) is an active duty member of the military; and

13 (iii) presents a valid military identification; or

14 (2) distribute tobacco paraphernalia to an individual under the age of 21
15 years, unless the individual:

16 (i) is at least 18 years of age;

17 (ii) is an active duty member of the military; and

18 (iii) presents a valid military identification].

19 (d) In a prosecution for a violation of this section, it is a defense that the defendant
20 examined the purchaser's or recipient's driver's license or other valid identification issued
21 by a government unit that positively identified the purchaser or recipient as at least 21
22 years of age [or as at least 18 years of age and an active duty member of the military].

23 (e) (1) A person who violates this section is guilty of a misdemeanor and on
24 conviction is subject to a fine not exceeding:

25 (i) \$300 for a first violation;

26 (ii) \$1,000 for a second violation occurring within 2 years after the
27 first violation; and

(iii) \$3,000 for each subsequent violation occurring within 2 years after the preceding violation.

(2) Issuance of a civil citation for the sale of a tobacco product to an individual under the age of 21 years precludes a prosecution for a violation of § 24–307 of the Health – General Article arising out of the same violation.

(f) For purposes of this section, each separate incident at a different time and occasion is a violation.

Article – Health – General

24–305.

(a) This section does not apply to a tobacco product that is regulated under Title 16 of the Business Regulation Article.

(b) (1) Except as provided in paragraph (2) of this subsection, a person may not sell, distribute, or offer for sale to an individual under the age of 21 years an electronic smoking device, as defined in § 16.7–101(c) of the Business Regulation Article.

(2) This subsection does not apply to [:

(i) An] AN electronic smoking 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 this purpose[; or

(ii) A purchaser or recipient who:

1. Is at least 18 years of age;

2. Is an active duty member of the military; and

3. Presents a valid military identification].

(c) (1) A person that violates this section is subject to a civil penalty not exceeding:

(i) \$300 for a first violation;

(ii) \$1,000 for a second violation occurring within 24 months after the first violation; and

(iii) \$3,000 for each subsequent violation occurring within 24 months after the preceding violation.

1 (2) Issuance of a civil citation for a violation of this section precludes
2 prosecution under § 10–107 of the Criminal Law Article arising out of the same violation.

3 (3) If a violation is committed by a person acting on behalf of a retailer, the
4 civil penalty imposed under paragraph (1) of this subsection shall be paid by the retailer.

5 (d) In a prosecution for a violation of this section, it is a defense that the defendant
6 examined the purchaser's or recipient's driver's license or other valid identification issued
7 by a government unit that positively identified the purchaser or recipient as at least 21
8 years of age [or as at least 18 years of age and an active duty member of the military].

9 24–307.

10 (a) (1) This section does not apply to the distribution of a coupon that is
11 redeemable for a tobacco product if the coupon is:

12 (i) Contained in a newspaper, a magazine, or any other type of
13 publication in which the coupon is incidental to the primary purpose of the publication; or

14 (ii) Sent through the mail.

15 (2) This section does not apply to the distribution of a tobacco product or
16 tobacco paraphernalia to[:

17 (i) An] AN individual under the age of 21 years who is acting solely
18 as the agent of the individual's employer if the employer distributes tobacco products or
19 tobacco paraphernalia for commercial purposes[; or

20 (ii) A purchaser or recipient who:

21 1. Is at least 18 years of age;

22 2. Is an active duty member of the military; and

23 3. Presents a valid military identification].

24 (b) A person who distributes tobacco products for commercial purposes, including
25 a person licensed under Title 16 of the Business Regulation Article, may not distribute to
26 an individual under the age of 21 years:

27 (1) A tobacco product;

28 (2) Tobacco paraphernalia; or

29 (3) A coupon redeemable for a tobacco product.

(c) (1) A person who violates subsection (b) of this section is subject to a civil penalty not exceeding:

(i) \$300 for a first violation;

(ii) \$1,000 for a second violation occurring within 24 months after the first violation; and

(iii) \$3,000 for each subsequent violation occurring within 24 months after the preceding violation.

