

# HOUSE BILL 42

J1, C2, D4

(PRE-FILED)

4lr0164  
CF SB 220

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By: **Chair, Health and Government Operations Committee (By Request –  
Departmental – Health)**

Requested: September 13, 2023

Introduced and read first time: January 10, 2024

Assigned to: Health and Government Operations

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Committee Report: Favorable

House action: Adopted

Read second time: February 13, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Health – Public Health Services and Protections – Revisions**

3 FOR the purpose of repealing the exceptions that allow the sale, distribution, or purchase  
4 of tobacco products, tobacco paraphernalia, and electronic smoking devices to or for  
5 certain individuals who are active duty members of the military; authorizing the  
6 Maryland Department of Health to reallocate from one county to another county  
7 certain projected unspent grant funding relating to cancer to address certain funding  
8 needs; altering the duties of the State Council on Child Abuse and Neglect; repealing  
9 the requirement that the Secretary of Health appoint and convene an expert panel  
10 on child abuse and neglect relating to research and data collection on a yearly basis;  
11 transferring responsibility for the payment of certain emergency medical treatment  
12 charges in cases of child abuse and neglect from the Department to the Governor's  
13 Office of Crime Prevention, Youth, and Victim Services; and generally relating to  
14 public health services and protections.

15 BY repealing and reenacting, with amendments,  
16 Article – Business Regulation  
17 Section 16-209(c), 16.5-214.1, and 16.7-204.1  
18 Annotated Code of Maryland  
19 (2015 Replacement Volume and 2023 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Criminal Law

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### 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.



- 1 Section 10–107(b), (c), and (d)  
2 Annotated Code of Maryland  
3 (2021 Replacement Volume and 2023 Supplement)
- 4 BY repealing and reenacting, with amendments,  
5 Article – Family Law  
6 Section 5–712(e), 5–7A–06, and 5–7A–09  
7 Annotated Code of Maryland  
8 (2019 Replacement Volume and 2023 Supplement)
- 9 BY repealing and reenacting, without amendments,  
10 Article – Family Law  
11 Section 5–7A–01(a)  
12 Annotated Code of Maryland  
13 (2019 Replacement Volume and 2023 Supplement)
- 14 BY repealing  
15 Article – Health – General  
16 Section 13–1013(d) and 13–2205  
17 Annotated Code of Maryland  
18 (2023 Replacement Volume)
- 19 BY repealing and reenacting, with amendments,  
20 Article – Health – General  
21 Section 13–1013(e), (f), and (g), 24–305(b) and (d), and 24–307(a), (d), and (f)  
22 Annotated Code of Maryland  
23 (2023 Replacement Volume)
- 24 BY adding to  
25 Article – Health – General  
26 Section 13–1108(f)  
27 Annotated Code of Maryland  
28 (2023 Replacement Volume)
- 29 BY repealing and reenacting, with amendments,  
30 Article – Local Government  
31 Section 1–1203  
32 Annotated Code of Maryland  
33 (2013 Volume and 2023 Supplement)

34 Preamble

35 WHEREAS, The minimum age in all states for the sale of tobacco products was  
36 raised from 18 to 21 years effective December 20, 2019, under 21 U.S.C. § 387f(d)(5); and

1 WHEREAS, State statutory provisions maintain exceptions for active duty military  
2 personnel between the ages of 18 and 21 years of age to purchase tobacco products, which  
3 has caused confusion among Maryland tobacco product sellers; and

4 WHEREAS, Distribution of funds for the Local Public Health Cancer Grant for  
5 cancer prevention, education, screening, and treatment are made in accordance with the  
6 formula established in § 13–1108(b) of the Health – General Article, and funds cannot be  
7 redistributed between eligible counties during the fiscal year if distribution does not align  
8 with the fiscal needs of counties; and

9 WHEREAS, Reporting on Enforcement Strategies for Distribution of Tobacco  
10 Products to Minors under § 24–307(f) of the Health – General Article contains references  
11 to sections of the Criminal Law Article repealed by the enactment of Chapter 396 of the  
12 Acts of the General Assembly of 2019; and

13 WHEREAS, Reporting requirements of the Cigarette Restitution Fund’s  
14 Counter–Marketing Component under § 13–1013(d) of the Health – General Article are  
15 duplicative of reporting requirements of the Cigarette Restitution Fund’s Annual  
16 Accomplishments and Outcomes Report under § 7–317 of the State Finance and  
17 Procurement Article; and

18 WHEREAS, Section 13–2205 of the Health – General Article, establishing an expert  
19 panel on child abuse and neglect, can be repealed without reducing the amount or quality  
20 of information provided to the General Assembly as the expert panel has completed its work  
21 and the efforts and reporting requirements of the expert panel can be assumed by the State  
22 Council on Child Abuse and Neglect established under § 5–7A–01 of the Family Law  
23 Article; and

24 WHEREAS, The Maryland Department of Health currently is named as the payor  
25 of last resort and given authority to adopt regulations for payments for emergency medical  
26 treatment to children in cases of child abuse and neglect under § 5–712(e) of the Family  
27 Law Article; and

28 WHEREAS, The Governor’s Office of Crime Prevention, Youth, and Victim Services  
29 has taken over the responsibility as the payor of last resort for the payments for emergency  
30 medical treatment; now, therefore,

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

33 **Article – Business Regulation**

34 16–209.

