By: Prince George’s County Delegation
Introduced and read first time: February 11, 2022
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning
2 Prince George’s County – Other Tobacco Products and Electronic Smoking Devices – Requirements and Limitations
3 FOR the purpose of authorizing Prince George’s County to enact and enforce local laws that
4 regulate the sale and distribution of certain tobacco products and electronic smoking
devices; establishing, in Prince George’s County, grounds for the reprimand of
certain licensees and the denial, suspension, and revocation of certain licenses; and
generally relating to the sale and distribution of other tobacco products and
electronic smoking devices in Prince George’s County.

10 BY adding to
11 Article – Business Regulation
12 Section 16.5–104 and 16.7–103
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Business Regulation
17 Section 16.5–204, 16.5–208, 16.7–202(b), and 16.7–207
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2021 Supplement)

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

22 Article – Business Regulation

23 16.5–104.

24 PRINCE GEORGE’S COUNTY MAY ENACT AND ENFORCE LOCAL LAWS THAT

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
HOUSE BILL 1341

REGULATE THE SALE AND DISTRIBUTION OF OTHER TOBACCO PRODUCTS, INCLUDING LAWS THAT:

(1) LIMIT THE NUMBER OF OTHER TOBACCO PRODUCTS RETAILER LICENSES ISSUED IN PRINCE GEORGE’S COUNTY;

(2) ESTABLISH REQUIREMENTS FOR OTHER TOBACCO PRODUCTS RETAILER LICENSE APPLICANTS OR LICENSEES IN PRINCE GEORGE’S COUNTY; AND

(3) PROHIBIT THE OPERATION OF OTHER TOBACCO PRODUCTS BUSINESSES IN DESIGNATED GEOGRAPHIC AREAS, INCLUDING THROUGH THE USE OF DENSITY ZONE RESTRICTIONS.

16.5–204.

(a) The Executive Director shall issue an appropriate license to each applicant who meets the requirements of this subtitle for a license to act as a licensed other tobacco products manufacturer, other tobacco products storage warehouse, or other tobacco products wholesaler.

(b) (1) The clerk of the circuit court shall issue to each applicant who meets the requirements of this subtitle a license to act as an other tobacco products retailer or a tobacconist.

(2) (I) THIS PARAGRAPH APPLIES TO OTHER TOBACCO PRODUCTS RETAILER LICENSE APPLICANTS IN PRINCE GEORGE’S COUNTY.

(II) THE CLERK OF THE CIRCUIT COURT SHALL DENY A LICENSE TO AN APPLICANT IF THE APPLICANT:

1. ACTS OR SEEKS TO ACT AS AN OTHER TOBACCO PRODUCTS RETAILER AT A LOCATION THAT IS WITHIN 1,500 FEET OF A PUBLIC OR PRIVATE PRIMARY OR SECONDARY SCHOOL;

2. ACTS OR SEEKS TO ACT AS AN OTHER TOBACCO PRODUCTS RETAILER AT A LOCATION IN A CENSUS TRACT THAT HAS AN AVERAGE OF THREE OR MORE EXISTING LICENSED PREMISES WITH AN OTHER TOBACCO PRODUCTS RETAILER LICENSE PER SQUARE MILE;

3. IS DELINQUENT IN THE PAYMENT OF STATE TAXES;

OR

4. DOES NOT MEET ANY OTHER REQUIREMENT ESTABLISHED BY PRINCE GEORGE’S COUNTY FOR OTHER TOBACCO PRODUCTS
HOUSE BILL 1341

RETAILER APPLICANTS OR LICENSEES.

16.5–208.

(a) Subject to the hearing provisions of § 16.5–209 of this subtitle, the Executive Director may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

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

(2) fraudulently or deceptively uses a license;

(3) buys other tobacco products for resale:

(i) in violation of a license; or

(ii) from a person who is not an other tobacco products manufacturer or licensed other tobacco products wholesaler;

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

(i) a felony; or

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

(5) violates Title 12 of the Tax – General Article or regulations adopted under that title; or

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

(B) (1) This subsection applies to other tobacco products retailer license applicants or licensees in Prince George’s County.

(2) Subject to the hearing provisions of § 16.5–209 of this subtitle, the Executive Director may deny a license to any applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(i) acts or seeks to act as an other tobacco products retailer at a location that is within 1,500 feet of a public or private primary or secondary school;
(II) Acts or seeks to act as an other tobacco products retailer at a location in a census tract that has an average of three or more existing licensed premises with an other tobacco products retailer license per square mile;

(III) Is delinquent in the payment of state taxes; or

(IV) Does not meet any other requirement established by Prince George’s County for other tobacco products retailer applicants or licensees.

[(b)] (C) Subject to the hearing provisions of § 16.5–209 of this subtitle, the Executive Director shall deny a license to any applicant who has had a license revoked under this section until:

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

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

[(c)] (D) Prior to the issuance or renewal of any license, the Executive Director shall conduct an investigation with regard to:

(1) the applicant;

(2) the business to be operated; and

(3) the facts set forth in the application.

