

HOUSE BILL 1169

C2, E1, J1

(9lr1052)

ENROLLED BILL

— *Economic Matters and Health and Government Operations/Finance* —

Introduced by **Delegates D.E. Davis, Branch, Brooks, Busch, Queen, and Valderrama**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Business Regulation – Tobacco Products and Electronic Smoking Devices –**
3 **Revisions**

4 FOR the purpose of ~~increasing the amount of certain license fees~~; requiring certain
5 licensees to post a certain sign in a certain location; altering the minimum age for
6 an individual to purchase or be sold tobacco products; *exempting certain individuals*
7 *from a certain minimum age requirement for an individual to purchase or be sold*
8 *tobacco products*; authorizing the Maryland Department of Health to conduct certain
9 inspections of licensed retailers for a certain purpose; authorizing the Department
10 to use certain individuals to assist in conducting a certain inspection; prohibiting the
11 sale of tobacco products through a vending machine unless it is located in a certain
12 establishment; renaming electronic nicotine delivery systems to be electronic
13 smoking devices; prohibiting repealing certain provisions of law authorizing an
14 affirmative defense for examining employer and school identifications; repealing a

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.

Italics indicate opposite chamber/conference committee amendments.



1 provision of law prohibiting an underage individual from using or possessing tobacco
2 products or obtaining tobacco products with false identification; requiring certain
3 retailers to pay for certain civil fines on behalf of certain other individuals; altering
4 the definitions of certain terms; making conforming changes; and generally relating
5 to tobacco products.

6 BY repealing and reenacting, with amendments,
7 Article – Business Regulation
8 Section ~~16-204(b)~~, 16-209, 16-302, 16-3A-01, and 16-3A-02, ~~and 16.5-203(b)~~; and
9 16.7-101, 16.7-102, 16.7-201 through 16.7-204, 16.7-206, 16.7-207,
10 16.7-209(e), 16.7-211, and 16.7-213 to be under the amended title “Title 16.7.
11 Electronic Smoking Devices Licenses”
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2018 Supplement)

14 BY adding to
15 Article – Business Regulation
16 Section 16-308.2, 16.5-214.1, 16.5-217.1, 16.7-204.1, and 16.7-213.1
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2018 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Criminal Law
21 Section 10-101 and 10-107
22 Annotated Code of Maryland
23 (2012 Replacement Volume and 2018 Supplement)

24 BY repealing
25 Article – Criminal Law
26 Section 10-108
27 Annotated Code of Maryland
28 (2012 Replacement Volume and 2018 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article – Health – General
31 Section 13-1001(a)
32 Annotated Code of Maryland
33 (2015 Replacement Volume and 2018 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article – Health – General
36 Section 13-1001(u), 13-1015, 24-305(b), (c), and (d), and 24-307(a) through (d)
37 Annotated Code of Maryland
38 (2015 Replacement Volume and 2018 Supplement)

39 BY repealing and reenacting, with amendments,
40 Article – Local Government

1 Section 1–1201 and 1–1203(c) and (d)
 2 Annotated Code of Maryland
 3 (2013 Volume and 2018 Supplement)

4 BY repealing and reenacting, without amendments,
 5 Article – Local Government
 6 Section 1–1203(a)
 7 Annotated Code of Maryland
 8 (2013 Volume and 2018 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – State Finance and Procurement
 11 Section 7–317(f)
 12 Annotated Code of Maryland
 13 (2015 Replacement Volume and 2018 Supplement)

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

16 **Article – Business Regulation**

17 ~~16–204.~~

18 ~~(b) (1) An applicant for a license to act as a retailer shall:~~

19 ~~(i) obtain the county license required under § 16–301 of this title;~~

20 ~~(ii) submit to the clerk an application for each permanent or~~
 21 ~~temporary place of business located in the same enclosure and operated by the same~~
 22 ~~applicant; and~~

23 ~~(iii) pay to the clerk a fee of ~~[\$30]~~ \$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 Comptroller requires.~~

27 16–209.

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

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

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

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

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

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

9 (C) (1) A LICENSEE SHALL POST A SIGN IN A LOCATION THAT IS CLEARLY
10 VISIBLE TO THE CONSUMER THAT STATES:

11 "NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS
12 WITHOUT MILITARY IDENTIFICATION".

13 (2) THE SIGN REQUIRED UNDER THIS SUBSECTION SHALL BE
14 WRITTEN IN LETTERS AT LEAST ONE-HALF INCH HIGH.

15 16-302.

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

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

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

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

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

21 (iii) \$125 in Montgomery County.

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

24 (i) \$25 to the Comptroller; and

25 (ii) \$100 to Montgomery County to be used to enforce existing laws
26 banning the sale or distribution of tobacco or tobacco products to [minors] **INDIVIDUALS**
27 **UNDER THE AGE OF 21 YEARS.**

28 (2) Funds distributed under paragraph (1)(ii) of this subsection may not be
29 used to supplant existing funding for the enforcement of laws banning the sale or

1 distribution of tobacco or tobacco products to [minors] **INDIVIDUALS UNDER THE AGE OF**
2 **21 YEARS.**

3 **16-308.2.**

4 (A) **THE MARYLAND DEPARTMENT OF HEALTH MAY CONDUCT**
5 **UNANNOUNCED INSPECTIONS OF A LICENSED RETAILER TO ENSURE THE**
6 **LICENSEE'S COMPLIANCE WITH THE PROVISIONS OF THIS TITLE AND § 10-107 OF**
7 **THE CRIMINAL LAW ARTICLE.**

8 (B) **THE MARYLAND DEPARTMENT OF HEALTH MAY USE AN INDIVIDUAL**
9 **UNDER THE AGE OF 21 YEARS TO ASSIST IN CONDUCTING AN INSPECTION UNDER**
10 **THIS SECTION.**

11 16-3A-01.

