

Chapter 462

(Senate Bill 1056)

AN ACT concerning

**Cigarettes, Other Tobacco Products, and Electronic Smoking Devices –
Revisions
(Tobacco Retail Modernization Act of 2024)**

FOR the purpose of prohibiting licensees that sell cigarettes, other tobacco products, or electronic smoking devices at retail from displaying cigarettes, other tobacco products, or electronic smoking devices for sale unless located behind a counter; requiring certain licensed retailers to verify an individual's date of birth before selling cigarettes, other tobacco products, or electronic smoking devices in a certain manner; altering the application fee for a county license to sell cigarettes or tobacco products at retail; repealing certain exceptions that authorize the sale, distribution, or purchase of tobacco products, tobacco paraphernalia, and electronic smoking devices to or for individuals under a certain age who are active duty military members; requiring the Maryland Department of Health to conduct ~~at least two~~ certain unannounced inspections of certain licensed retailers each year; ~~repealing the electronic smoking device retail license~~; altering the definition of "vape shop vendor" to require that the vendor ~~exclusively~~ sell electronic smoking devices and related accessories to consumers on the premises of its place of business; ~~requiring certain licensees to obtain an additional license in order to manufacture, distribute, or sell electronic smoking devices~~; altering the penalty for distributing tobacco products or tobacco paraphernalia to an individual under a certain age; authorizing the court to make certain recommendations to the Executive Director of the Alcohol, Tobacco, and Cannabis Commission regarding the suspension of certain licenses; ~~prohibiting a pharmacy from selling tobacco products, other tobacco products, and electronic smoking devices~~; requiring the Alcohol, Tobacco, and Cannabis Commission, in conjunction with the Maryland Department of Health, the Comptroller, and the State Department of Education, to submit a certain report on or before a certain date; and generally relating to the sale of cigarettes, other tobacco products, and electronic smoking devices.

BY repealing and reenacting, without amendments,

Article – Business Regulation

Section 16–201(a), (d), and (k) ~~and~~, 16.5–101(a), (f), (j), and (l), 16.7–203, 16.7–206, and 16.7–211

Annotated Code of Maryland

(2015 Replacement Volume and 2023 Supplement)

BY adding to

Article – Business Regulation

Section 16–209.1, 16.5–214.2, and 16.7–204.2

Annotated Code of Maryland

(2015 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 16–302, 16–308.3, 16.5–217.1, 16.7–101, ~~16.7–102~~, ~~16.7–201~~, 16.7–202,
~~16.7–203~~, 16.7–204, 16.7–204.1, ~~16.7–206~~, ~~16.7–211~~, and 16.7–213.1

Annotated Code of Maryland

(2015 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 10–107

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 24–305 and 24–307

Annotated Code of Maryland

(2023 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article – Health Occupations~~

~~Section 12–403(c)(22) and (23)~~

~~Annotated Code of Maryland~~

~~(2021 Replacement Volume and 2023 Supplement)~~

~~BY adding to~~

~~Article – Health Occupations~~

~~Section 12–403(c)(24)~~

~~Annotated Code of Maryland~~

~~(2021 Replacement Volume and 2023 Supplement)~~

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

Article – Business Regulation

16–201.

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

(d) “Licensed retailer” means a person licensed by the clerk under § 16–205(b) of this subtitle to act as a retailer.

(k) “Retailer” means a person who:

- (1) sells cigarettes to consumers through vending machines on fewer than 40 premises;
- (2) otherwise sells cigarettes to consumers; or
- (3) holds cigarettes for sale to consumers.

16-209.1.

(A) A LICENSED RETAILER MAY NOT DISPLAY CIGARETTES FOR SALE UNLESS THE CIGARETTES ARE LOCATED BEHIND A COUNTER IN AN AREA ACCESSIBLE ONLY TO THE LICENSED RETAILER AND EMPLOYEES OF THE LICENSED RETAILER.

