

HB1180/143926/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 1180
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 10, after “cigarettes” insert “or tobacco products”; in the same line, after “retail,” insert “repealing certain exceptions that authorize the sale, distribution, or purchase of tobacco products, tobacco paraphernalia, and electronic smoking devices to or for individuals under a certain age who are active duty military members;”; in line 11, strike “at least two” and substitute “certain”; strike beginning with “repealing” in line 12 down through “license;” in line 13; in line 14, strike “exclusively”; strike beginning with “requiring” in line 15 down through “devices;” in line 17; strike beginning with “prohibiting” in line 20 down through “devices;” in line 22; in line 23, after “Health” insert “, the Comptroller, and the State Department of Education”; in line 28, strike the second “and” and substitute a comma; and in the same line, after “(l)” insert “, 16.7–203, 16.7–206, and 16.7–211”.

On page 2, in line 8, strike “16.7-102, 16.7–201”; in line 9, strike “16.7–203,”; in the same line, strike “16.7–206, 16.7–211,”; after line 16, insert:

“BY repealing and reenacting, with amendments,

Article – Health – General

Section 24-305 and 24-307

Annotated Code of Maryland

(2023 Replacement Volume)”;

and strike in their entirety lines 17 through 26, inclusive.

AMENDMENT NO. 2

On page 3, strike beginning with the colon in line 12 down through “**(I)**” in line 13; strike beginning with “; **OR**” in line 13 down through “**IDENTIFICATION**” in line 16;

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in line 17, strike “A” and substitute “SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A”; and after line 21, insert:

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

On page 4, in line 4, strike “and”; in line 5, strike “\$100” and substitute “IN MONTGOMERY COUNTY, \$275”; in line 6, strike the second “or” and substitute a comma; in the same line, after “products” insert “, OR ELECTRONIC SMOKING DEVICES, AS DEFINED IN § 16.7-101 OF THIS ARTICLE,”; in line 7, after “years” insert “; AND”

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

in line 12, strike “The” and substitute “**(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**”; in the same line, after “Health” insert “OR ITS DESIGNEE”; in the same line, strike “TWO” and substitute “ONE”; in line 13, strike “inspections” and substitute “INSPECTION”; after line 14, insert:

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

in line 15, after “Health” insert “OR ITS DESIGNEE”; and after line 16, insert:

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

On page 5, in line 16, after “(A)” insert “**(1) THIS SUBSECTION DOES NOT APPLY TO:**

(I) A LICENSED TOBACCONIST; OR

(II) THE SALE OF PREMIUM CIGARS.

(2)”;

in line 22, strike “CIGARETTES” and substitute “**OTHER TOBACCO PRODUCTS**”; strike beginning with the colon in line 24 down through “(I)” in line 25; and strike beginning with “; OR” in line 25 down through “IDENTIFICATION” in line 28.

On page 6, in line 1, strike “A” and substitute “**EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A**”; after line 6, insert:

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

in line 8, strike “The” and substitute “**(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**”; in the same line, after “Health” insert “**OR ITS DESIGNEE**”; in the same line, strike “TWO” and substitute “**ONE**”; in line 9, strike “inspections” and substitute “**INSPECTION**”; after line 10, insert:

(Over)

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

in line 11, after “Health” insert “OR ITS DESIGNEE”; and after line 12, insert:

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

On page 7, in lines 4, 8, 9, 12, 14, 15, 20, 21, and 29, in each instance, strike the bracket; and in lines 12, 21, and 29, strike “(II)”, “(E)”, and “(F)”, respectively.

On page 8, in lines 6, 14, 16, 17, 19, and 23, in each instance, strike the bracket; in line 4, strike the first set of brackets; in lines 4, 6, 17, 19, and 23, strike “(G)”, “(H)”, “(I)”, “(J)”, and “(K)”, respectively; and in line 21, strike “EXCLUSIVELY”.

On page 9, strike in their entirety lines 1 through 21, inclusive.