16.7–103.

Prince George’s County may enact and enforce local laws that regulate the sale and distribution of electronic smoking devices, including laws that:

(1) Limit the number of electronic smoking devices retailer and vape shop vendor licenses issued in Prince George’s County;

(2) Establish requirements for electronic smoking devices retailer or vape shop vendor license applicants or licensees in Prince George’s County; and

(3) Prohibit the operation of electronic smoking devices or vape shop vendor businesses in designated geographic areas, including through the use of density zone restrictions.
(b) (1) An applicant for a license to act as an electronic smoking devices retailer or a vape shop vendor:

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

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

(2) The application shall:

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

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

(3) (I) THIS PARAGRAPH APPLIES TO ELECTRONIC SMOKING DEVICES RETAILER AND VAPE SHOP VENDOR LICENSE APPLICANTS IN PRINCE GEORGE’S COUNTY.

(II) THE CLERK OF THE CIRCUIT COURT SHALL DENY A LICENSE TO ANY APPLICANT IF THE APPLICANT:

1. ACTS OR SEeks TO ACT AS AN ELECTRONIC SMOKING DEVICES RETAILER OR A VAPE SHOP VENDOR AT A LOCATION THAT IS WITHIN 1,500 FEET OF A PUBLIC OR PRIVATE PRIMARY OR SECONDARY SCHOOL;

2. ACTS OR SEeks TO ACT AS AN ELECTRONIC SMOKING DEVICES RETAILER OR A VAPE SHOP VENDOR AT A LOCATION IN A CENSUS TRACT THAT HAS AN AVERAGE OF THREE OF MORE EXISTING LICENSED PREMISES WITH AN ELECTRONIC SMOKING DEVICES RETAILER OR VAPE SHOP VENDOR LICENSE PER SQUARE MILE;

3. IS DELINQUENT IN THE PAYMENT OF STATE TAXES;

OR

4. DOES NOT MEET ANY OTHER REQUIREMENT ESTABLISHED BY PRINCE GEORGE’S COUNTY FOR ELECTRONIC SMOKING DEVICES RETAILER OR VAPE SHOP VENDOR LICENSE APPLICANTS OR LICENSEES.
(a) Subject to the hearing provisions of § 16.7–208 of this subtitle, the Executive Director may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

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

(2) fraudulently or deceptively uses a license;

(3) buys electronic smoking devices for resale:
   (i) in violation of a license; or
   (ii) from a person that is not a licensed electronic smoking devices manufacturer or a licensed electronic smoking devices wholesaler;

(4) is convicted, under the laws of the United States or of any other state, of:
   (i) a felony; or
   (ii) a misdemeanor that is a crime of moral turpitude and is directly related to the fitness and qualification of the applicant or licensee;

(5) violates federal, State, or local law regarding the sale of electronic smoking devices; or

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

(B) (1) THIS SUBSECTION APPLIES TO ELECTRONIC SMOKING DEVICES RETAILER LICENSE APPLICANTS OR LICENSEES IN PRINCE GEORGE’S COUNTY.

(2) SUBJECT TO THE HEARING PROVISIONS OF § 16.7–208 OF THIS SUBTITLE, THE EXECUTIVE DIRECTOR MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

(I) ACTS OR SEeks TO ACT AS AN ELECTRONIC SMOKING DEVICES RETAILER AT A LOCATION THAT IS WITHIN 1,500 FEET OF A PUBLIC OR PRIVATE PRIMARY OR SECONDARY SCHOOL;

(II) ACTS OR SEeks TO ACT AS AN ELECTRONIC SMOKING DEVICES RETAILER OR A VAPE SHOP VENDOR AT A LOCATION IN A CENSUS TRACT THAT HAS AN AVERAGE OF THREE OR MORE EXISTING LICENSED PREMISES WITH AN ELECTRONIC SMOKING DEVICES RETAILER OR VAPE SHOP VENDOR LICENSE PER
SQUARE MILE;

(III) IS DELINQUENT IN THE PAYMENT OF STATE TAXES; OR

(IV) DOES NOT MEET ANY OTHER REQUIREMENT ESTABLISHED BY PRINCE GEORGE’S COUNTY FOR ELECTRONIC SMOKING DEVICES RETAILER OR VAPE SHOP VENDOR LICENSE APPLICANTS OR LICENSEES.

[(b)] (C) Subject to the hearing provisions of § 16.7–208 of this subtitle, the Executive Director shall deny a license to any applicant that has had a license revoked under this section until:

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

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

[(c)] (D) Prior to the issuance or renewal of any license, the Executive Director shall conduct an investigation with regard to:

(1) the applicant;

(2) the business to be operated; and

(3) the facts set forth in the application.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.