(B) (1) A LICENSED RETAILER MAY NOT SELL CIGARETTES TO AN INDIVIDUAL UNLESS THE LICENSED RETAILER VERIFIES, IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THAT THE INDIVIDUAL IS:

~~(I) AT LEAST 21 YEARS OLD; OR~~

~~(II) 1. AT LEAST 18 YEARS OLD; AND~~

~~2. AN ACTIVE DUTY MEMBER OF THE MILITARY IN POSSESSION OF A VALID MILITARY IDENTIFICATION.~~

(2) A SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A LICENSED RETAILER MAY VERIFY AN INDIVIDUAL'S AGE ONLY:

(I) BY MEANS OF A GOVERNMENT-ISSUED PHOTO IDENTIFICATION CONTAINING THE INDIVIDUAL'S DATE OF BIRTH; AND

(II) IN A DIRECT FACE-TO-FACE EXCHANGE WITHOUT THE ASSISTANCE OF ANY ELECTRONIC OR MECHANICAL DEVICE.

(3) A LICENSED RETAILER IS NOT REQUIRED TO VERIFY THE AGE OF AN INDIVIDUAL AT LEAST 30 YEARS OLD.

16-302.

- (a) For each county license, an applicant shall:
 - (1) submit an application to the clerk; and
 - (2) pay to the clerk a license fee of[:

- (i) \$25 in a county other than Cecil County or Montgomery County;
- (ii) \$50 in Cecil County; or
- (iii) \$125 in Montgomery County] **\$300.**

(b) (1) From each license fee collected under subsection (a) of this section, the [Clerk of the Circuit Court for Montgomery County] **CLERK** shall distribute:

- (i) \$25 to the Executive Director; ~~and~~

(ii) ~~\$100~~ **IN MONTGOMERY COUNTY, \$275** to [Montgomery County] **THE COUNTY** to be used to enforce existing laws banning the sale or distribution of tobacco ~~or~~ tobacco products, **OR ELECTRONIC SMOKING DEVICES, AS DEFINED IN § 16.7–101 OF THIS ARTICLE,** to individuals under the age of 21 years; **AND**

(III) IN ALL OTHER COUNTIES, \$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 ARTICLE, TO INDIVIDUALS UNDER THE AGE OF 21 YEARS.

(2) Funds distributed under paragraph (1)(ii) of this subsection may not be used to supplant existing funding for the enforcement of laws banning the sale or distribution of tobacco or tobacco products to individuals under the age of 21 years.

16–308.3.

(a) **(1) The SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE** Maryland Department of Health **OR ITS DESIGNEE** [may] **SHALL** conduct **AT LEAST ~~TWO~~ ONE** unannounced ~~inspections~~ **INSPECTION** of a licensed retailer 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 VIOLATES ANY PROVISION OF THIS TITLE OR § 10–107 OF THE CRIMINAL LAW ARTICLE, THE MARYLAND DEPARTMENT OF HEALTH SHALL CONDUCT AN ADDITIONAL UNANNOUNCED INSPECTION WITHIN 180 DAYS AFTER THE INITIAL INSPECTION.

(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 SUBJECT TO AN UNANNOUNCED INSPECTION, THE MARYLAND DEPARTMENT OF HEALTH OR ITS DESIGNEE SHALL USE THE LIST OF LICENSED RETAILERS AS OF DECEMBER 31 OF THE PREVIOUS CALENDAR YEAR.

16.5–101.

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

(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.

(j) (1) “Other tobacco products” means, except as provided in paragraph (3) of this subsection, a product that is:

(i) intended for human consumption or likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested in any other manner, and that is made of or derived from, or that contains:

1. tobacco; or
2. nicotine; or

(ii) a component or part used in a consumable product described under item (i) of this paragraph.

(2) “Other tobacco products” includes:

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

(ii) filters, rolling papers, pipes, and hookahs.