On page 10, in lines 6, 7, and 27, in each instance, strike the bracket; in line 12, strike “\$25” and substitute “\$300”; and after line 15, insert:

“(3) (I) FROM EACH LICENSE FEE COLLECTED UNDER THIS SUBSECTION, THE CLERK SHALL DISTRIBUTE:

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

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

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

On page 11, in lines 8, 12, 14, 15, 19, 20, 29, and 30, in each instance, strike the bracket; and in line 30, strike “(B)”.

On page 12, in lines 1, 2, 9, and 19, in each instance, strike the bracket; in line 9, strike “(C)”; in line 19, before “VAPE” insert “OR”; strike beginning with “without” in line 21 down through “identification” in line 22; in lines 25 and 26, in each instance, before “VAPE” insert “RETAIL LICENSEE OR”; in line 25, strike “CIGARETTES” and substitute “ELECTRONIC SMOKING DEVICES”; and strike beginning with the colon in line 27 down through “(I)” in line 28.

On pages 12 and 13, strike beginning with “; OR” in line 28 on page 12 down through “IDENTIFICATION” in line 2 on page 13.

On page 13, in line 3, strike “A” and substitute “EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A LICENSED RETAILER OR”; after line 7, insert:

“(3) A LICENSED RETAILER OR VAPE SHOP VENDOR IS NOT REQUIRED TO VERIFY THE AGE OF AN INDIVIDUAL AT LEAST 30 YEARS OLD.”;

(Over)

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in lines 9, 11, and 12, in each instance, before “VAPE” insert “RETAILER OR”; and in lines 14 and 32, in each instance, strike the brackets.

On page 14, in lines 3 and 12, in each instance, strike the brackets; in line 11, strike “The” and substitute “(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE”; in the same line, after “Health” insert “OR ITS DESIGNEE”; in the same line, strike “TWO” and substitute “ONE”; in line 12, strike “inspections” and substitute “INSPECTION”; in the same line, before “VAPE” insert “OR”; after line 14, insert:

“(2) IF A LICENSED RETAILER OR VAPE SHOP VENDOR VIOLATES ANY PROVISION OF THIS TITLE OR § 10-107 OF THE CRIMINAL LAW ARTICLE, THE MARYLAND DEPARTMENT OF HEALTH SHALL CONDUCT AN ADDITIONAL UNANNOUNCED INSPECTION WITHIN 180 DAYS AFTER THE INITIAL INSPECTION.”;

in line 15, after “Health” insert “OR ITS DESIGNEE”; after line 16, insert:

“(C) TO DETERMINE THE LOCATION OF A LICENSED RETAILER OR VAPE SHOP VENDOR SUBJECT TO AN UNANNOUNCED INSPECTION, THE MARYLAND DEPARTMENT OF HEALTH OR ITS DESIGNEE SHALL USE THE LIST OF LICENSED RETAILERS OR VAPE SHOP VENDORS AS OF DECEMBER 31 OF THE PREVIOUS CALENDAR YEAR.”;

and strike beginning with the colon in line 25 down through “(i)” in line 26.

On pages 14 and 15, strike beginning with “; or” in line 28 on page 14 down through “identification” in line 1 on page 15.

On page 15, in line 4, after “Article,” insert “PERSONALLY OR THROUGH AN EMPLOYEE,”; strike beginning with “, unless” in line 10 down through “identification”

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in line 13; strike beginning with “, unless” in line 15 down through “identification” in line 18; and strike beginning with the second “or” in line 22 down through “military” in line 23.

On page 16, after line 12, insert:

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

in line 13, strike “(3)” and substitute “(4)”; and after line 17, insert:

“Article – Health – General

24–305.

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

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

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

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

(Over)

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

(2) This subsection does not apply to[:

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

(ii) A purchaser or recipient who:

1. Is at least 18 years of age;
2. Is an active duty member of the military; and
3. Presents a valid military identification].

(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A PERSON MAY VERIFY AN INDIVIDUAL'S AGE ONLY:

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

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

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

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

(i) \$300 for a first violation;

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

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

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

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

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

(e) (1) In this subsection, "designee" means a retired sworn law enforcement officer employed by THE DEPARTMENT OR a county health officer or an

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employee of THE DEPARTMENT OR a local health department trained in civil enforcement.

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

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

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

(ii) The nature of the violation;

(iii) The location and time of the violation;

(iv) The amount of the civil penalty;

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

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

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

1. Is an admission of liability; and

2. May result in entry of a default judgment that may include the civil penalty, court costs, and administrative expenses.