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

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

15 (c) (1) "Tobacco product" means any [substance containing tobacco, including
16 cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco] **PRODUCT THAT IS:**

17 (I) **INTENDED FOR HUMAN INHALATION, ABSORPTION,**
18 **INGESTION, SMOKING, HEATING, CHEWING, DISSOLVING, OR ANY OTHER MANNER**
19 **OF CONSUMPTION THAT IS MADE OF, DERIVED FROM, OR CONTAINS:**

20 1. **TOBACCO; OR**

21 2. **NICOTINE; OR**

22 (II) **AN ACCESSORY OR A COMPONENT USED IN ANY MANNER OF**
23 **CONSUMPTION OF A PRODUCT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.**

24 (2) **"TOBACCO PRODUCT" INCLUDES:**

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

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

28 (III) **FILTERS, ROLLING PAPERS, PIPES, AND LIQUIDS USED IN**
29 **ELECTRONIC SMOKING DEVICES REGARDLESS OF NICOTINE CONTENT.**

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

4 (d) “Vending machine” means any mechanical, electronic, or similar self-service
 5 device that on insertion of a coin, coins, token, or other similar means dispenses a tobacco
 6 product.

7 16-3A-02.

8 A person may not sell or dispense or offer to sell or dispense a tobacco product
 9 through a vending machine in the State, unless the vending machine[:

10 (1) is located in an establishment that [minors] **INDIVIDUALS UNDER**
 11 **THE AGE OF 21 YEARS** are prohibited by law from entering [or an establishment that is a
 12 bona fide fraternal or veterans organization; or

13 (2) can only be operated with a token, card, or similar device that an
 14 individual can only obtain or purchase from the owner or an employee or agent of the
 15 owner] **AT ANY TIME.**

16 ~~16.5-203.~~

17 ~~(b) (1) An applicant for a license to act as an other tobacco products retailer or~~
 18 ~~a tobacconist:~~

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 [\$15] \$300.~~

24 ~~(2) A person who has a license issued under Title 16 of this article to act as~~
 25 ~~a cigarette retailer or to act as a special cigarette retailer is not required to pay the license~~
 26 ~~fee.~~

27 ~~(3) The application shall:~~

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

29 ~~(ii) contain the information that the Comptroller requires.~~

30 **16.5-214.1.**

1 (A) A LICENSED OTHER TOBACCO PRODUCTS RETAILER SHALL POST A SIGN
2 IN A LOCATION THAT IS CLEARLY VISIBLE TO THE CONSUMER THAT STATES:

3 “NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS
4 WITHOUT MILITARY IDENTIFICATION”.

5 (B) THE SIGN REQUIRED UNDER THIS SECTION SHALL BE WRITTEN IN
6 LETTERS AT LEAST ONE-HALF INCH HIGH.

7 16.5–217.1.

8 (A) THE MARYLAND DEPARTMENT OF HEALTH MAY CONDUCT
9 UNANNOUNCED INSPECTIONS OF A LICENSED RETAILER TO ENSURE THE
10 LICENSEE’S COMPLIANCE WITH THE PROVISIONS OF THIS TITLE AND § 10–107 OF
11 THE CRIMINAL LAW ARTICLE.

12 (B) THE MARYLAND DEPARTMENT OF HEALTH MAY USE AN INDIVIDUAL
13 UNDER THE AGE OF 21 YEARS TO ASSIST IN CONDUCTING AN INSPECTION UNDER
14 THIS SECTION.

15 Title 16.7. Electronic [Nicotine Delivery Systems] **SMOKING DEVICES** Licenses.

16 16.7–101.

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

18 (b) “County license” means a license issued by the clerk to sell electronic [nicotine
19 delivery systems] **SMOKING DEVICES** to consumers in a county.

20 (c) (1) “Electronic [nicotine delivery system] **SMOKING DEVICE**” means [an
21 electronic] A device[, a component for an electronic device, or a product used to refill or
22 resupply an electronic device] that can be used to deliver **AEROSOLIZED OR VAPORIZED**
23 nicotine to an individual inhaling from the device.

24 (2) “Electronic [nicotine delivery system] **SMOKING DEVICE**” includes:

25 (I) an electronic cigarette, an electronic cigar, an electronic cigarillo,
26 an electronic pipe, **AN ELECTRONIC HOOKAH, A VAPE PEN**, and vaping liquid; **AND**

27 (II) **ANY COMPONENT, PART, OR ACCESSORY OF SUCH A DEVICE**
28 **REGARDLESS OF WHETHER OR NOT IT IS SOLD SEPARATELY, INCLUDING ANY**
29 **SUBSTANCE INTENDED TO BE AEROSOLIZED OR VAPORIZED DURING USE OF THE**
30 **DEVICE.**

1 (3) “Electronic [nicotine delivery system] **SMOKING DEVICE**” does not
2 include[:

3 (i) a nicotine device that contains or delivers nicotine intended for
4 human consumption if the device has been approved by the United States Food and Drug
5 Administration for sale as a tobacco cessation product and is being marketed and sold solely
6 for that purpose;

7 (ii) cannabis oil or any other unlawful substance; or

8 (iii) an electronic device that is being used to deliver cannabis oil or
9 another unlawful substance] **A DRUG, DEVICE, OR COMBINATION PRODUCT**
10 **AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE**
11 **FEDERAL FOOD, DRUG, AND COSMETIC ACT.**

