

SENATE BILL 1056

C2, E1, J2

4lr2097
CF HB 1180

By: **Senator Kramer**

Introduced and read first time: February 2, 2024

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2024

CHAPTER _____

1 AN ACT concerning

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

5 FOR the purpose of prohibiting licensees that sell cigarettes, other tobacco products, or
6 electronic smoking devices at retail from displaying cigarettes, other tobacco
7 products, or electronic smoking devices for sale unless located behind a counter;
8 requiring certain licensed retailers to verify an individual's date of birth before
9 selling cigarettes, other tobacco products, or electronic smoking devices in a certain
10 manner; altering the application fee for a county license to sell cigarettes or tobacco
11 products at retail; repealing certain exceptions that authorize the sale, distribution,
12 or purchase of tobacco products, tobacco paraphernalia, and electronic smoking
13 devices to or for individuals under a certain age who are active duty military
14 members; requiring the Maryland Department of Health to conduct ~~at least two~~
15 certain unannounced inspections of certain licensed retailers each year; repealing
16 the electronic smoking device retail license; altering the definition of "vape shop
17 vendor" to require that the vendor exclusively sell electronic smoking devices and
18 related accessories to consumers on the premises of its place of business; requiring
19 certain licensees to obtain an additional license in order to manufacture, distribute,
20 or sell electronic smoking devices; altering the penalty for distributing tobacco
21 products or tobacco paraphernalia to an individual under a certain age; authorizing
22 the court to make certain recommendations to the Executive Director of the Alcohol,
23 Tobacco, and Cannabis Commission regarding the suspension of certain licenses;
24 prohibiting a pharmacy from selling tobacco products, other tobacco products, and
25 electronic smoking devices; requiring the Alcohol, Tobacco, and Cannabis

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 Commission, in conjunction with the Maryland Department of Health, the
2 Comptroller, and the State Department of Education, to submit a certain report on
3 or before a certain date; and generally relating to the sale of cigarettes, other tobacco
4 products, and electronic smoking devices.

5 BY repealing and reenacting, without amendments,
6 Article – Business Regulation
7 Section 16–201(a), (d), and (k) and 16.5–101(a), (f), (j), and (l)
8 Annotated Code of Maryland
9 (2015 Replacement Volume and 2023 Supplement)

10 BY adding to
11 Article – Business Regulation
12 Section 16–209.1, 16.5–214.2, and 16.7–204.2
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2023 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Business Regulation
17 Section 16–302, 16–308.3, 16.5–217.1, 16.7–101, ~~16.7–102~~, 16.7–201, 16.7–202,
18 16.7–203, 16.7–204, 16.7–204.1, 16.7–206, 16.7–211, and 16.7–213.1
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2023 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Criminal Law
23 Section 10–107
24 Annotated Code of Maryland
25 (2021 Replacement Volume and 2023 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article – Health – General
28 Section 24–305 and 24–307
29 Annotated Code of Maryland
30 (2023 Replacement Volume)

31 BY repealing and reenacting, with amendments,
32 Article – Health Occupations
33 Section 12–403(c)(22) and (23)
34 Annotated Code of Maryland
35 (2021 Replacement Volume and 2023 Supplement)

36 BY adding to
37 Article – Health Occupations
38 Section 12–403(c)(24)
39 Annotated Code of Maryland
40 (2021 Replacement Volume and 2023 Supplement)

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

3 **Article – Business Regulation**

4 16–201.

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

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

8 (k) “Retailer” means a person who:

9 (1) sells cigarettes to consumers through vending machines on fewer than
10 40 premises;

11 (2) otherwise sells cigarettes to consumers; or

12 (3) holds cigarettes for sale to consumers.

13 **16–209.1.**

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

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

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

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

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

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

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

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

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

5 16-302.

