

Chapter 305

(Senate Bill 842)

AN ACT concerning

**~~Other Tobacco Products and Electronic Smoking Devices – Seizure and~~
Wholesaler License Record-Keeping Requirements**

FOR the purpose of authorizing the Executive Director of the Alcohol, Tobacco, and Cannabis Commission ~~or a peace officer~~ to seize ~~other tobacco products and~~ electronic smoking devices that are sold or offered for sale in violation of certain provisions of law without a warrant; establishing procedures for the return ~~and destruction~~ of certain property seized by the Executive Director ~~or a peace officer~~; establishing ~~an electronic smoking devices wholesaler license and~~ certain record-keeping requirements for electronic smoking devices ~~wholesalers~~ wholesaler distributors and wholesaler importers; and generally relating to ~~other tobacco products and~~ electronic smoking devices.

BY renumbering

Article – Business Regulation
 Section 16.7–213.1
 to be Section 16.7–213.2
 Annotated Code of Maryland
 (2024 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Business Regulation
Section 16.7–101(a) and (f) through (h)
Annotated Code of Maryland
(2024 Replacement Volume)

BY adding to

Article – Business Regulation
 Section ~~16.5–217.2, 16.7–101(f),~~ 16.7–213.1, ~~and~~ 16.7–213.3, and 16.7–213.4
 Annotated Code of Maryland
 (2024 Replacement Volume)

~~BY repealing and reenacting, without amendments,~~

~~Article – Business Regulation~~
~~Section 16.7–101(a)~~
~~Annotated Code of Maryland~~
~~(2024 Replacement Volume)~~

BY repealing and reenacting, with amendments,

Article – Business Regulation

~~Section 16.7-101(d) and (f) through (l), 16.7-201, 16.7-202(a), 16.7-203(a), 16.7-204, 16.7-206, and 16.7-211(a) 16.7-203(a) and 16.7-204(a)~~

Annotated Code of Maryland
(2024 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16.7-213.1 of Article – Business Regulation of the Annotated Code of Maryland be renumbered to be Section(s) 16.7-213.2.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Business Regulation

~~16.5-217.2.~~

~~(A) THE EXECUTIVE DIRECTOR OR A PEACE OFFICER MAY SEIZE OTHER TOBACCO PRODUCTS THAT ARE SOLD OR OFFERED FOR SALE IN THE STATE IN VIOLATION OF THIS TITLE WITHOUT A WARRANT.~~

~~(B) (1) THE EXECUTIVE DIRECTOR OR PEACE OFFICER SHALL GIVE NOTICE OF A SEIZURE TO THE PERSON FROM WHOM THE PROPERTY IS SEIZED AT THE TIME OF SEIZURE.~~

~~(2) A NOTICE OF SEIZURE SHALL STATE THE RIGHT OF THE OWNER OR OTHER INTERESTED PERSON TO FILE A CLAIM FOR RETURN OF THE SEIZED PROPERTY.~~

~~(C) A PEACE OFFICER WHO SEIZES OTHER TOBACCO PRODUCTS UNDER SUBSECTION (A) OF THIS SECTION SHALL DELIVER THE SEIZED OTHER TOBACCO PRODUCTS TO THE EXECUTIVE DIRECTOR OR TAKE IT TO A LOCATION DESIGNATED BY THE EXECUTIVE DIRECTOR.~~

~~(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE OWNER OR ANOTHER INTERESTED PERSON MAY FILE A CLAIM FOR RETURN OF THE PROPERTY WITH THE EXECUTIVE DIRECTOR WITHIN 30 DAYS AFTER THE SEIZURE OF THE PROPERTY.~~

~~(2) A PERSON FORFEITS ANY INTEREST IN, RIGHT TO, OR TITLE TO THE OTHER TOBACCO PRODUCTS SEIZED FOR VIOLATION OF THIS TITLE IF THE PERSON FAILS TO TIMELY FILE A CLAIM FOR RETURN OF THE SEIZED PROPERTY WITHIN THE TIME ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(E) SUBJECT TO SUBSECTION (F) OF THIS SECTION, IF A PERSON FILES A CLAIM FOR THE RETURN OF PROPERTY SEIZED UNDER SUBSECTION (A) OF THIS SECTION, THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL:~~