12 (d) “Electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer”
13 means a person that:

14 (1) manufactures, mixes, or otherwise produces electronic [nicotine
15 delivery systems] **SMOKING DEVICES** intended for sale in the State, including electronic
16 [nicotine delivery systems] **SMOKING DEVICES** intended for sale in the United States
17 through an importer; and

18 (2) (i) sells electronic [nicotine delivery systems] **SMOKING DEVICES**
19 to a consumer, if the consumer purchases or orders the [systems] **DEVICES** through the
20 mail, a computer network, a telephonic network, or another electronic network, a licensed
21 electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler distributor, or a
22 licensed electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler importer in
23 the State;

24 (ii) if the electronic [nicotine delivery systems] **SMOKING DEVICES**
25 manufacturer also holds a license to act as an electronic [nicotine delivery systems]
26 **SMOKING DEVICES** retailer or a vape shop vendor, sells electronic [nicotine delivery
27 systems] **SMOKING DEVICES** to consumers located in the State; or

28 (iii) unless otherwise prohibited or restricted under local law, this
29 article, or the Criminal Law Article, distributes sample electronic [nicotine delivery
30 systems] **SMOKING DEVICES** to a licensed electronic [nicotine delivery systems] **SMOKING**
31 **DEVICES** retailer or vape shop vendor.

32 (e) “Electronic [nicotine delivery systems] **SMOKING DEVICES** retailer” means a
33 person that:

34 (1) sells electronic [nicotine delivery systems] **SMOKING DEVICES** to
35 consumers;

1 (2) holds electronic [nicotine delivery systems] **SMOKING DEVICES** for sale
2 to consumers; or

3 (3) unless otherwise prohibited or restricted under local law, this article,
4 the Criminal Law Article, or § 24–305 of the Health – General Article, distributes sample
5 electronic [nicotine delivery systems] **SMOKING DEVICES** to consumers in the State.

6 (f) “Electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler
7 distributor” means a person that:

8 (1) obtains at least 70% of its electronic [nicotine delivery systems]
9 **SMOKING DEVICES** from a holder of an electronic [nicotine delivery systems] **SMOKING**
10 **DEVICES** manufacturer license under this subtitle or a business entity located in the
11 United States; and

12 (2) (i) holds electronic [nicotine delivery systems] **SMOKING DEVICES**
13 for sale to another person for resale; or

14 (ii) sells electronic [nicotine delivery systems] **SMOKING DEVICES**
15 to another person for resale.

16 (g) “Electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler
17 importer” means a person that:

18 (1) obtains at least 70% of its electronic [nicotine delivery systems]
19 **SMOKING DEVICES** from a business entity located in a foreign country; and

20 (2) (i) holds electronic [nicotine delivery systems] **SMOKING DEVICES**
21 for sale to another person for resale; or

22 (ii) sells electronic [nicotine delivery systems] **SMOKING DEVICES**
23 to another person for resale.

24 (h) “License” means:

25 (1) a license issued by the Comptroller under § 16.7–203(a) of this title to:

26 (i) act as a licensed electronic [nicotine delivery systems] **SMOKING**
27 **DEVICES** manufacturer;

28 (ii) act as a licensed electronic [nicotine delivery systems] **SMOKING**
29 **DEVICES** wholesaler distributor; or

1 (iii) act as a licensed electronic [nicotine delivery systems] **SMOKING**
2 **DEVICES** wholesaler importer; or

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

4 (i) act as a licensed electronic [nicotine delivery systems] **SMOKING**
5 **DEVICES** retailer; or

6 (ii) act as a licensed vape shop vendor.

7 (i) “Sell” means to exchange or transfer, or to agree to exchange or transfer, title
8 or possession of property, in any manner or by any means, for consideration.

9 (j) “Vape shop vendor” means an electronic [nicotine delivery systems] **SMOKING**
10 **DEVICES** business that derives at least 70% of its revenues, measured by average daily
11 receipts, from the sale of electronic [nicotine delivery systems] **SMOKING DEVICES** and
12 related accessories.

13 (k) “Vaping liquid” means a liquid that:

14 (1) consists of propylene glycol, vegetable glycerin, or other similar
15 substance;

16 (2) may or may not contain natural or artificial flavors;

17 (3) may or may not contain nicotine; and

18 (4) converts to vapor intended for inhalation when heated in an electronic
19 device.

20 16.7–102.

21 (a) The Comptroller may delegate any power or duty of the Comptroller under
22 this title.

23 (b) Any person licensed under Title 16 or Title 16.5 of this article, or an affiliate,
24 as defined under § 16–402(c) of this article, of a person licensed under Title 16 of this article:

25 (1) is authorized to manufacture, distribute, or sell electronic [nicotine
26 delivery systems] **SMOKING DEVICES** pursuant to this title in the same capacity as the
27 person is licensed under Title 16 or Title 16.5 of this article; and

28 (2) may not be required to obtain an additional license under this title.

29 16.7–201.

1 (a) A person must hold an appropriate license before the person may act as:

2 (1) an electronic [nicotine delivery systems] **SMOKING DEVICES**
3 manufacturer;

4 (2) an electronic [nicotine delivery systems] **SMOKING DEVICES** retailer;

5 (3) an electronic [nicotine delivery systems] **SMOKING DEVICES**
6 wholesaler distributor;

7 (4) an electronic [nicotine delivery systems] **SMOKING DEVICES**
8 wholesaler importer; or

9 (5) a vape shop vendor.