(3) “Other tobacco products” does not include:

(i) cigarettes;

(ii) electronic smoking devices;

(iii) drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act; or

(iv) tobacco pipes, as defined under § 11–104 of the Tax – General Article.

- (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.

16.5–214.2.

(A) **(1) THIS SUBSECTION DOES NOT APPLY TO:**

(I) A LICENSED TOBACCONIST; OR

(II) THE SALE OF PREMIUM CIGARS.

(2) A LICENSED OTHER TOBACCO PRODUCTS RETAILER MAY NOT DISPLAY OTHER TOBACCO PRODUCTS FOR SALE UNLESS THE OTHER TOBACCO PRODUCTS ARE LOCATED BEHIND A COUNTER IN AN AREA ACCESSIBLE ONLY TO THE LICENSED OTHER TOBACCO PRODUCTS RETAILER AND EMPLOYEES OF THE LICENSED OTHER TOBACCO PRODUCTS RETAILER.

(B) (1) A LICENSED OTHER TOBACCO PRODUCTS RETAILER MAY NOT SELL ~~CIGARETTES~~ OTHER TOBACCO PRODUCTS TO AN INDIVIDUAL UNLESS THE LICENSED OTHER TOBACCO PRODUCTS RETAILER VERIFIES, IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THAT THE INDIVIDUAL IS:

~~(I) AT LEAST 21 YEARS OLD; OR~~

~~(II) 1. AT LEAST 18 YEARS OLD; AND~~

~~2. AN ACTIVE DUTY MEMBER OF THE MILITARY IN POSSESSION OF A VALID MILITARY IDENTIFICATION.~~

(2) A EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A LICENSED OTHER TOBACCO PRODUCTS RETAILER MAY VERIFY AN INDIVIDUAL’S AGE ONLY:

(I) BY MEANS OF A GOVERNMENT–ISSUED PHOTO IDENTIFICATION CONTAINING THE INDIVIDUAL’S DATE OF BIRTH; AND

(II) IN A DIRECT FACE–TO–FACE EXCHANGE WITHOUT THE ASSISTANCE OF ANY ELECTRONIC OR MECHANICAL DEVICE.

(3) A LICENSED OTHER TOBACCO PRODUCTS RETAILER IS NOT REQUIRED TO VERIFY THE AGE OF AN INDIVIDUAL AT LEAST 30 YEARS OLD.

16.5–217.1.

(a) **(1) ~~The~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE Maryland Department of Health OR ITS DESIGNEE [may] SHALL conduct AT LEAST ~~TWO~~ ONE unannounced inspections INSPECTION of a licensed retailer 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 VIOLATES ANY PROVISION OF THIS TITLE OR § 10–107 OF THE CRIMINAL LAW ARTICLE, THE MARYLAND DEPARTMENT OF HEALTH SHALL CONDUCT AN ADDITIONAL UNANNOUNCED INSPECTION WITHIN 180 DAYS AFTER THE INITIAL INSPECTION.

(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 SUBJECT TO AN UNANNOUNCED INSPECTION, THE MARYLAND DEPARTMENT OF HEALTH OR ITS DESIGNEE SHALL USE THE LIST OF LICENSED RETAILERS AS OF DECEMBER 31 OF THE PREVIOUS CALENDAR YEAR.

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, and vaping liquid; and

(ii) except as provided in paragraph (3) of this subsection, 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:

(i) 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; 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) ¶(ii)~~ 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) ¶(E)~~ “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)] (F)~~ “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)] (G)~~ “Executive Director” means the Executive Director of the Alcohol [and], Tobacco, **AND CANNABIS** Commission.