~~(1) PROMPTLY ACT ON THE CLAIM AND HOLD AN INFORMAL HEARING;
AND~~

~~(2) UNLESS THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE HAS SATISFACTORY EVIDENCE THAT THE OWNER OR PERSON WAS NOT IN COMPLIANCE WITH ANY PROVISION OF THIS TITLE AT THE TIME OF SEIZURE, DIRECT RETURN OF THE SEIZED PROPERTY.~~

~~(F) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL GRANT OR DENY THE CLAIM FOR RETURN OF SEIZED OTHER TOBACCO PRODUCTS BY MAILING THE OWNER OR PERSON A NOTICE OF FINAL DETERMINATION.~~

~~(G) A PERSON WHO POSSESSED OR OFFERED FOR SALE OTHER TOBACCO PRODUCTS THAT ARE SEIZED UNDER THIS SECTION IS NOT RELIEVED FROM RESPONSIBILITY FOR:~~

~~(1) ANY PENALTY UNDER THIS TITLE OR TITLE 16 OR TITLE 16.7 OF THIS ARTICLE; OR~~

~~(2) REIMBURSEMENT OF THE COSTS OF TRANSPORTATION, STORAGE, OR DISPOSAL OF THE SEIZED PROPERTY.~~

~~(H) (1) OTHER TOBACCO PRODUCTS SEIZED BY THE STATE UNDER THIS TITLE SHALL BE TRANSPORTED, STORED, AND DESTROYED IN COMPLIANCE WITH APPLICABLE LOCAL, STATE, AND FEDERAL LAW.~~

~~(2) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL KEEP A RECORD OF ALL PROPERTY DESTROYED UNDER THIS SUBSECTION THAT INCLUDES A DESCRIPTION OF:~~

~~(I) THE NATURE OF THE PROPERTY;~~

~~(II) THE QUANTITY OF THE PROPERTY;~~

~~(III) THE REASON FOR THE SEIZURE OF THE PROPERTY; AND~~

~~(IV) THE MANNER OF DESTRUCTION.~~

~~(3) (i) THE EXECUTIVE DIRECTOR MAY IMPOSE AND COLLECT COSTS SUFFICIENT TO COVER TRANSPORTATION, STORAGE, AND DISPOSAL OF OTHER TOBACCO PRODUCTS SEIZED BY THE STATE UNDER THIS SECTION.~~

~~(ii) FAILURE TO PAY COSTS UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH SHALL BE CONSIDERED GROUNDS FOR DENIAL OR REVOCATION OF A LICENSE UNDER THIS TITLE.~~

~~(4) (i) THE EXECUTIVE DIRECTOR MAY RECOVER, IN AN ACTION BROUGHT UNDER THIS SECTION, REASONABLE EXPENSES INCURRED IN INVESTIGATING AND PREPARING THE CASE, INCLUDING ATTORNEY'S FEES.~~

~~(ii) FAILURE TO PAY EXPENSES UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH SHALL BE CONSIDERED GROUNDS FOR DENIAL OR REVOCATION OF A LICENSE UNDER THIS TITLE.~~

~~(5) (i) THE EXECUTIVE DIRECTOR SHALL POST A NOTICE OF EACH SEIZURE AND FORFEITURE ON THE COMMISSION'S WEBSITE FOR A PERIOD OF NOT LESS THAN 1 YEAR AFTER THE NOTICE OF SEIZURE UNDER SUBSECTION (b) OF THIS SECTION.~~

~~(ii) NOTICE UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH SHALL INCLUDE:~~

- ~~1. A DESCRIPTION OF THE PROPERTY SEIZED;~~
- ~~2. THE REASON FOR THE SEIZURE; AND~~
- ~~3. THE TIME AND PLACE OF THE SEIZURE.~~

16.7-101.