10 (b) A place of business in which a person acts as an electronic [nicotine delivery
11 systems] **SMOKING DEVICES** retailer or a vape shop vendor must hold an appropriate
12 license.

13 16.7–202.

14 (a) (1) An applicant for a license to act as an electronic [nicotine delivery
15 systems] **SMOKING DEVICES** manufacturer, electronic [nicotine delivery systems]
16 **SMOKING DEVICES** wholesaler distributor, or electronic [nicotine delivery systems]
17 **SMOKING DEVICES** wholesaler importer shall:

18 (i) obtain an appropriate county license by submitting an
19 application to the Comptroller on the form and containing the information that the
20 Comptroller requires;

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

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

24 (2) An applicant for a license to act as an electronic [nicotine delivery
25 systems] **SMOKING DEVICES** wholesaler distributor or electronic [nicotine delivery
26 systems] **SMOKING DEVICES** wholesaler importer shall pay to the Comptroller a fee of
27 ~~[\$150]~~ **\$300**.

28 (b) (1) An applicant for a license to act as an electronic [nicotine delivery
29 systems] **SMOKING DEVICES** retailer or a vape shop vendor:

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

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

6 (2) The application shall:

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

8 (ii) contain the information that the Comptroller requires.

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

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

14 16.7–203.

15 (a) The Comptroller shall issue an appropriate license to each applicant that
16 meets the requirements of this subtitle for a license to act as an electronic [nicotine delivery
17 systems] **SMOKING DEVICES** manufacturer, electronic [nicotine delivery systems]
18 **SMOKING DEVICES** wholesaler distributor, or electronic [nicotine delivery systems]
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 [nicotine delivery systems] **SMOKING DEVICES**
22 retailer or a vape shop vendor.

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

26 16.7–204.

27 (a) An electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer
28 license authorizes the licensee to:

29 (1) sell electronic [nicotine delivery systems] **SMOKING DEVICES** to:

30 (i) a licensed electronic [nicotine delivery systems] **SMOKING**
31 **DEVICES** wholesaler located in the State;

1 (ii) an electronic [nicotine delivery systems] **SMOKING DEVICES**
2 wholesaler or retailer located outside the State if the electronic [nicotine delivery systems]
3 **SMOKING DEVICES** may be sold lawfully in Maryland;

4 (iii) a licensed vape shop vendor; and

5 (iv) a consumer if:

6 1. the licensee manufactured the [systems] **DEVICES**; and

7 2. the consumer purchases or orders the [systems] **DEVICES**
8 through the mail, a computer network, a telephonic network, or another electronic network;

9 (2) if the electronic [nicotine delivery systems] **SMOKING DEVICES**
10 manufacturer licensee also holds a license to act as an electronic [nicotine delivery systems]
11 **SMOKING DEVICES** retailer or a vape shop vendor, transfer electronic [nicotine delivery
12 systems] **SMOKING DEVICES** to inventory for sale under the retail license or vape shop
13 license; and

14 (3) except as otherwise prohibited or restricted under local law, this article,
15 or the Criminal Law Article, distribute electronic [nicotine delivery systems] **SMOKING**
16 **DEVICES** products to a licensed electronic [nicotine delivery systems] **SMOKING DEVICES**
17 retailer or vape shop vendor.

18 (b) An electronic [nicotine delivery systems] **SMOKING DEVICES** retailer license
19 authorizes the licensee to:

20 (1) sell electronic [nicotine delivery systems] **SMOKING DEVICES** to
21 consumers;

22 (2) buy electronic [nicotine delivery systems] **SMOKING DEVICES** from an
23 electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler distributor or
24 electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler importer;

25 (3) if the electronic [nicotine delivery systems] **SMOKING DEVICES**
26 retailer licensee also holds a license to act as an electronic [nicotine delivery systems]
27 **SMOKING DEVICES** manufacturer, sell at retail electronic [nicotine delivery systems]
28 **SMOKING DEVICES** manufactured under the manufacturer license; and

29 (4) except as otherwise prohibited or restricted under local law, this article,
30 the Criminal Law Article, or § 24–305 of the Health – General Article, distribute sample
31 electronic [nicotine delivery systems] **SMOKING DEVICES** products to consumers in the
32 State.

1 (c) An electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler
2 distributor license or electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler
3 importer license authorizes the licensee to:

4 (1) sell electronic [nicotine delivery systems] **SMOKING DEVICES** to
5 electronic [nicotine delivery systems] **SMOKING DEVICES** retailers and vape shop vendors;

6 (2) buy electronic [nicotine delivery systems] **SMOKING DEVICES** directly
7 from an electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer and an
8 electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler distributor or
9 electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler importer;

10 (3) hold electronic [nicotine delivery systems] **SMOKING DEVICES**; and

11 (4) sell electronic [nicotine delivery systems] **SMOKING DEVICES** to
12 another licensed electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler
13 distributor or electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler
14 importer.

15 (d) A vape shop vendor license authorizes the licensee to:

16 (1) sell electronic [nicotine delivery systems] **SMOKING DEVICES** as a vape
17 shop vendor;

18 (2) if the vape shop vendor licensee also holds a license to act as an
19 electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer, sell at retail
20 electronic [nicotine delivery systems] **SMOKING DEVICES** manufactured under the
21 manufacturer license; and

22 (3) buy electronic [nicotine delivery systems] **SMOKING DEVICES** from an
23 electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer, an electronic
24 [nicotine delivery systems] **SMOKING DEVICES** wholesaler distributor, or an electronic
25 [nicotine delivery systems] **SMOKING DEVICES** wholesaler importer.