~~[(i)] (H)~~ “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)] (I)~~ “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)] (J)~~ “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] **EXCLUSIVELY SELLS** electronic smoking devices and related accessories **TO CONSUMERS ON THE PREMISES OF ITS PLACE OF BUSINESS.**

~~[(l)] (K)~~ “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 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] MUST obtain an additional license under this title IN ORDER TO MANUFACTURE, DISTRIBUTE, OR SELL ELECTRONIC SMOKING DEVICES PURSUANT TO THIS TITLE.~~

~~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)] (3) an electronic smoking devices wholesaler importer; or~~

~~[(5)] (4) 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) 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) indicate the licenses for which the applicant is applying; and

(iii) except as provided in paragraph (2) of this subsection, pay to the Executive Director a fee of \$25 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~~ an electronic smoking devices retailer or ~~a~~ a vape shop vendor:

(i) shall obtain a county license by submitting to the clerk an application for each permanent or temporary place of business located in the same enclosure and operated by the same applicant; and

(ii) except as provided in paragraph (2) of this subsection, shall pay to the clerk a fee of ~~\$25~~ **\$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.

16.7–203.

(a) The Executive Director shall issue an appropriate license to each applicant that meets the requirements of this subtitle for a license to act as an electronic smoking devices manufacturer, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer.

(b) The clerk shall issue to each applicant that meets the requirements of this subtitle a license to act as ~~an~~ an electronic smoking devices retailer or ~~a~~ a vape shop vendor.

(c) The clerk shall forward a copy of an application received for each license issued under subsection (b) of this section to the Executive Director within 30 days after issuance of the license.

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;

(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~~;~~;

(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 electronic smoking devices wholesaler distributor or 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)]~~ ~~[(b)]~~ An electronic smoking devices wholesaler distributor license or electronic smoking devices wholesaler importer license authorizes the licensee to:

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

(2) buy electronic smoking devices directly from an electronic smoking devices manufacturer and an electronic smoking devices wholesaler distributor or 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 electronic smoking devices wholesaler importer.

~~[(d)]~~ ~~[(c)]~~ 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 electronic smoking devices wholesaler distributor, or an electronic smoking devices wholesaler importer.

16.7–204.1.

(a) **(1)** A ~~retail licensee~~ **OR** **VAPE SHOP VENDOR** 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)] (2) The sign required under **PARAGRAPH (1) OF** this **[section]** **SUBSECTION** shall be written in letters at least one-half inch high.

(B) (1) A RETAIL LICENSEE OR VAPE SHOP VENDOR MAY NOT SELL CIGARETTES ELECTRONIC SMOKING DEVICES TO AN INDIVIDUAL UNLESS THE RETAIL LICENSEE OR VAPE SHOP VENDOR VERIFIES, IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THAT THE INDIVIDUAL IS:

~~(I)~~ AT LEAST 21 YEARS OLD; ~~OR~~

~~(II) 1. AT LEAST 18 YEARS OLD; AND~~

~~2. AN ACTIVE DUTY MEMBER OF THE MILITARY IN POSSESSION OF A VALID MILITARY IDENTIFICATION.~~

(2) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A RETAIL LICENSEE OR VAPE SHOP VENDOR MAY VERIFY AN INDIVIDUAL'S AGE ONLY:

(I) BY MEANS OF A GOVERNMENT-ISSUED PHOTO IDENTIFICATION CONTAINING THE INDIVIDUAL'S DATE OF BIRTH; AND

(II) IN A DIRECT FACE-TO-FACE EXCHANGE WITHOUT THE ASSISTANCE OF ANY ELECTRONIC OR MECHANICAL DEVICE.

(3) A LICENSED *RETAILER OR VAPE SHOP* VENDOR IS NOT REQUIRED TO VERIFY THE AGE OF AN INDIVIDUAL AT LEAST 30 YEARS OLD.

16.7–204.2.

A *RETAILER OR VAPE SHOP* VENDOR MAY NOT DISPLAY ELECTRONIC SMOKING DEVICES FOR SALE UNLESS THE ELECTRONIC SMOKING DEVICES ARE LOCATED BEHIND A COUNTER IN AN AREA ACCESSIBLE ONLY TO THE *RETAILER OR VAPE SHOP* VENDOR AND EMPLOYEES OF THE *RETAILER OR VAPE SHOP* VENDOR.