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

~~(d) "Electronic smoking devices manufacturer" means a person that:~~

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

~~(2) (i) sells electronic smoking devices to a consumer, if the consumer purchases or orders the devices through the mail, a computer network, a telephonic network, or another electronic network, A LICENSED ELECTRONIC SMOKING DEVICES~~

~~WHOLESALE~~~~R~~, a licensed electronic smoking devices wholesaler distributor, or a licensed electronic smoking devices wholesaler importer in the State;

~~(ii) if the electronic smoking devices manufacturer also holds a license to act as an electronic smoking devices retailer or a vape shop vendor, sells electronic smoking devices in the same manner as a vape shop vendor to consumers located in the State; or~~

~~(iii) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample electronic smoking devices to a licensed electronic smoking devices retailer or vape shop vendor.~~

~~(F) “ELECTRONIC SMOKING DEVICES WHOLESALER” MEANS A PERSON THAT:~~

~~(1) HOLDS ELECTRONIC SMOKING DEVICES FOR SALE TO ANOTHER PERSON FOR RESALE; OR~~

~~(2) SELLS ELECTRONIC SMOKING DEVICES TO ANOTHER PERSON FOR RESALE.~~

~~[(f)] (G)~~ “Electronic smoking devices wholesaler distributor” means a person that:

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

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

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

~~[(g)] (H)~~ “Electronic smoking devices wholesaler importer” means a person that:

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

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

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

~~[(h)] (I)~~ “Executive Director” means the Executive Director of the Alcohol, Tobacco, and Cannabis Commission.

~~[(i)] (J)~~ “~~License~~” means:

~~(1) a license issued by the Executive Director under § 16.7-203(a) of this title to:~~

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

~~(II) ACT AS A LICENSED ELECTRONIC SMOKING DEVICES WHOLESALE;~~

~~[(ii)] (III) act as a licensed electronic smoking devices wholesaler distributor; or~~

~~[(iii)] (IV) act as a licensed electronic smoking devices wholesaler importer; or~~

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

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

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

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

~~[(k)] (L) “Vape shop vendor” means an electronic smoking devices business that sells electronic smoking devices and related accessories to consumers on the premises of its place of business.~~

~~[(l)] (M) “Vaping liquid” means a liquid that:~~

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

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

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

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

~~16.7-201.~~

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

- ~~(1) an electronic smoking devices manufacturer;~~
- ~~(2) an electronic smoking devices retailer;~~
- ~~(3) AN ELECTRONIC SMOKING DEVICES WHOLESALER;~~
- ~~[(3)] (4) an electronic smoking devices wholesaler distributor;~~
- ~~[(4)] (5) an electronic smoking devices wholesaler importer; or~~
- ~~[(5)] (6) a vape shop vendor.~~

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

~~16.7-202.~~

~~(a) (1) An applicant for a license to act as an electronic smoking devices manufacturer, ELECTRONIC SMOKING DEVICES WHOLESALER, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer shall:~~

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

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

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

~~(2) An applicant for a license to act as an ELECTRONIC SMOKING DEVICES WHOLESALER, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer shall pay to the Executive Director a fee of \$150.~~

~~16.7-203.~~

~~(a) The Executive Director shall issue an appropriate license to each applicant that meets the requirements of this subtitle for a license to act as an electronic smoking devices manufacturer, ELECTRONIC SMOKING DEVICES WHOLESALER, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer.~~

~~16.7-204.~~

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

- (1) sell electronic smoking devices to:
- (i) a licensed electronic smoking devices wholesaler located in the State;
 - (ii) an electronic smoking devices wholesaler or retailer located outside the State if the electronic smoking devices may be sold lawfully in Maryland; AND
 - (iii) a licensed vape shop vendor; and
 - (iv) a consumer if:
 - 1. the licensee manufactured the devices; and
 - 2. the consumer purchases or orders the devices through the mail, a computer network, a telephonic network, or another electronic network;]
- (2) if the electronic smoking devices manufacturer licensee also holds a license to act as an electronic smoking devices retailer or a vape shop vendor, transfer electronic smoking devices to inventory for sale under the retail license or vape shop license; and
- (3) except as otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distribute electronic smoking devices products to a licensed electronic smoking devices retailer or vape shop vendor.