6 (a) For each county license, an applicant shall:

7 (1) submit an application to the clerk; and

8 (2) pay to the clerk a license fee of[:

9 (i) \$25 in a county other than Cecil County or Montgomery County;

10 (ii) \$50 in Cecil County; or

11 (iii) \$125 in Montgomery County] **\$300.**

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

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

15 (ii) ~~\$100~~ IN MONTGOMERY COUNTY, \$275 to [Montgomery
16 County] **THE COUNTY** to be used to enforce existing laws banning the sale or distribution
17 of tobacco ~~or~~ tobacco products, OR ELECTRONIC SMOKING DEVICES, AS DEFINED IN §
18 16.7-101 OF THIS ARTICLE, to individuals under the age of 21 years; **AND**

19 (III) IN ALL OTHER COUNTIES, \$275 TO THE MARYLAND
20 DEPARTMENT OF HEALTH TO BE USED BY THE DEPARTMENT OR ITS DESIGNEE TO
21 ENFORCE EXISTING LAWS PROHIBITING THE SALE OR DISTRIBUTION OF TOBACCO,
22 TOBACCO PRODUCTS, OR ELECTRONIC SMOKING DEVICES, AS DEFINED IN §
23 16.7-101 OF THIS ARTICLE, TO INDIVIDUALS UNDER THE AGE OF 21 YEARS.

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

27 16-308.3.

28 (a) (1) ~~The~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
29 Maryland Department of Health OR ITS DESIGNEE [may] **SHALL** conduct **AT LEAST TWO**

1 ONE unannounced inspections of a licensed retailer to ensure the licensee's compliance with
2 the provisions of this title and § 10–107 of the Criminal Law Article **EACH YEAR.**

3 **(2) IF A LICENSED RETAILER VIOLATES ANY PROVISION OF THIS**
4 **TITLE OR § 10–107 OF THE CRIMINAL LAW ARTICLE, THE MARYLAND DEPARTMENT**
5 **OF HEALTH SHALL CONDUCT AN ADDITIONAL UNANNOUNCED INSPECTION WITHIN**
6 **180 DAYS AFTER THE INITIAL INSPECTION.**

7 (b) The Maryland Department of Health OR ITS DESIGNEE may use an
8 individual under the age of 21 years to assist in conducting an inspection under this section.

9 **(C) TO DETERMINE THE LOCATION OF A LICENSED RETAILER SUBJECT TO**
10 **AN UNANNOUNCED INSPECTION, THE MARYLAND DEPARTMENT OF HEALTH OR ITS**
11 **DESIGNEE SHALL USE THE LIST OF LICENSED RETAILERS AS OF DECEMBER 31 OF**
12 **THE PREVIOUS CALENDAR YEAR.**

13 16.5–101.

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

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

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

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

22 1. tobacco; or

23 2. nicotine; or

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

26 (2) “Other tobacco products” includes:

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

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

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

- 1 (i) cigarettes;
- 2 (ii) electronic smoking devices;
- 3 (iii) drugs, devices, or combination products authorized for sale by
4 the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act;
5 or
- 6 (iv) tobacco pipes, as defined under § 11–104 of the Tax – General
7 Article.

8 (l) “Other tobacco products retailer” means a person who:

- 9 (1) sells other tobacco products to consumers; or
- 10 (2) holds other tobacco products for sale to consumers.

11 **16.5–214.2.**

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

13 **(I) A LICENSED TOBACCONIST; OR**

14 **(II) THE SALE OF PREMIUM CIGARS.**

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

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

24 **(I) AT LEAST 21 YEARS OLD; OR**

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

26 **2. AN ACTIVE DUTY MEMBER OF THE MILITARY IN**
27 **POSSESSION OF A VALID MILITARY IDENTIFICATION.**

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

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

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

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

10 16.5-217.1.

11 **(a) (1) The SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
12 **Maryland Department of Health OR ITS DESIGNEE [may] SHALL conduct AT LEAST ~~TWO~~**
13 **ONE unannounced inspections of a licensed retailer to ensure the licensee's compliance with**
14 **the provisions of this title and § 10-107 of the Criminal Law Article EACH YEAR.**

15 **(2) IF A LICENSED RETAILER VIOLATES ANY PROVISION OF THIS**
16 **TITLE OR § 10-107 OF THE CRIMINAL LAW ARTICLE, THE MARYLAND DEPARTMENT**
17 **OF HEALTH SHALL CONDUCT AN ADDITIONAL UNANNOUNCED INSPECTION WITHIN**
18 **180 DAYS AFTER THE INITIAL INSPECTION.**

19 **(b) The Maryland Department of Health OR ITS DESIGNEE may use an**
20 **individual under the age of 21 years to assist in conducting an inspection under this section.**

21 **(C) TO DETERMINE THE LOCATION OF A LICENSED RETAILER SUBJECT TO**
22 **AN UNANNOUNCED INSPECTION, THE MARYLAND DEPARTMENT OF HEALTH OR ITS**
23 **DESIGNEE SHALL USE THE LIST OF LICENSED RETAILERS AS OF DECEMBER 31 OF**
24 **THE PREVIOUS CALENDAR YEAR.**

25 16.7-101.