16.7–206.

(a) (1) A ~~f~~licensed electronic smoking devices retailer or a ~~f~~licensed vape shop vendor may not assign the license.

(2) If a licensed electronic smoking devices wholesaler distributor or electronic smoking devices wholesaler importer sells the licensee's electronic smoking devices business and pays to the Executive Director a license assignment fee of \$10, the licensee may assign the license to the buyer of the business if the buyer otherwise qualifies under this title for an electronic smoking devices wholesaler's distributor or importer license.

(b) If the electronic smoking devices business of a licensee is transferred because of bankruptcy, death, incompetency, receivership, or otherwise by operation of law, the Executive Director shall transfer the license without charge to the new owner of the licensee's business if the transferee otherwise qualifies under this title for the license being transferred.

(c) (1) If a licensed electronic smoking devices wholesaler distributor or electronic smoking devices wholesaler importer surrenders the license to the Executive Director and if no disciplinary proceedings are pending against the licensee, the Executive Director shall refund a pro rata portion of the license fee for the unexpired term of the license.

(2) A ~~f~~licensed electronic smoking devices retailer or a ~~f~~licensed vape shop vendor is not allowed a refund for the unexpired term of the license.

16.7–211.

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

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

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

16.7–213.1.

(a) **(1) The SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE Maryland Department of Health OR ITS DESIGNEE [may] SHALL conduct AT LEAST ~~TWO~~ ONE unannounced inspections 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 SHALL CONDUCT AN ADDITIONAL UNANNOUNCED INSPECTION WITHIN 180 DAYS AFTER THE INITIAL INSPECTION.

(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.

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~~

~~3. presents a valid military identification.~~

(2) A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16, Title 16.5, Title 16.7, or Title 16.9 of the Business Regulation Article, **PERSONALLY OR THROUGH AN EMPLOYEE**, may not distribute to an individual under the age of 21 years:

(i) a tobacco product;

(ii) tobacco paraphernalia; or

(iii) a coupon redeemable for a tobacco product.

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

(1) purchase for or sell a tobacco product 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~~

(2) distribute tobacco paraphernalia 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.~~

(d) In a prosecution for a violation of this section, it is a defense that the defendant examined, **IN A DIRECT, FACE-TO-FACE EXCHANGE**, the purchaser's or recipient's driver's license or other valid identification issued by a government unit that positively

identified the purchaser or recipient as at least 21 years of age ~~or as at least 18 years of age and an active duty member of the military.~~

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

- (i) ~~[\$300]~~ **\$500** for a first violation;
- (ii) \$1,000 for a second violation occurring within 2 years after the first violation; and
- (iii) \$3,000 for each subsequent violation occurring within 2 years after the preceding violation.

(2) IN ADDITION TO THE PENALTIES UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF A PERSON HOLDS A LICENSE UNDER TITLE 16, TITLE 16.5, TITLE 16.7, OR TITLE 16.9 OF THE BUSINESS REGULATION ARTICLE, THE COURT SHALL ORDER THE EXECUTIVE DIRECTOR OF THE ALCOHOL, TOBACCO, AND CANNABIS COMMISSION TO:

- (I) SUSPEND THE LICENSE FOR:**
 - 1. A SECOND VIOLATION, NOT MORE THAN 90 DAYS; AND**
 - 2. EACH SUBSEQUENT VIOLATION, NOT MORE THAN 180 DAYS; AND**
- (II) FOR EACH SUBSEQUENT VIOLATION, REVOKE THE LICENSE.**

(3) FOR A DETERMINATION MADE BY A COURT UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE CLERK OF THE COURT SHALL SEND A COPY OF THE FINAL ORDER ISSUED BY THE COURT TO THE EXECUTIVE DIRECTOR OF THE ALCOHOL, TOBACCO, AND CANNABIS COMMISSION.