26 **16.7–204.1.**

27 (A) A RETAIL LICENSEE SHALL POST A SIGN IN A LOCATION THAT IS
28 CLEARLY VISIBLE TO THE CONSUMER THAT STATES:

29 “NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS
30 WITHOUT MILITARY IDENTIFICATION”.

31 (B) THE SIGN REQUIRED UNDER THIS SECTION SHALL BE WRITTEN IN
32 LETTERS AT LEAST ONE–HALF INCH HIGH.

1 16.7–206.

2 (a) (1) A licensed electronic [nicotine delivery systems] **SMOKING DEVICES**
3 retailer or a licensed vape shop vendor may not assign the license.

4 (2) If a licensed electronic [nicotine delivery systems] **SMOKING DEVICES**
5 wholesaler distributor or electronic [nicotine delivery systems] **SMOKING DEVICES**
6 wholesaler importer sells the licensee's electronic [nicotine delivery systems] **SMOKING**
7 **DEVICES** business and pays to the Comptroller a license assignment fee of \$10, the licensee
8 may assign the license to the buyer of the business if the buyer otherwise qualifies under
9 this title for an electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler's
10 distributor or importer license.

11 (b) If the electronic [nicotine delivery systems] **SMOKING DEVICES** business of a
12 licensee is transferred because of bankruptcy, death, incompetency, receivership, or
13 otherwise by operation of law, the Comptroller shall transfer the license without charge to
14 the new owner of the licensee's business if the transferee otherwise qualifies under this
15 title for the license being transferred.

16 (c) (1) If a licensed electronic [nicotine delivery systems] **SMOKING DEVICES**
17 wholesaler distributor or electronic [nicotine delivery systems] **SMOKING DEVICES**
18 wholesaler importer surrenders the license to the Comptroller and if no disciplinary
19 proceedings are pending against the licensee, the Comptroller shall refund a pro rata
20 portion of the license fee for the unexpired term of the license.

21 (2) A licensed electronic [nicotine delivery systems] **SMOKING DEVICES**
22 retailer or a licensed vape shop vendor is not allowed a refund for the unexpired term of
23 the license.

24 16.7–207.

25 (a) Subject to the hearing provisions of § 16.7–208 of this subtitle, the Comptroller
26 may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if
27 the applicant or licensee:

28 (1) fraudulently or deceptively obtains or attempts to obtain a license for
29 the applicant, licensee, or another person;

30 (2) fraudulently or deceptively uses a license;

31 (3) buys electronic [nicotine delivery systems] **SMOKING DEVICES** for
32 resale:

33 (i) in violation of a license; or

1 (ii) from a person that is not a licensed electronic [nicotine delivery
2 systems] **SMOKING DEVICES** manufacturer or a licensed electronic [nicotine delivery
3 systems] **SMOKING DEVICES** wholesaler;

4 (4) is convicted, under the laws of the United States or of any other state,
5 of:

6 (i) a felony; or

7 (ii) a misdemeanor that is a crime of moral turpitude and is directly
8 related to the fitness and qualification of the applicant or licensee;

9 (5) violates federal, State, or local law regarding the sale of electronic
10 [nicotine delivery systems] **SMOKING DEVICES**; or

11 (6) violates this title, Title 16, or Title 16.5 of this article or regulations
12 adopted under these titles.

13 (b) Subject to the hearing provisions of § 16.7–208 of this subtitle, the Comptroller
14 shall deny a license to any applicant that has had a license revoked under this section until:

15 (1) 1 year has passed since the license was revoked; and

16 (2) it satisfactorily appears to the Comptroller that the applicant will
17 comply with this title and any regulations adopted under this title.

18 (c) Prior to the issuance or renewal of any license, the Comptroller shall conduct
19 an investigation with regard to:

20 (1) the applicant;

21 (2) the business to be operated; and

22 (3) the facts set forth in the application.

23 16.7–209.

24 (e) (1) (i) Except as provided in subparagraph (ii) of this paragraph, if a
25 license issued under the provisions of this subtitle is suspended or revoked by the
26 Comptroller, the licensee may, before the effective date of the suspension or revocation,
27 petition the Comptroller for permission to make an offer of compromise consisting of a sum
28 of money in lieu of serving the suspension or revocation.

29 (ii) Subparagraph (i) of this paragraph does not apply if a license is
30 suspended or revoked for a violation of § 24–305 of the Health – General Article, or any

1 other federal, State, or local law prohibiting the sale of electronic [nicotine delivery
2 systems] **SMOKING DEVICES** to [minors] **INDIVIDUALS UNDER THE AGE OF 21 YEARS**.

3 (2) Money paid in lieu of suspension or revocation shall be paid into the
4 General Fund of the State.

5 (3) An offer of compromise may not exceed \$2,000 for retail licensees or
6 \$50,000 for other licensees.

7 (4) The Comptroller may accept the offer of compromise if:

8 (i) the public welfare and morals would not be impaired by allowing
9 the licensee to operate during the period set for the suspension or revocation; and

10 (ii) the payment of the sum of money will achieve the desired
11 disciplinary purposes.

12 (5) The Comptroller may adopt regulations to carry out this subsection.

13 16.7–211.