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

27 **(b) "County license" means a license issued by the clerk to sell electronic smoking**
28 **devices to consumers in a county.**

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

31 **(2) "Electronic smoking device" includes:**

1 (i) an electronic cigarette, an electronic cigar, an electronic cigarillo,
2 an electronic pipe, an electronic hookah, a vape pen, and vaping liquid; and

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

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

8 (i) a drug, device, or combination product authorized for sale by the
9 U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act; or

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

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

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

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

19 (ii)] if the electronic smoking devices manufacturer also holds a
20 license to act as [an electronic smoking devices retailer or] a vape shop vendor, sells
21 electronic smoking devices **IN THE SAME MANNER AS A VAPE SHOP VENDOR** to
22 consumers located in the State; or

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

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

27 (1) sells electronic smoking devices to consumers;

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

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

1 **[(f)] (E)** “Electronic smoking devices wholesaler distributor” means a person
2 that:

3 (1) obtains at least 70% of its electronic smoking devices from a holder of
4 an electronic smoking devices manufacturer license under this subtitle or a business entity
5 located in the United States; and

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

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

9 **[(g)] (F)** “Electronic smoking devices wholesaler importer” means a person that:

10 (1) obtains at least 70% of its electronic smoking devices from a business
11 entity located in a foreign country; and

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

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

15 **[(h)] (G)** “Executive Director” means the Executive Director of the Alcohol **[and]**,
16 Tobacco, **AND CANNABIS** Commission.

17 **[(i)] (H)** “License” means:

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

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

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

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

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

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

27 (ii)] act as a licensed vape shop vendor.

28 **[(j)] (I)** “Sell” means to exchange or transfer, or to agree to exchange or
29 transfer, title or possession of property, in any manner or by any means, for consideration.

1 **[(k)] (J)** “Vape shop vendor” means an electronic smoking devices business that
 2 [derives at least 70% of its revenues, measured by average daily receipts, from the sale of]
 3 **EXCLUSIVELY SELLS** electronic smoking devices and related accessories **TO CONSUMERS**
 4 **ON THE PREMISES OF ITS PLACE OF BUSINESS.**

5 **[(l)] (K)** “Vaping liquid” means a liquid that:

- 6 (1) consists of propylene glycol, vegetable glycerin, or other similar
 7 substance;
- 8 (2) may or may not contain natural or artificial flavors;
- 9 (3) may or may not contain nicotine; and
- 10 (4) converts to vapor intended for inhalation when heated in an electronic
 11 device.

12 ~~16.7-102.~~

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

15 ~~(b) Any person licensed under Title 16 or Title 16.5 of this article, or an affiliate,~~
 16 ~~as defined under § 16-402(c) of this article, of a person licensed under Title 16 of this~~
 17 ~~article[;~~

18 ~~(1) is authorized to manufacture, distribute, or sell electronic smoking~~
 19 ~~devices pursuant to this title in the same capacity as the person is licensed under Title 16~~
 20 ~~or Title 16.5 of this article; and~~

21 ~~(2) may not be required to] MUST obtain an additional license under this~~
 22 ~~title IN ORDER TO MANUFACTURE, DISTRIBUTE, OR SELL ELECTRONIC SMOKING~~
 23 ~~DEVICES PURSUANT TO THIS TITLE.~~

24 16.7-201.

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

- 26 (1) an electronic smoking devices manufacturer;
- 27 (2) [an electronic smoking devices retailer;
- 28 (3)] an electronic smoking devices wholesaler distributor;
- 29 **[(4)] (3)** an electronic smoking devices wholesaler importer; or

1 [(5)] (4) a vape shop vendor.

