

SENATE BILL 204

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CF 6lr1348

By: **Senators Middleton, Benson, Feldman, Kelley, Klausmeier, Mathias, and Pugh**
Introduced and read first time: January 20, 2016
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Electronic Smoking Devices – E-Liquid Containers – Child-Resistant Packaging**

3 FOR the purpose of prohibiting a retailer from distributing to a consumer certain e-liquid
4 containers unless the container is distributed in child-resistant packaging;
5 establishing certain civil penalties for a violation of this Act; providing that a sworn
6 law enforcement officer, county health officer, or designee of a county health officer
7 may issue a certain civil citation for a violation of this Act; establishing requirements
8 for processing a certain citation; providing for a certain election to stand trial;
9 requiring the District Court to take certain actions after receiving a certain citation
10 and notice; requiring the District Court to remit certain collected penalties in a
11 certain manner; defining certain terms; and generally relating to electronic smoking
12 devices and child-resistant packaging for e-liquid containers.

13 BY adding to

14 Article – Health – General
15 Section 24-305.1
16 Annotated Code of Maryland
17 (2015 Replacement Volume)

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

20 **Article – Health – General**

21 **24-305.1.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) “CHILD-RESISTANT PACKAGING” MEANS PACKAGING THAT IS**
2 **DESIGNED OR CONSTRUCTED TO MEET THE CHILD-RESISTANT EFFECTIVENESS**
3 **STANDARDS SET FORTH IN 16 C.F.R. § 1700.15(B)(1) WHEN TESTED IN**
4 **ACCORDANCE WITH THE PROTOCOLS DESCRIBED IN 16 C.F.R. § 1700.20, AS IN**
5 **EFFECT ON OCTOBER 1, 2016.**

6 **(3) “DESIGNEE” HAS THE MEANING STATED IN § 24-305(E) OF THIS**
7 **SUBTITLE.**

8 **(4) “DISTRIBUTE” MEANS TO:**

9 **(I) GIVE, SELL, DELIVER, DISPENSE, OR ISSUE;**

10 **(II) OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR**

11 **(III) CAUSE OR HIRE A PERSON TO:**

12 **1. GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR**

13 **2. OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE.**

14 **(5) (I) “ELECTRONIC SMOKING DEVICE” MEANS AN ELECTRONIC**
15 **DEVICE, A COMPONENT FOR AN ELECTRONIC DEVICE, OR A PRODUCT USED TO**
16 **REFILL OR RESUPPLY AN ELECTRONIC DEVICE THAT CAN BE USED TO DELIVER**
17 **NICOTINE TO THE INDIVIDUAL INHALING FROM THE DEVICE.**

18 **(II) “ELECTRONIC SMOKING DEVICE” INCLUDES AN**
19 **ELECTRONIC CIGARETTE, CIGAR, CIGARILLO, OR PIPE.**

20 **(6) “E-LIQUID” MEANS A LIQUID PRODUCT, WHETHER OR NOT IT**
21 **CONTAINS NICOTINE, THAT IS INTENDED TO BE VAPORIZED AND INHALED BY AN**
22 **INDIVIDUAL USING AN ELECTRONIC SMOKING DEVICE.**

23 **(7) (I) “E-LIQUID CONTAINER” MEANS A BOTTLE OR ANY OTHER**
24 **CONTAINER THAT HOLDS E-LIQUID.**

25 **(II) “E-LIQUID CONTAINER” DOES NOT INCLUDE A CONTAINER**
26 **THAT HOLDS E-LIQUID IF THE CONTAINER IS PREFILLED AND SEALED BY THE**
27 **MANUFACTURER AND NOT INTENDED TO BE OPENED BY THE CONSUMER.**

28 **(8) “RETAILER” MEANS A PERSON WHO SELLS OR HOLDS FOR SALE**
29 **E-LIQUID CONTAINERS TO CONSUMERS.**

1 **(B) A RETAILER MAY NOT DISTRIBUTE TO A CONSUMER AN E-LIQUID**
2 **CONTAINER UNLESS THE CONTAINER IS DISTRIBUTED IN CHILD-RESISTANT**
3 **PACKAGING.**

4 **(C) A RETAILER THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL**
5 **PENALTY OF:**