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

- ~~(1) sell electronic smoking devices to consumers;~~
- ~~(2) buy electronic smoking devices from an **ELECTRONIC SMOKING DEVICES WHOLESALER**, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer;~~
- ~~(3) if the electronic smoking devices retailer licensee also holds a license to act as an electronic smoking devices manufacturer, sell at retail electronic smoking devices manufactured under the manufacturer license; and~~
- ~~(4) except as otherwise prohibited or restricted under local law, this article, the Criminal Law Article, or § 24-305 of the Health General Article, distribute sample electronic smoking devices products to consumers in the State.~~

~~(c) An **ELECTRONIC SMOKING DEVICES WHOLESALER LICENSE**, electronic smoking devices wholesaler distributor license, or electronic smoking devices wholesaler importer license authorizes the licensee to:~~

~~(1) sell electronic smoking devices to electronic smoking devices retailers and vape shop vendors;~~

~~(2) buy electronic smoking devices directly from an electronic smoking devices manufacturer and an **ELECTRONIC SMOKING DEVICES WHOLESALER**, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer;~~

~~(3) hold electronic smoking devices; and~~

~~(4) sell electronic smoking devices to another licensed **ELECTRONIC SMOKING DEVICES WHOLESALER**, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer.~~

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

~~(1) sell electronic smoking devices as a vape shop vendor to consumers on the premises of the licensee's place of business;~~

~~(2) if the vape shop vendor licensee also holds a license to act as an electronic smoking devices manufacturer, sell at retail on the vape shop vendor premises electronic smoking devices manufactured under the manufacturer license; and~~

~~(3) buy electronic smoking devices from an electronic smoking devices manufacturer, **AN ELECTRONIC SMOKING DEVICES WHOLESALER**, an electronic smoking devices wholesaler distributor, or an electronic smoking devices wholesaler importer.~~

~~16.7-206.~~

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

~~(2) If a licensed **ELECTRONIC SMOKING DEVICES WHOLESALER**, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer sells the licensee's electronic smoking devices business and pays to the Executive Director a license assignment fee of \$10, the licensee may assign the license to the buyer of the business if the buyer otherwise qualifies under this title for an electronic smoking devices wholesaler's distributor or importer license.~~

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

~~(e) (1) If a licensed **ELECTRONIC SMOKING DEVICES WHOLESALER**, electronic smoking devices wholesaler distributor, or electronic smoking devices wholesaler importer surrenders the license to the Executive Director and if no disciplinary proceedings are pending against the licensee, the Executive Director shall refund a pro rata portion of the license fee for the unexpired term of the license.~~

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

~~16.7-211.~~

~~(a) A person may not act, attempt to act, or offer to act as an electronic smoking devices manufacturer, an electronic smoking devices retailer, **AN ELECTRONIC SMOKING DEVICES WHOLESALER**, an electronic smoking devices wholesaler distributor, an electronic smoking devices wholesaler importer, or a vape shop vendor in the State unless the person has an appropriate license.~~

~~16.7-213.1.~~

(A) EACH ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR AND ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER SHALL:

(1) RECEIVE AN INVOICE FOR EACH PURCHASE OF ELECTRONIC SMOKING DEVICES;

(2) KEEP A RECORD OF ALL ELECTRONIC SMOKING DEVICES RECEIVED, TO WHICH THE ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR OR ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER SHALL POST EACH DAY:

(I) THE INVOICE NUMBER;

(II) THE DATE OF RECEIPT;

(III) THE QUANTITY RECEIVED;

(IV) THE BRAND;

(V) THE MANUFACTURER; AND

(VI) THE NAME OF THE PERSON FROM WHOM THE ELECTRONIC SMOKING DEVICES ARE RECEIVED;

(3) (I) KEEP A RECORD OF THE NAME AND ADDRESS OF EACH ELECTRONIC SMOKING DEVICES RETAILER TO WHICH A SALE IS MADE; AND

(II) PREPARE FOR EACH SALE OF ELECTRONIC SMOKING DEVICES TO A RETAILER AN INVOICE THAT SHOWS THE POLITICAL SUBDIVISION WHERE THE RETAILER IS LOCATED; AND

(4) KEEP A COMPLETE AND ACCURATE RECORD OF EACH SALE OF ELECTRONIC SMOKING DEVICES TO AN OUT-OF-STATE PERSON FOR RESALE TO OUT-OF-STATE CONSUMERS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR AND ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER SHALL MAKE AN INVENTORY RECORD EACH MONTH OF ALL ELECTRONIC SMOKING DEVICES ON THE PREMISES OR UNDER THE CONTROL OF THE ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR OR ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER:

(I) AT THE BEGINNING OR END OF THE MONTH; OR

(II) ON ANOTHER SPECIFIC DAY OF THE MONTH, IF THE ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR OR ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER FINDS IT MORE PRACTICABLE TO TAKE INVENTORY ON THAT DAY.