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

4 16.7-202.

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

8 (i) obtain an appropriate county license by submitting an
9 application to the Executive Director on the form and containing the information that the
10 Executive Director requires;

11 (ii) indicate the licenses for which the applicant is applying; and

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

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

17 (b) (1) An applicant for a license to act as [an electronic smoking devices
18 retailer or] a vape shop vendor:

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

22 (ii) except as provided in paragraph (2) of this subsection, shall pay
23 to the clerk a fee of ~~\$25~~ **\$300**.

24 (2) The application shall:

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

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

27 **(3) (1) FROM EACH LICENSE FEE COLLECTED UNDER THIS**
28 **SUBSECTION, THE CLERK SHALL DISTRIBUTE:**

29 **1. \$25 TO THE EXECUTIVE DIRECTOR; AND**

1 **2. \$275 TO THE MARYLAND DEPARTMENT OF HEALTH**
2 **TO BE USED BY THE DEPARTMENT OR ITS DESIGNEE TO ENFORCE EXISTING LAWS**
3 **PROHIBITING THE SALE OR DISTRIBUTION OF TOBACCO, TOBACCO PRODUCTS, OR**
4 **ELECTRONIC SMOKING DEVICES, AS DEFINED IN § 16.7–101 OF THIS ARTICLE, TO**
5 **INDIVIDUALS UNDER THE AGE OF 21 YEARS.**

6 **(ii) FUNDS DISTRIBUTED UNDER THIS SUBSECTION MAY NOT BE**
7 **USED TO SUPPLANT EXISTING FUNDING FOR THE ENFORCEMENT OF LAWS BANNING**
8 **THE SALE OR DISTRIBUTION OF TOBACCO, TOBACCO PRODUCTS, OR ELECTRONIC**
9 **SMOKING DEVICES TO INDIVIDUALS UNDER THE AGE OF 21 YEARS.**

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

12 (d) If a person has had a license revoked under § 16.7–207 of this subtitle, the
13 person may not reapply for a license within 1 year after the date when the prior license was
14 revoked.

15 16.7–203.

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

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

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

25 16.7–204.

26 (a) An electronic smoking devices manufacturer license authorizes the licensee
27 to:

28 (1) sell electronic smoking devices to:

29 (i) a licensed electronic smoking devices wholesaler located in the
30 State;

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

33 (iii) a licensed vape shop vendor[]; and

1 (iv) a consumer if:

2 1. the licensee manufactured the devices; and

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

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

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

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

13 (1) sell electronic smoking devices to consumers;

14 (2) buy electronic smoking devices from an electronic smoking devices
15 wholesaler distributor or electronic smoking devices wholesaler importer;

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

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

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

24 (1) sell electronic smoking devices to [electronic smoking devices retailers
25 and] vape shop vendors;

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

29 (3) hold electronic smoking devices; and

30 (4) sell electronic smoking devices to another licensed electronic smoking
31 devices wholesaler distributor or electronic smoking devices wholesaler importer.

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

3 **16.7–204.2.**

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

8 16.7–206.

9 (a) (1) A [licensed electronic smoking devices retailer or a] licensed vape shop
10 vendor may not assign the license.

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

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

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

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

29 16.7–211.

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

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

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

5 16.7–213.1.

6 (a) **(1) ~~The~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
 7 **Maryland Department of Health OR ITS DESIGNEE [may] SHALL conduct AT LEAST ~~TWO~~**
 8 **ONE unannounced inspections of licensed [retailers] VAPE SHOP VENDORS to ensure the**
 9 **licensee’s compliance with the provisions of this title and § 10–107 of the Criminal Law**
 10 **Article EACH YEAR.**

11 **(2) IF A LICENSED VAPE SHOP VENDOR VIOLATES ANY PROVISION OF**
 12 **THIS TITLE OR § 10–107 OF THE CRIMINAL LAW ARTICLE, THE MARYLAND**
 13 **DEPARTMENT OF HEALTH SHALL CONDUCT AN ADDITIONAL UNANNOUNCED**
 14 **INSPECTION WITHIN 180 DAYS AFTER THE INITIAL INSPECTION.**

15 (b) The Maryland Department of Health OR ITS DESIGNEE may use an
 16 individual under the age of 21 years to assist in conducting an inspection under this section.