14 (a) A person may not act, attempt to act, or offer to act as an electronic [nicotine
15 delivery systems] **SMOKING DEVICES** manufacturer, an electronic [nicotine delivery
16 systems] **SMOKING DEVICES** retailer, an electronic [nicotine delivery systems] **SMOKING**
17 **DEVICES** wholesaler distributor, an electronic [nicotine delivery systems] **SMOKING**
18 **DEVICES** wholesaler importer, or a vape shop vendor in the State unless the person has an
19 appropriate license.

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

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

24 16.7–213.

25 (a) A person may not ship, import, or sell into or within the State any electronic
26 [nicotine delivery systems] **SMOKING DEVICES** unless the person holds any license
27 required by this subtitle.

28 (b) A person that ships, imports, or sells electronic [nicotine delivery systems]
29 **SMOKING DEVICES** into or within the State:

30 (1) shall comply with any federal and State requirements concerning the
31 placement of warning labels or other information on the containers or individual packages
32 of electronic [nicotine delivery systems] **SMOKING DEVICES**; and

1 (2) shall ensure that the containers or individual packages of electronic
2 [nicotine delivery systems] **SMOKING DEVICES** do not contain any information or
3 markings that are false, misleading, or contrary to:

4 (i) federal trademark laws; or

5 (ii) the trademark law of the State under Title 1, Subtitle 4 of this
6 article.

7 (c) A person that ships, imports, or sells electronic [nicotine delivery systems]
8 **SMOKING DEVICES** into or within the State in violation of this section is subject to
9 disciplinary action by the Comptroller under § 16.7–207 of this subtitle.

10 **16.7–213.1.**

11 (A) **THE MARYLAND DEPARTMENT OF HEALTH MAY CONDUCT**
12 **UNANNOUNCED INSPECTIONS OF LICENSED RETAILERS TO ENSURE THE LICENSEE’S**
13 **COMPLIANCE WITH THE PROVISIONS OF THIS TITLE AND § 10–107 OF THE CRIMINAL**
14 **LAW ARTICLE.**

15 (B) **THE MARYLAND DEPARTMENT OF HEALTH MAY USE AN INDIVIDUAL**
16 **UNDER THE AGE OF 21 YEARS TO ASSIST IN CONDUCTING AN INSPECTION UNDER**
17 **THIS SECTION.**

18 **Article – Criminal Law**

19 10–101.

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

21 (b) “Distribute” means to:

22 (1) give, sell, deliver, dispense, issue, or offer to give, sell, deliver, dispense,
23 or issue; or

24 (2) cause or hire a person to give, sell, deliver, dispense, issue or offer to
25 give, sell, deliver, dispense, or issue.

26 (c) (1) “Tobacco paraphernalia” means any object used, intended for use, or
27 designed for use in inhaling or otherwise introducing tobacco products into the human body.

28 (2) “Tobacco paraphernalia” includes:

29 (i) a cigarette rolling paper;

1 (ii) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe
2 with or without screen, permanent screen, or punctured metal bowl;

3 (iii) a water pipe;

4 (iv) a carburetion tube or device;

5 (v) a smoking or carburetion mask;

6 (vi) an object known as a roach clip used to hold burning material,
7 such as a cigarette that has become too small or too short to be held in the hand;

8 (vii) a chamber pipe;

9 (viii) a carburetor pipe;

10 (ix) an electric pipe;

11 (x) an air-driven pipe;

12 (xi) a chillum;

13 (xii) a bong; and

14 (xiii) an ice pipe or chiller.

15 (d) (1) "Tobacco product" means a [substance containing tobacco] **PRODUCT**
16 **THAT IS:**

17 **(I) INTENDED FOR HUMAN INHALATION, ABSORPTION,**
18 **INGESTION, SMOKING, HEATING, CHEWING, DISSOLVING, OR ANY OTHER MANNER**
19 **OF CONSUMPTION THAT IS MADE OF, DERIVED FROM, OR CONTAINS:**

20 **1. TOBACCO; OR**

21 **2. NICOTINE; OR**

22 **(II) AN ACCESSORY OR A COMPONENT USED IN ANY MANNER OF**
23 **CONSUMPTION OF A PRODUCT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.**

24 (2) "Tobacco product" includes:

25 **(I) cigarettes, cigars, [smoking tobacco,] PIPE TOBACCO,**
26 **CHEWING TOBACCO, snuff, [smokeless tobacco,] and [candy-like products that contain**
27 **tobacco] SNUS;**

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

2 **(III) FILTERS, ROLLING PAPERS, PIPES, AND LIQUIDS USED IN**
 3 **ELECTRONIC SMOKING DEVICES REGARDLESS OF NICOTINE CONTENT.**

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

7 (e) “Venereal disease” includes gonorrhea, syphilis, chancroid, and any diseased
 8 condition of the human genitalia caused by, related to, or resulting from a venereal disease.
 9 10–107.

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

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

14 (2) sent through the mail.

15 (b) (1) This subsection does not apply to the distribution of a tobacco product[,]
 16 **OR** tobacco paraphernalia[, or an electronic nicotine delivery system] to:

17 **(I)** [a minor] **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS** who
 18 is acting solely as the agent of the [minor’s] **INDIVIDUAL’S** employer if the employer
 19 distributes tobacco products[,] **OR** tobacco paraphernalia[, or electronic nicotine delivery
 20 systems] for commercial purposes; **OR**

21 **(II) A PURCHASER OR RECIPIENT WHO:**

22 **1. IS AT LEAST 18 YEARS OF AGE;**

23 **2. IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND**

24 **3. PRESENTS A VALID MILITARY IDENTIFICATION.**

25 (2) A person who distributes tobacco products for commercial purposes,
 26 including a person licensed under Title 16 of the Business Regulation Article, may not
 27 distribute to [a minor] **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS:**

28 (i) a tobacco product;

29 (ii) tobacco paraphernalia; **OR**

1 (iii) a coupon redeemable for a tobacco product[; or

2 (iv) an electronic nicotine delivery system, as defined in § 16.7–101
3 of the Business Regulation Article].