(2) The local health departments shall report violations of subsection (b) of this section to the Comptroller's Office.

(3) Issuance of a civil citation for a violation of this section precludes prosecution under § 10–107 of the Criminal Law Article arising out of the same violation.

(4) If a violation is committed by a person acting on behalf of a retailer, the civil penalty imposed under paragraph (1) of this subsection shall be paid by the retailer.

(d) In a prosecution for a violation of subsection (b) of this section, it is a defense that the defendant examined the purchaser's or recipient's driver's license or other valid identification issued by a governmental unit that positively identified the purchaser or recipient as at least 21 years old [or as at least 18 years of age and an active duty member of the military].

Article – Local Government

1–1203.

(a) This section applies only in:

(1) Carroll County;

(2) Cecil County;

(3) Garrett County; and

(4) St. Mary's County.

(b) Subsection (c)(3) of this section does not apply to the distribution of a coupon that is redeemable for a tobacco product if the coupon:

(1) is contained in a newspaper, magazine, or other type of publication and the coupon is incidental to the primary purpose of the publication; or

(2) is sent through the mail.

(c) A person may not:

(1) distribute a tobacco product to an individual under the age of 21 years, unless[;

(i) the individual is acting solely as the agent of the individual's employer who is engaged in the business of distributing tobacco products[; or

(ii) the individual:

1. is at least 18 years of age;

2. is an active duty member of the military; and

3. presents a valid military identification].

(2) distribute cigarette rolling papers to an individual under the age of 21 years[, unless the individual:

(i) is at least 18 years of age;

(ii) is an active duty member of the military; and

(iii) presents a valid military identification]; or

(3) distribute to an individual under the age of 21 years a coupon redeemable for a tobacco product[, unless the individual:

(i) is at least 18 years of age;

(ii) is an active duty member of the military; and

(iii) presents a valid military identification].

(d) A person has not violated this section if:

(1) the person examined the driver's license or other valid government-issued identification presented by the recipient of a tobacco product, cigarette rolling paper, or coupon redeemable for a tobacco product; and

(2) the license or other identification positively identified the recipient as being at least 21 years old [or as being at least 18 years of age and an active duty member of the military].

(e) (1) In Carroll County and St. Mary's County, a person who violates this section commits a civil infraction and is subject to a civil penalty of:

(i) \$300 for the first violation; and

(ii) \$500 for any subsequent violation within 24 months after the previous citation.

(2) In Cecil County, a person who violates this section commits a civil infraction and is subject to a civil penalty of:

(i) \$300 for the first violation;

(ii) \$500 for a second violation; and

(iii) \$750 for any subsequent violation.

(3) In Garrett County, a person who violates this section commits a civil infraction and is subject to a civil penalty not exceeding \$300.

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof 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:

(a) The General Assembly finds that:

(1) cartridge-based and closed electronic smoking devices present public health concerns due to the increase in the usage of these products by Maryland's youth population;

(2) data demonstrates that teen use of electronic smoking devices increased by 70% between 2016 and 2018 and that Maryland's youth are introduced to electronic smoking devices through closed and cartridge-based electronic smoking devices; and

(3) the use of electronic smoking devices puts Maryland's youth at risk of developing a lifelong addiction to nicotine products, which can harm adolescent brain development by negatively affecting the parts of the brain that control attention, mood, learning, and impulse control.

(b) It is in the interest of the State and the intent of the General Assembly to discourage the use of closed and cartridge-based electronic smoking devices without depriving adult users of electronic smoking devices of access to open electronic smoking device products as an alternative to combustible cigarettes.

1 SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act ~~is an emergency~~
2 ~~measure, is necessary for the immediate preservation of the public health or safety, has~~
3 ~~been passed by a ye-a and nay vote supported by three-fifths of all the members elected to~~
4 ~~each of the two Houses of the General Assembly, and shall take effect from the date it is~~
5 ~~enacted.~~ shall take effect January 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.