17 **(C) TO DETERMINE THE LOCATION OF A LICENSED VAPE SHOP VENDOR**
 18 **SUBJECT TO AN UNANNOUNCED INSPECTION, THE MARYLAND DEPARTMENT OF**
 19 **HEALTH OR ITS DESIGNEE SHALL USE THE LIST OF LICENSED VAPE SHOP VENDORS**
 20 **AS OF DECEMBER 31 OF THE PREVIOUS CALENDAR YEAR.**

21 Article – Criminal Law

22 10–107.

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

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

27 (2) sent through the mail.

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

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

- 1 ~~(ii) a purchaser or recipient who:~~
 2 ~~1. is at least 18 years of age;~~
 3 ~~2. is an active duty member of the military; and~~
 4 ~~3. presents a valid military identification.~~

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

- 9 (i) a tobacco product;
 10 (ii) tobacco paraphernalia; or
 11 (iii) a coupon redeemable for a tobacco product.

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

13 (1) purchase for or sell a tobacco product to an individual under the age of
 14 21 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; or~~

18 (2) distribute tobacco paraphernalia to an individual under the age of 21
 19 years, ~~unless the individual:~~

- 20 ~~(i) is at least 18 years of age;~~
 21 ~~(ii) is an active duty member of the military; and~~
 22 ~~(iii) presents a valid military identification.~~

23 (d) In a prosecution for a violation of this section, it is a defense that the defendant
 24 examined, **IN A DIRECT, FACE-TO-FACE EXCHANGE**, the purchaser's or recipient's
 25 driver's license or other valid identification issued by a government unit that positively
 26 identified the purchaser or recipient as at least 21 years of age ~~or as at least 18 years of age~~
 27 ~~and an active duty member of the military.~~

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

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

6 **(2) IN ADDITION TO THE PENALTIES UNDER PARAGRAPH (1) OF THIS**
7 **SUBSECTION, IF A PERSON HOLDS A LICENSE UNDER TITLE 16, TITLE 16.5, TITLE**
8 **16.7, OR TITLE 16.9 OF THE BUSINESS REGULATION ARTICLE, THE COURT SHALL**
9 **ORDER THE EXECUTIVE DIRECTOR OF THE ALCOHOL, TOBACCO, AND CANNABIS**
10 **COMMISSION TO:**

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

15 **(II) FOR EACH SUBSEQUENT VIOLATION, REVOKE THE LICENSE.**

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

20 ~~[(2)]~~ ~~(3)~~ **(4)** Issuance of a civil citation for the sale of a tobacco product to an
21 individual under the age of 21 years precludes a prosecution for a violation of § 24–307 of
22 the Health – General Article arising out of the same violation.

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

25 **Article – Health – General**

26 **24–305.**

27 (a) **This section does not apply to a tobacco product that is regulated under Title**
28 **16 of the Business Regulation Article.**

29 (b) (1) **[Except] SUBJECT TO PARAGRAPH (3) AND EXCEPT as provided in**
30 **paragraph (2) of this subsection, a person may not [sell]:**

1 **(I) SELL, distribute, or offer for sale to an individual under the age**
2 **of 21 years an electronic smoking device, as defined in § 16.7–101(c) of the Business**
3 **Regulation Article;**

4 **(II) DISPLAY ELECTRONIC SMOKING DEVICES, AS DEFINED IN §**
5 **16.7–101(C) OF THE BUSINESS REGULATION ARTICLE, FOR SALE UNLESS THE**
6 **ELECTRONIC SMOKING DEVICES ARE LOCATED BEHIND A COUNTER IN AN AREA**
7 **ACCESSIBLE ONLY TO THE PERSON AND EMPLOYEES OF THE PERSON; OR**

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

12 **(2) This subsection does not apply to[**

13 **(i) An] AN electronic smoking device that contains or delivers**
14 **nicotine intended for human consumption if the device has been approved by the United**
15 **States Food and Drug Administration for sale as a tobacco cessation product and is being**
16 **marketed and sold solely for this purpose[; 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 **(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A PERSON**
22 **MAY VERIFY AN INDIVIDUAL’S AGE ONLY:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (ii) The nature of the violation;

23 (iii) The location and time of the violation;

24 (iv) The amount of the civil penalty;

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

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

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

31 1. Is an admission of liability; and

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

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

6 (ii) A purchaser or recipient who:

7 1. Is at least 18 years of age;

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

9 3. Presents a valid military identification].