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(4) The [sworn law enforcement officer] **SECRETARY, SECRETARY'S DESIGNEE**, county health officer, or **COUNTY HEALTH OFFICER'S** designee shall retain a copy of the citation issued under this section.

(5) (i) 1. A person who receives a citation from **THE SECRETARY, THE SECRETARY'S DESIGNEE**, a county health officer, or **A COUNTY HEALTH OFFICER'S** designee under this section may elect to stand trial for the violation by filing a notice of intention to stand trial with the county health officer or designee at least 5 days before the date set in the citation for the payment of the civil penalty.

2. After receiving a notice of intention to stand trial under subparagraph 1 of this subparagraph, the **SECRETARY, SECRETARY'S DESIGNEE**, county health officer, or **COUNTY HEALTH OFFICER'S** designee shall forward the notice and a copy of the citation to the District Court.

(ii) A person who receives a citation from a sworn law enforcement officer under this section may elect to stand trial for the violation by filing a notice of intention to stand trial and a copy of the citation with the District Court at least 5 days before the date set in the citation for payment of the civil penalty.

(6) (i) After receiving a citation and notice under this section, the District Court shall schedule the case for trial and notify the defendant of the trial date.

(ii) In a proceeding before the District Court, a violation of this section shall be prosecuted in the same manner and to the same extent as a municipal infraction under §§ 6–108 through 6–115 of the Local Government Article.

(7) The District Court shall remit any penalties collected for a violation of this section to the county in which the violation occurred.

(Over)

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(8) Adjudication of a violation of this section is not a criminal conviction for any purpose.

24-307.

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

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

(ii) Sent through the mail.

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

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

(ii) A purchaser or recipient who:

1. Is at least 18 years of age;

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

3. Presents a valid military identification].

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

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

[(1)] 1. A tobacco product;

[(2)] 2. Tobacco paraphernalia; or

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

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

(III) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, SELL TOBACCO PRODUCTS UNLESS THE PERSON VERIFIES THAT THE INDIVIDUAL IS AT LEAST 21 YEARS OLD.

(3) A PERSON WHO DISTRIBUTES TOBACCO PRODUCTS MAY VERIFY AN INDIVIDUAL'S AGE ONLY:

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

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

(Over)

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

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

(i) \$300 for a first violation;

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

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

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

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

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

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

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

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

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

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

(ii) The nature of the violation;

(iii) The location and time of the violation;

(iv) The amount of the civil penalty;

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

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

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

1. Is an admission of liability; and

2. May result in entry of a default judgment that may include the civil penalty, court costs, and administrative expenses.

(Over)

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(4) The **SECRETARY, SECRETARY'S DESIGNEE**, county health officer, or designee shall retain a copy of the citation issued under this subsection.

(5) (i) A person who receives a citation from **THE SECRETARY, THE SECRETARY'S DESIGNEE**, a county health officer, or designee under this subsection may elect to stand trial for the violation by filing a notice of intention to stand trial with the county health officer or designee at least 5 days before the date set in the citation for the payment of the civil penalty.

(ii) After receiving a notice of intention to stand trial under subparagraph (i) of this paragraph, the county health officer or designee shall forward the notice and a copy of the citation to the District Court.

(6) (i) After receiving a citation and notice under this subsection, the District Court shall schedule the case for trial and notify the defendant of the trial date.

(ii) In a proceeding before the District Court, a violation of subsection (b) of this section shall be handled in the same manner as a municipal infraction under §§ 6–108 through 6–115 of the Local Government Article.

(7) The District Court shall remit any penalties collected for a violation of subsection (b) of this section to the county in which the violation occurred.

(8) Adjudication of a violation of subsection (b) of this section is not a criminal conviction for any purpose.

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

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

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

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

On pages 16 and 17, strike in their entirety the lines beginning with line 18 on page 16 through line 9 on page 17, inclusive.

On page 17, strike beginning with “December” in line 10 down through “2024” in line 11 and substitute “October 1, 2025”; and in line 12, after “Health,” insert “the Comptroller, and the State Department of Education.”.