~~[(2)]~~ **(4)** 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] **SUBJECT TO PARAGRAPH (3) AND EXCEPT** as provided in paragraph (2) of this subsection, a person may not [sell]:

(I) **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;

(II) **DISPLAY ELECTRONIC SMOKING DEVICES, AS DEFINED IN § 16.7–101(C) OF THE BUSINESS REGULATION ARTICLE, FOR SALE UNLESS THE ELECTRONIC SMOKING DEVICES ARE LOCATED BEHIND A COUNTER IN AN AREA ACCESSIBLE ONLY TO THE PERSON AND EMPLOYEES OF THE PERSON; OR**

(III) **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, SELL ELECTRONIC SMOKING DEVICES, AS DEFINED IN § 16.7–101(C) OF THE BUSINESS REGULATION ARTICLE, UNLESS THE PERSON VERIFIES THAT THE INDIVIDUAL IS AT LEAST 21 YEARS OLD.**

(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].**

(3) **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A PERSON MAY VERIFY AN INDIVIDUAL’S AGE ONLY:**

(I) **BY MEANS OF A GOVERNMENT–ISSUED PHOTO IDENTIFICATION CONTAINING THE INDIVIDUAL’S DATE OF BIRTH; AND**

(II) **IN A DIRECT FACE–TO–FACE EXCHANGE INCLUDING THE ASSISTANCE OF ANY ELECTRONIC OR MECHANICAL DEVICE.**

(4) A PERSON IS NOT REQUIRED TO VERIFY THE AGE OF AN INDIVIDUAL AT LEAST 30 YEARS OLD.

(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.

(2) 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.

(3) 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 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 government unit that positively identified the purchaser or recipient as at least 21 years of age [or as at least 18 years of age and an active duty member of the military].

(e) (1) In this subsection, "designee" means a retired sworn law enforcement officer employed by THE DEPARTMENT OR a county health officer or an employee of THE DEPARTMENT OR a local health department trained in civil enforcement.

(2) [A] THE SECRETARY, THE SECRETARY'S DESIGNEE, A sworn law enforcement officer, a county health officer, or a designee of a county health officer may issue a civil citation for a violation of this section.

(3) A citation issued under this section shall include:

(i) The name and address of the person charged;

(ii) The nature of the violation;

(iii) The location and time of the violation;

(iv) The amount of the civil penalty;

(v) The manner, location, and time in which the civil penalty may be paid;

(vi) A notice stating the person's right to elect to stand trial for the violation; and

(vii) A warning that failure to pay the civil penalty or to contest liability in a timely manner in accordance with the citation:

1. Is an admission of liability; and

2. May result in entry of a default judgment that may include the civil penalty, court costs, and administrative expenses.

(4) The [sworn law enforcement officer] SECRETARY, SECRETARY'S DESIGNEE, county health officer, or COUNTY HEALTH OFFICER'S designee shall retain a copy of the citation issued under this section.

(5) (i) 1. A person who receives a citation from THE SECRETARY, THE SECRETARY'S DESIGNEE, a county health officer, or A COUNTY HEALTH OFFICER'S designee under this section may elect to stand trial for the violation by filing a notice of intention to stand trial with the county health officer or designee at least 5 days before the date set in the citation for the payment of the civil penalty.

2. After receiving a notice of intention to stand trial under subsubparagraph 1 of this subparagraph, the SECRETARY, SECRETARY'S DESIGNEE, county health officer, or COUNTY HEALTH OFFICER'S designee shall forward the notice and a copy of the citation to the District Court.

(ii) A person who receives a citation from a sworn law enforcement officer under this section may elect to stand trial for the violation by filing a notice of intention to stand trial and a copy of the citation with the District Court at least 5 days before the date set in the citation for payment of the civil penalty.

(6) (i) After receiving a citation and notice under this section, the District Court shall schedule the case for trial and notify the defendant of the trial date.