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

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

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

5 16.5–214.1.

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

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

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

12 16.7–204.1.

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

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

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

## 19 Article – Criminal Law

20 10–107.

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

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

26 (ii) a purchaser or recipient who:

27 1. is at least 18 years of age;

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

29 3. presents a valid military identification].

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

4 (i) a tobacco product;

5 (ii) tobacco paraphernalia; or

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

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

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

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

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

12 (iii) presents a valid military identification]; or

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

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

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

17 (iii) presents a valid military identification].

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

## 22 Article – Family Law

23 5-712.

24 (e) (1) In accordance with regulations adopted by the [Secretary of Health]  
25 **EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME PREVENTION,**  
26 **YOUTH, AND VICTIM SERVICES,** the [Maryland Department of Health] **GOVERNOR'S**  
27 **OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES** shall pay for  
28 emergency medical treatment charges that are incurred on behalf of a child who is  
29 examined or treated under this section.

1 (2) The child's parent or guardian is liable to the [Maryland Department  
2 of Health] **GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM**  
3 **SERVICES** for the payments and shall take any steps necessary to secure health benefits  
4 available for the child from a public or private benefit program.

5 (3) The local department shall:

6 (i) immediately determine whether a child treated or examined  
7 under this section is eligible for medical assistance payments; and

8 (ii) secure medical assistance benefits for any eligible child  
9 examined or treated under this section.

10 5-7A-01.

11 (a) There is a State Council on Child Abuse and Neglect.

12 5-7A-06.

13 (a) In addition to any duties set forth elsewhere, the Council shall, by examining  
14 the policies and procedures of State and local agencies and specific cases that the Council  
15 considers necessary to perform its duties under this section, evaluate the extent to which  
16 State and local agencies are effectively discharging their child protection responsibilities in  
17 accordance with:

18 (1) the State plan under 42 U.S.C. § 5106a(b);

19 (2) the child protection standards set forth in 42 U.S.C. § 5106a(b); and

20 (3) any other criteria that the Council considers important to ensure the  
21 protection of children, including:

22 (i) a review of the extent to which the State child protective services  
23 system is coordinated with the foster care and adoption program established under Part E  
24 of Title IV of the Social Security Act; and

25 (ii) a review of child fatalities and near fatalities.

26 (b) The Council may request that a local citizens review panel established under  
27 § 5-539.2 of this title conduct a review under this section and report its findings to the  
28 Council.

29 (c) The Council shall coordinate its activities under this section with the State  
30 Citizens Review Board for Children, local citizens review panels, [and] the child fatality

1 review teams, **AND THE CHILD ABUSE MEDICAL PROVIDERS (MARYLAND CHAMP)**  
 2 **INITIATIVE** in order to avoid unnecessary duplication of effort.

3 (d) The chairperson of the Council may designate members of the Children's  
 4 Justice Act Committee as special members of the Council for the purpose of carrying out  
 5 the duties set forth in this section.

6 5-7A-09.

7 (a) The Council shall report and make recommendations annually to the  
 8 Governor and the General Assembly on:

9 **(1) ACTIVITIES OF THE MARYLAND CHAMP INITIATIVE**  
 10 **ESTABLISHED UNDER TITLE 13, SUBTITLE 22 OF THE HEALTH – GENERAL ARTICLE,**  
 11 **INCLUDING DATA COLLECTED ON CHILD ABUSE AND NEGLECT DIAGNOSES AND**  
 12 **TREATMENT; AND**

13 **(2)** matters relating to the prevention, detection, prosecution, and  
 14 treatment of child abuse and neglect, including policy and training needs that require the  
 15 attention and action of the Governor or the General Assembly.

16 (b) The Council shall annually prepare and make available to the public a report  
 17 containing a summary of its activities under § 5-7A-05 of this subtitle.

18 **Article – Health – General**

19 13-1013.

20 [(d) Subject to subsection (c)(2) of this section, before spending any funds allocated  
 21 in the State budget to the Counter-Marketing and Media Component and no later than  
 22 January 1, 2001, the Department shall submit a report to the Governor and, subject to §  
 23 2-1257 of the State Government Article, the General Assembly that:

24 (1) Identifies the goals of the Counter-Marketing and Media Component  
 25 and the target dates for meeting these goals;

26 (2) Describes the various elements of the Counter-Marketing and Media  
 27 Component and how the Department plans to implement the Component; and

28 (3) Identifies the different target audiences of the Counter-Marketing and  
 29 Media Component.]

30 [(e)] **(D)** (1) The Department may contract with a higher education  
 31 institution or private entity to implement any part of the Counter-Marketing and Media  
 32 Component.