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

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

14 **[(1)]** 1. A tobacco product;

15 **[(2)]** 2. Tobacco paraphernalia; or

16 **[(3)]** 3. A coupon redeemable for a tobacco product; OR

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

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

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

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

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

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

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

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

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

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

10 (2) The local health departments shall report violations of subsection (b) of
11 this section to the Executive Director of the Alcohol [and], Tobacco, AND CANNABIS
12 Commission.

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

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

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

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

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

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

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

30 (ii) The nature of the violation;

31 (iii) The location and time of the violation;

- 1 (iv) The amount of the civil penalty;
- 2 (v) The manner, location, and time in which the civil penalty may be
3 paid;
- 4 (vi) A notice stating the person's right to elect to stand trial for the
5 violation; and
- 6 (vii) A warning that failure to pay the civil penalty or to contest
7 liability in a timely manner in accordance with the citation:
- 8 1. Is an admission of liability; and
- 9 2. May result in entry of a default judgment that may include
10 the civil penalty, court costs, and administrative expenses.
- 11 (4) The **SECRETARY, SECRETARY'S DESIGNEE**, county health officer, or
12 designee shall retain a copy of the citation issued under this subsection.
- 13 (5) (i) A person who receives a citation from **THE SECRETARY, THE**
14 **SECRETARY'S DESIGNEE**, a county health officer, or designee under this subsection may
15 elect to stand trial for the violation by filing a notice of intention to stand trial with the
16 county health officer or designee at least 5 days before the date set in the citation for the
17 payment of the civil penalty.
- 18 (ii) After receiving a notice of intention to stand trial under
19 subparagraph (i) of this paragraph, the county health officer or designee shall forward the
20 notice and a copy of the citation to the District Court.
- 21 (6) (i) After receiving a citation and notice under this subsection, the
22 District Court shall schedule the case for trial and notify the defendant of the trial date.
- 23 (ii) In a proceeding before the District Court, a violation of
24 subsection (b) of this section shall be handled in the same manner as a municipal infraction
25 under §§ 6–108 through 6–115 of the Local Government Article.
- 26 (7) The District Court shall remit any penalties collected for a violation of
27 subsection (b) of this section to the county in which the violation occurred.
- 28 (8) Adjudication of a violation of subsection (b) of this section is not a
29 criminal conviction for any purpose.
- 30 (f) (1) The Maryland Department of Health, in collaboration and consultation
31 with [the Office of the Comptroller,] the Executive Director of the Alcohol [and], Tobacco,
32 **AND CANNABIS** Commission, local health departments, and local law enforcement
33 agencies, shall develop ongoing strategies for enforcement of §§ 10–107 and 10–108 of the
34 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 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 8 as follows:

9 **Article – Health Occupations**

10 12–403.

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

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

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

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

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

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

27 **(24) MAY NOT SELL TOBACCO PRODUCTS, OTHER TOBACCO**
 28 **PRODUCTS, AS DEFINED IN § 16.5–101 OF THE BUSINESS REGULATION ARTICLE, OR**
 29 **ELECTRONIC SMOKING DEVICES, AS DEFINED IN § 16.7–101 OF THE BUSINESS**
 30 **REGULATION ARTICLE.**

31 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That, on or before ~~December 31,~~
 32 ~~2024~~ October 1, 2025, the Alcohol, Tobacco, and Cannabis Commission, in conjunction with

1 the Maryland Department of Health, the Comptroller, and the State Department of
2 Education, shall report to the Senate Finance Committee, the House Economic Matters
3 Committee, and the House Health and Government Operations Committee, in accordance
4 with § 2–1257 of the State Government Article, on:

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

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

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

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

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

20 (i) its prevalence in the described population;

21 (ii) the public health impacts; and

22 (iii) the economic impacts.

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

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