(ii) In a proceeding before the District Court, a violation of this section shall be prosecuted in the same manner and to the same extent as a municipal infraction under §§ 6–108 through 6–115 of the Local Government Article.

(7) The District Court shall remit any penalties collected for a violation of this section to the county in which the violation occurred.

(8) Adjudication of a violation of this section is not a criminal conviction for any purpose.

24–307.

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

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

(ii) Sent through the mail.

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

(i) An] 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

3. Presents a valid military identification].

(b) (1) A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16, Title 16.5, Title 16.7, or Title 16.9 of the Business Regulation Article, may not [distribute]:

(I) DISTRIBUTE to an individual under the age of 21 years:

[(1) 1. A tobacco product;

[(2) 2. Tobacco paraphernalia; or

[(3) 3. A coupon redeemable for a tobacco product;

(II) DISPLAY TOBACCO PRODUCTS FOR SALE UNLESS THE TOBACCO PRODUCTS ARE LOCATED BEHIND A COUNTER IN AN AREA ACCESSIBLE ONLY TO THE PERSON AND EMPLOYEES OF THE PERSON; OR

(III) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, SELL TOBACCO PRODUCTS UNLESS THE PERSON VERIFIES THAT THE INDIVIDUAL IS AT LEAST 21 YEARS OLD.

(2) A PERSON WHO DISTRIBUTES TOBACCO PRODUCTS MAY VERIFY AN INDIVIDUAL'S AGE ONLY:

(I) BY MEANS OF A GOVERNMENT-ISSUED PHOTO IDENTIFICATION CONTAINING THE INDIVIDUAL'S DATE OF BIRTH; AND

(II) IN A DIRECT FACE-TO-FACE EXCHANGE INCLUDING THE ASSISTANCE OF ANY ELECTRONIC OR MECHANICAL DEVICE.

(3) A PERSON WHO DISTRIBUTES TOBACCO PRODUCTS IS NOT REQUIRED TO VERIFY THE AGE OF AN INDIVIDUAL AT LEAST 30 YEARS OLD.

(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 Executive Director of the Alcohol [and], Tobacco, AND CANNABIS Commission.

(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].

(e) (1) In this subsection, "designee" means a retired sworn law enforcement officer employed by THE SECRETARY OR a county health officer or an employee of a local health department trained in civil enforcement.

(2) [A] THE SECRETARY, THE SECRETARY'S DESIGNEE, A sworn law enforcement officer, a county health officer, or a designee of a county health officer may issue a civil citation for a violation of subsection (b) of this section.

(3) A citation issued under this subsection shall include:

- (i) The name and address of the person charged;
 - (ii) The nature of the violation;
 - (iii) The location and time of the violation;
 - (iv) The amount of the civil penalty;
 - (v) The manner, location, and time in which the civil penalty may be paid;
 - (vi) A notice stating the person's right to elect to stand trial for the violation; and
 - (vii) A warning that failure to pay the civil penalty or to contest liability in a timely manner in accordance with the citation:
 - 1. Is an admission of liability; and
 - 2. May result in entry of a default judgment that may include the civil penalty, court costs, and administrative expenses.
- (4) The **SECRETARY, SECRETARY'S DESIGNEE**, county health officer, or designee shall retain a copy of the citation issued under this subsection.
- (5)
 - (i) A person who receives a citation from **THE SECRETARY, THE SECRETARY'S DESIGNEE**, a county health officer, or designee under this subsection may elect to stand trial for the violation by filing a notice of intention to stand trial with the county health officer or designee at least 5 days before the date set in the citation for the payment of the civil penalty.
 - (ii) After receiving a notice of intention to stand trial under subparagraph (i) of this paragraph, the county health officer or designee shall forward the notice and a copy of the citation to the District Court.
- (6)
 - (i) After receiving a citation and notice under this subsection, the District Court shall schedule the case for trial and notify the defendant of the trial date.
 - (ii) In a proceeding before the District Court, a violation of subsection (b) of this section shall be handled in the same manner as a municipal infraction under §§ 6–108 through 6–115 of the Local Government Article.
- (7) The District Court shall remit any penalties collected for a violation of subsection (b) of this section to the county in which the violation occurred.