1 (2) If the Department determines that any part of the Counter–Marketing  
2 and Media Component should be implemented by a higher education institution or private  
3 entity, the Department shall issue a request for proposal to select the entity that will  
4 implement that part of the Component.

5 (3) At a minimum, the request for proposal shall:

6 (i) State with specificity the goals of the Counter–Marketing and  
7 Media Component;

8 (ii) State with specificity the objectives and performance criteria  
9 that will be used to measure the success of the program to which the request for proposal  
10 relates; and

11 (iii) Require that the response to the request for proposal include a  
12 plan to reach the targeted audiences identified by the Department.

13 (4) If the Department issues a request for proposal to select an entity to  
14 implement any part of the Counter–Marketing and Media Component, the Department  
15 shall use the criteria established in § 13–1003(e)(5) of this subtitle as a guide in  
16 administering the request for proposal process.

17 **[(f)] (E)** To the extent practicable, the Department shall take steps to maximize  
18 the cost effectiveness of the Counter–Marketing and Media Component, including:

19 (1) Using advertisements and other communications and public relations  
20 products and services that have been developed by and shown to be effective in other states;

21 (2) Subject to subsection **[(g)] (F)** of this section, using money that is  
22 allocated to the Counter–Marketing and Media Component to obtain money from the  
23 federal government, the National Public Education Fund, or any other entity; and

24 (3) Coordinating the purchase of broadcast time with other states.

25 **[(g)] (F)** The Department may not accept money from the federal government,  
26 the National Public Education Fund, or any other entity if the Department is required to  
27 accept, as a condition of receiving the money, restrictions on the content of advertisements,  
28 communications, or other public relations products or services that are funded with money  
29 from the Cigarette Restitution Fund if the restrictions are inconsistent with the purposes  
30 of this subtitle.

31 13–1108.

32 **(F) THE DEPARTMENT MAY REALLOCATE PROJECTED UNSPENT FUNDS**  
33 **AWARDED TO A COUNTY TO ANOTHER COUNTY AS NEEDED DURING THE FISCAL YEAR**



1 IN ORDER TO ADDRESS ANY UNMET COUNTY FUNDING NEEDS AS DETERMINED  
2 UNDER § 13-1107 OF THIS SUBTITLE.

3 [13-2205.

4 (a) The Secretary shall appoint and convene an expert panel on child abuse and  
5 neglect relating to research and data collection at least one time each year.

6 (b) The panel shall assist the Secretary in:

7 (1) Reviewing the appropriateness of current procedural terminology  
8 (CPT) codes and billing protocols for services provided regarding child abuse and neglect;  
9 and

10 (2) Determining how diagnosis and treatment data may be preserved to  
11 provide statistics on the extent of child abuse and neglect in the State, including through  
12 the creation of a special billing code.

13 (c) The panel shall meet at least one time each year with representatives from  
14 each emergency room, child advocacy center, and any other facility that provides expert  
15 child abuse and neglect care, as defined in § 5-712 of the Family Law Article, to provide  
16 training in current procedural terminology (CPT) codes and billing protocols.

17 (d) On or before December 1 of each year, the panel shall submit a report, in  
18 accordance with § 2-1257 of the State Government Article, to the General Assembly on the  
19 data collected on child abuse and neglect diagnosis and treatment and the activities of the  
20 Initiative.]

21 24-305.

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

25 (2) This subsection does not apply to[:

26 (i) An] AN electronic smoking device that contains or delivers  
27 nicotine intended for human consumption if the device has been approved by the United  
28 States Food and Drug Administration for sale as a tobacco cessation product and is being  
29 marketed and sold solely for this purpose[; or

30 (ii) A purchaser or recipient who:

31 1. Is at least 18 years of age;

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

1 3. Presents a valid military identification].

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

6 24-307.

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

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

11 (ii) Sent through the mail.

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

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

17 (ii) A purchaser or recipient who:

18 1. Is at least 18 years of age;

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

20 3. Presents a valid military identification].

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

26 (f) (1) The Maryland Department of Health, in collaboration and consultation  
27 with the Office of the Comptroller, the Executive Director of the Alcohol [and], Tobacco,  
28 AND CANNABIS Commission, local health departments, and local law enforcement  
29 agencies, shall develop ongoing strategies for enforcement of [ §§ 10-107 and 10-108 ] §  
30 10-107 of the Criminal Law Article.

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

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

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

7   **Article – Local Government**

8 1–1203.

9           (a) This section applies only in:

10                   (1) Carroll County;

11                   (2) Cecil County;

12                   (3) Garrett County; and

13                   (4) St. Mary’s County.

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

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

18                   (2) is sent through the mail.

19           (c) A person may not:

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

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

24                                   (ii) the individual:

25   1. is at least 18 years of age;

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

27   3. presents a valid military identification;]

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

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

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

5                   (iii)  presents a valid military identification]; or

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

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

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

10                  (iii)  presents a valid military identification].

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

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

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

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

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

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

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

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

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

27                   (iii)  \$750 for any subsequent violation.

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

3                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4    October 1, 2024.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.