6 **(1) \$300 FOR A FIRST VIOLATION;**

7 **(2) \$1,000 FOR A SECOND VIOLATION THAT OCCURS WITHIN 24**
8 **MONTHS AFTER THE FIRST VIOLATION; AND**

9 **(3) \$3,000 FOR EACH SUBSEQUENT VIOLATION THAT OCCURS WITHIN**
10 **24 MONTHS AFTER THE PRECEDING VIOLATION.**

11 **(D) (1) A SWORN LAW ENFORCEMENT OFFICER, A COUNTY HEALTH**
12 **OFFICER, OR A DESIGNEE OF A COUNTY HEALTH OFFICER MAY ISSUE A CIVIL**
13 **CITATION FOR A VIOLATION OF THIS SECTION.**

14 **(2) A CITATION ISSUED UNDER THIS SECTION SHALL INCLUDE:**

15 **(I) THE NAME AND ADDRESS OF THE RETAILER CHARGED;**

16 **(II) THE NATURE OF THE VIOLATION;**

17 **(III) THE LOCATION AND TIME OF THE VIOLATION;**

18 **(IV) THE AMOUNT OF THE CIVIL PENALTY;**

19 **(V) THE MANNER, LOCATION, AND TIME IN WHICH THE CIVIL**
20 **PENALTY MAY BE PAID;**

21 **(VI) A NOTICE STATING THE RETAILER'S RIGHT TO ELECT TO**
22 **STAND TRIAL FOR THE VIOLATION; AND**

23 **(VII) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OR**
24 **TO CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:**

25 **1. IS AN ADMISSION OF LIABILITY; AND**

26 **2. MAY RESULT IN ENTRY OF A DEFAULT JUDGMENT**
27 **THAT MAY INCLUDE THE CIVIL PENALTY, COURT COSTS, AND ADMINISTRATIVE**
28 **EXPENSES.**

1 **(3) THE SWORN LAW ENFORCEMENT OFFICER, COUNTY HEALTH**
2 **OFFICER, OR DESIGNEE SHALL RETAIN A COPY OF THE CITATION ISSUED UNDER**
3 **THIS SECTION.**

4 **(4) (I) 1. A RETAILER WHO RECEIVES A CITATION FROM A**
5 **COUNTY HEALTH OFFICER OR DESIGNEE UNDER THIS SECTION MAY ELECT TO**
6 **STAND TRIAL FOR THE VIOLATION BY FILING A NOTICE OF INTENTION TO STAND**
7 **TRIAL WITH THE COUNTY HEALTH OFFICER OR DESIGNEE AT LEAST 5 DAYS BEFORE**
8 **THE DATE SET IN THE CITATION FOR THE PAYMENT OF THE CIVIL PENALTY.**

9 **2. AFTER RECEIVING A NOTICE OF INTENTION TO STAND**
10 **TRIAL UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE COUNTY HEALTH**
11 **OFFICER OR DESIGNEE SHALL FORWARD THE NOTICE AND A COPY OF THE CITATION**
12 **TO THE DISTRICT COURT.**

13 **(II) A RETAILER WHO RECEIVES A CITATION FROM A SWORN**
14 **LAW ENFORCEMENT OFFICER UNDER THIS SECTION MAY ELECT TO STAND TRIAL**
15 **FOR THE VIOLATION BY FILING A NOTICE OF INTENTION TO STAND TRIAL AND A**
16 **COPY OF THE CITATION WITH THE DISTRICT COURT AT LEAST 5 DAYS BEFORE THE**
17 **DATE SET IN THE CITATION FOR PAYMENT OF THE CIVIL PENALTY.**

18 **(5) (I) AFTER RECEIVING A CITATION AND NOTICE UNDER THIS**
19 **SECTION, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND**
20 **NOTIFY THE DEFENDANT OF THE TRIAL DATE.**

21 **(II) IN A PROCEEDING BEFORE THE DISTRICT COURT, A**
22 **VIOLATION OF THIS SECTION SHALL BE PROSECUTED IN THE SAME MANNER AND TO**
23 **THE SAME EXTENT AS A MUNICIPAL INFRACTION UNDER §§ 6-108 THROUGH 6-115**
24 **OF THE LOCAL GOVERNMENT ARTICLE.**

25 **(6) THE DISTRICT COURT SHALL REMIT ANY PENALTIES COLLECTED**
26 **FOR A VIOLATION OF THIS SECTION TO THE COUNTY IN WHICH THE VIOLATION**
27 **OCCURRED.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2016.