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

5 (1) purchase for or sell a tobacco product [or an electronic nicotine delivery
6 system] to [a minor] **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS, UNLESS THE**
7 **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;** or

11 (2) distribute tobacco paraphernalia to [a minor] **AN INDIVIDUAL UNDER**
12 **THE AGE OF 21 YEARS, UNLESS THE INDIVIDUAL:**

13 **(I) IS AT LEAST 18 YEARS OF AGE;**

14 **(II) IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND**

15 **(III) PRESENTS A VALID MILITARY IDENTIFICATION.**

16 (d) In a prosecution for a violation of this section, it is a defense that the defendant
17 examined the purchaser's or recipient's driver's license or other valid identification issued
18 by [an employer,] A government unit[, or institution of higher education] that positively
19 identified the purchaser or recipient as at least [18] **21** years of age **OR AS AT LEAST 18**
20 **YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY.**

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

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

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

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

1 (2) Issuance of a civil citation for the sale of a tobacco product [or an
2 electronic nicotine delivery system] to [a minor] **AN INDIVIDUAL UNDER THE AGE OF 21**
3 **YEARS** precludes a prosecution for a violation of § 24–307 of the Health – General Article
4 arising out of the same violation.

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

7 [10–108.

8 (a) In this section, “violation” has the meaning stated in § 3–8A–01 of the Courts
9 Article.

10 (b) This section does not apply to the possession of a tobacco product, cigarette
11 rolling paper, or an electronic nicotine delivery system by a minor who is acting as the agent
12 of the minor’s employer within the scope of employment.

13 (c) A minor may not:

14 (1) use or possess a tobacco product, cigarette rolling paper, or an electronic
15 nicotine delivery system; or

16 (2) obtain or attempt to obtain a tobacco product, cigarette rolling paper,
17 or an electronic nicotine delivery system by using a form of identification that:

18 (i) is falsified; or

19 (ii) identifies an individual other than the minor.

20 (d) (1) A violation of this section is a civil offense.

21 (2) A minor who violates this section is subject to the procedures and
22 dispositions provided in Title 3, Subtitle 8A of the Courts Article.

23 (e) A law enforcement officer authorized to make arrests shall issue a citation to
24 a minor if the law enforcement officer has probable cause to believe that the minor is
25 committing or has committed a violation of this section.]

26 Article – Health – General

27 13–1001.

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

29 (u) **(1)** “Tobacco product” [includes cigars, cigarettes, pipe tobacco, and
30 smokeless tobacco] **MEANS ANY PRODUCT THAT IS:**

1 **(I) INTENDED FOR HUMAN INHALATION, ABSORPTION,**
2 **INGESTION, SMOKING, HEATING, CHEWING, DISSOLVING, OR ANY OTHER MANNER**
3 **OF CONSUMPTION THAT IS MADE OF, DERIVED FROM, OR CONTAINS:**

4 **1. TOBACCO; OR**

5 **2. NICOTINE; OR**

6 **(II) AN ACCESSORY OR COMPONENT USED IN ANY MANNER OF**
7 **CONSUMPTION OF A PRODUCT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.**

8 **(2) “TOBACCO PRODUCT” INCLUDES:**

9 **(I) CIGARETTES, CIGARS, PIPE TOBACCO, CHEWING TOBACCO,**
10 **SNUFF, AND SNUS;**

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

12 **(III) FILTERS, ROLLING PAPERS, PIPES, AND LIQUIDS USED IN**
13 **ELECTRONIC SMOKING DEVICES REGARDLESS OF NICOTINE CONTENT.**

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

17 13–1015.

18 (a) For fiscal year 2011 and fiscal year 2012, the Governor shall include at least
19 \$6,000,000 in the annual budget in appropriations for activities aimed at reducing tobacco
20 use in Maryland as recommended by the Centers for Disease Control and Prevention,
21 including:

22 (1) Media campaigns aimed at reducing smoking initiation and
23 encouraging smokers to quit smoking;

24 (2) Media campaigns educating the public about the dangers of secondhand
25 smoke exposure;

26 (3) Enforcement of existing laws banning the sale or distribution of tobacco
27 products to [minors] **INDIVIDUALS UNDER THE AGE OF 21 YEARS;**

28 (4) Promotion and implementation of smoking cessation programs; and

29 (5) Implementation of school–based tobacco education programs.

1 (b) For fiscal year 2013 and each fiscal year thereafter, the Governor shall include
 2 at least \$10,000,000 in the annual budget in appropriations for the purposes described in
 3 subsection (a) of this section.

4 24–305.

5 (b) (1) Except as provided in paragraph (2) of this subsection, a person may
 6 not sell, distribute, or offer for sale to [a minor] **AN INDIVIDUAL UNDER THE AGE OF 21**
 7 **YEARS** an electronic [nicotine delivery system] **SMOKING DEVICE**, as defined in §
 8 16.7–101(c) of the Business Regulation Article.