(8) Adjudication of a violation of subsection (b) of this section is not a criminal conviction for any purpose.

(f) (1) The Maryland Department of Health, in collaboration and consultation with [the Office of the Comptroller,] the Executive Director of the Alcohol [and], Tobacco, AND CANNABIS Commission, local health departments, and local law enforcement agencies, shall develop ongoing strategies for enforcement of §§ 10–107 and 10–108 of the Criminal Law Article.

(2) On or before October 1 each year, the Department shall report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on:

(i) The development of enforcement strategies required under paragraph (1) of this subsection; and

(ii) Training and assistance to tobacco retailers to improve compliance with § 10–107 of the Criminal Law Article.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

~~Article – Health Occupations~~

~~12–403.~~

~~(e) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:~~

~~(22) (i) May provide to an ophthalmologist for office use, without a patient specific prescription:~~

~~1. Compound antibiotics for the emergency treatment of bacterial endophthalmitis or viral retinitis; and~~

~~2. Compound antivascular endothelial growth factor agents for the emergency treatment of neovascular glaucoma, wet macular degeneration, or macular edema; and~~

~~(ii) Shall require the ophthalmologist to inform the pharmacy of the identity of any patient to whom the drugs are administered; [and]~~

~~(23) Subject to § 12–510 of this title, may provide compounded nonsterile preparations or compounded sterile preparations without a patient specific prescription to a licensed veterinarian who intends to dispense the compounded nonsterile preparations or compounded sterile preparations in accordance with § 2–313(c) of the Agriculture Article; AND~~

~~(24) MAY NOT SELL TOBACCO PRODUCTS, OTHER TOBACCO PRODUCTS, AS DEFINED IN § 16.5 101 OF THE BUSINESS REGULATION ARTICLE, OR ELECTRONIC SMOKING DEVICES, AS DEFINED IN § 16.7 101 OF THE BUSINESS REGULATION ARTICLE.~~

SECTION ~~2. 3.~~ 2. AND BE IT FURTHER ENACTED, That, on or before ~~December 31, 2024~~ October 1, 2025, the Alcohol, Tobacco, and Cannabis Commission, in conjunction with the Maryland Department of Health, the Comptroller, and the State Department of Education, shall report to the Senate Finance Committee, the House Economic Matters Committee, and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article, on:

(1) the number of retailers of cigarettes, other tobacco products, and electronic smoking devices licensed under Title 16, Title 16.5, or Title 16.7 of the Business Regulation Article, including information regarding the proximity of retailers to schools and health care facilities;

(2) the processes and procedures currently used by the Alcohol, Tobacco, and Cannabis Commission to maintain a list of all operating businesses that hold a license under Title 16, Title 16.5, or Title 16.7 of the Business Regulation Article;

(3) the geographic density of businesses currently holding a license under Title 16, Title 16.5, or Title 16.7 of the Business Regulation Article;

(4) the feasibility and resulting impact of limiting or establishing a maximum number of licenses that could be issued under Title 16, Title 16.5, or Title 16.7 of the Business Regulation Article; and

(5) with regard to the use of tobacco, other tobacco products, and electric smoking devices, including the use of flavored tobacco products, by individuals under the age of 21 years in the State, an analysis of:

- (i) its prevalence in the described population;
- (ii) the public health impacts; and
- (iii) the economic impacts.

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2025.~~

SECTION ~~3. 5.~~ 3. AND BE IT FURTHER ENACTED, That, ~~except as provided in Section 4 of this Act,~~ this Act shall take effect October 1, 2024.

Approved by the Governor, May 9, 2024.