9 (2) This subsection does not apply to ~~an~~:

10 (I) **AN** electronic [nicotine delivery system] **SMOKING DEVICE** that
 11 contains or delivers nicotine intended for human consumption if the device has been
 12 approved by the United States Food and Drug Administration for sale as a tobacco cessation
 13 product and is being marketed and sold solely for this purpose; **OR**

14 (II) **A PURCHASER OR RECIPIENT WHO:**

15 **1. IS AT LEAST 18 YEARS OF AGE;**

16 **2. IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND**

17 **3. PRESENTS A VALID MILITARY IDENTIFICATION.**

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

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

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

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

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

27 (3) **IF A VIOLATION IS COMMITTED BY A PERSON ACTING ON BEHALF**
 28 **OF A RETAILER, THE CIVIL PENALTY IMPOSED UNDER PARAGRAPH (1) OF THIS**
 29 **SUBSECTION SHALL BE PAID BY THE RETAILER.**

1 (d) In a prosecution for a violation of this section, it is a defense that the defendant
2 examined the purchaser's or recipient's driver's license or other valid identification issued
3 by [an employer,] A government unit[, or institution of higher education] that positively
4 identified the purchaser or recipient as at least [18] **21** years of age **OR AS AT LEAST 18**
5 **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 [a minor] ~~AN~~:

14 (I) **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS** who is acting
15 solely as the agent of the [minor's] **INDIVIDUAL'S** employer if the employer distributes
16 tobacco products or 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 (b) A person who distributes tobacco products for commercial purposes, including
22 a person licensed under Title 16 of the Business Regulation Article, may not distribute to
23 [a minor] **AN INDIVIDUAL UNDER THE AGE OF 21 YEARS:**

24 (1) A tobacco product;

25 (2) Tobacco paraphernalia; or

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

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

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

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

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

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

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

9 **(4) IF A VIOLATION IS COMMITTED BY A PERSON ACTING ON BEHALF**
10 **OF A RETAILER, THE CIVIL PENALTY IMPOSED UNDER PARAGRAPH (1) OF THIS**
11 **SUBSECTION SHALL BE PAID BY THE RETAILER.**

12 (d) In a prosecution for a violation of subsection (b) of this section, it is a defense
13 that the defendant examined the purchaser's or recipient's driver's license or other valid
14 identification issued by [an employer,] a governmental unit[, or an institution of higher
15 education] that positively identified the purchaser or recipient as at least [18] **21** years old
16 **OR AS AT LEAST 18 YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY.**

17 Article – Local Government

18 1–1201.

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

20 (b) “Distribute” means to:

21 (1) give, sell, deliver, dispense, or issue;

22 (2) offer to give, sell, deliver, dispense, or issue; or

23 (3) cause or hire any person to give, sell, deliver, dispense, or issue or offer
24 to give, sell, deliver, dispense, or issue.

25 (c) (1) “Tobacco product” means a product [containing tobacco] **THAT IS:**

26 **(I) INTENDED FOR HUMAN INHALATION, ABSORPTION,**
27 **INGESTION, SMOKING, HEATING, CHEWING, DISSOLVING, OR ANY OTHER MANNER**
28 **OF CONSUMPTION THAT IS MADE OF, DERIVED FROM, OR CONTAINS:**

29 **1. TOBACCO; OR**

30 **2. NICOTINE; OR**

1 (II) AN ACCESSORY OR A COMPONENT USED IN ANY MANNER OF
2 CONSUMPTION OF A PRODUCT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

3 (2) "Tobacco product" includes:

4 (I) cigarettes, cigars, [smoking tobacco,] PIPE TOBACCO,
5 CHEWING TOBACCO, snuff, and [smokeless tobacco] SNUS;

6 (II) ELECTRONIC SMOKING DEVICES; AND

7 (III) FILTERS, ROLLING PAPERS, PIPES, AND LIQUIDS USED IN
8 ELECTRONIC SMOKING DEVICES REGARDLESS OF NICOTINE CONTENT.

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

12 1-1203.

13 (a) This section applies only in:

14 (1) Carroll County;

15 (2) Cecil County;

16 (3) Garrett County; and

17 (4) St. Mary's County.

18 (c) A person may not:

19 (1) distribute a tobacco product to [a minor] AN INDIVIDUAL UNDER THE
20 AGE OF 21 YEARS, unless:

21 (I) the [minor] INDIVIDUAL is acting solely as the agent of the
22 [minor's] INDIVIDUAL'S employer who is engaged in the business of distributing tobacco
23 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

1 1. reduction of the use of tobacco products by [minors]
2 **INDIVIDUALS UNDER THE AGE OF 21 YEARS;**

3 2. implementation of the Southern Maryland Regional
4 Strategy–Action Plan for Agriculture adopted by the Tri–County Council for Southern
5 Maryland with an emphasis on alternative crop uses for agricultural land now used for
6 growing tobacco;

7 3. public and school education campaigns to decrease tobacco
8 use with initial emphasis on areas targeted by tobacco manufacturers in marketing and
9 promoting cigarette and tobacco products;

10 4. smoking cessation programs;

11 5. enforcement of the laws regarding tobacco sales;

12 6. the purposes of the Maryland Health Care Foundation
13 under Title 20, Subtitle 5 of the Health – General Article;

14 7. primary health care in rural areas of the State and areas
15 targeted by tobacco manufacturers in marketing and promoting cigarette and tobacco
16 products;

17 8. prevention, treatment, and research concerning cancer,
18 heart disease, lung disease, tobacco product use, and tobacco control, including operating
19 costs and related capital projects;

20 9. substance abuse treatment and prevention programs; and

21 10. any other public purpose.

22 (2) The provisions of this subsection may not be construed to affect the
23 Governor’s powers with respect to a request for an appropriation in the annual budget bill.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2019.