(2) ELECTRONIC SMOKING DEVICES TRANSFERRED TO RETAIL STOCK BY WRITTEN MEMORANDUM NEED NOT BE INCLUDED IN THE INVENTORY RECORD.

(C) EACH ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR AND ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER SHALL:

(1) KEEP THE RECORDS REQUIRED BY THIS SECTION FOR 6 YEARS OR FOR A SHORTER TIME SET BY THE EXECUTIVE DIRECTOR; AND

(2) ALLOW THE EXECUTIVE DIRECTOR TO EXAMINE THE RECORDS.

16.7-213.3.

(A) THE EXECUTIVE DIRECTOR ~~OR A PEACE OFFICER~~ MAY SEIZE ELECTRONIC SMOKING DEVICES THAT ARE SOLD OR OFFERED FOR SALE IN THE STATE IN VIOLATION OF THIS TITLE WITHOUT A WARRANT.

(B) (1) ~~THE EXECUTIVE DIRECTOR OR PEACE OFFICER~~ SHALL GIVE NOTICE OF A SEIZURE TO THE PERSON FROM WHICH THE PROPERTY IS SEIZED AT THE TIME OF SEIZURE.

(2) A NOTICE OF SEIZURE SHALL STATE THE RIGHT OF THE OWNER OR OTHER INTERESTED PERSON TO FILE A CLAIM FOR RETURN OF THE SEIZED PROPERTY.

~~(C) A PEACE OFFICER WHO SEIZES ELECTRONIC SMOKING DEVICES UNDER SUBSECTION (A) OF THIS SECTION SHALL DELIVER THE SEIZED PROPERTY TO THE EXECUTIVE DIRECTOR OR TAKE IT TO A LOCATION DESIGNATED BY THE EXECUTIVE DIRECTOR.~~

~~(D)~~ (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE OWNER OR INTERESTED PERSON MAY FILE A CLAIM FOR RETURN OF THE PROPERTY WITH THE EXECUTIVE DIRECTOR WITHIN 30 DAYS AFTER THE SEIZURE OF THE PROPERTY.

(2) A PERSON FORFEITS ANY INTEREST IN, RIGHT TO, OR TITLE TO THE ELECTRONIC SMOKING DEVICES SEIZED FOR VIOLATION OF THIS TITLE IF THE PERSON FAILS TO TIMELY FILE A CLAIM FOR RETURN OF THE SEIZED PROPERTY WITHIN THE TIME ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~(E)~~ (D) SUBJECT TO SUBSECTION ~~(F)~~ (E) OF THIS SECTION, IF A PERSON FILES A CLAIM FOR THE RETURN OF PROPERTY SEIZED UNDER SUBSECTION (A) OF THIS SECTION, THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL:

(1) ~~PROMPTLY~~ ACT ON THE CLAIM AND HOLD ~~AN INFORMAL~~ A HEARING IN ACCORDANCE WITH § 16.7-208 OF THIS SUBTITLE; AND

(2) UNLESS THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE HAS SATISFACTORY EVIDENCE THAT THE OWNER OR PERSON WAS NOT IN COMPLIANCE WITH ANY PROVISION OF THIS TITLE AT THE TIME OF SEIZURE, DIRECT RETURN OF THE SEIZED PROPERTY.

~~(F)~~ (E) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL GRANT OR DENY THE CLAIM FOR RETURN OF SEIZED ELECTRONIC SMOKING DEVICES BY MAILING THE OWNER OR PERSON A NOTICE OF FINAL DETERMINATION.

~~(C)~~ **(F)** A PERSON WHO POSSESSED OR OFFERED FOR SALE ELECTRONIC SMOKING DEVICES THAT ARE SEIZED UNDER THIS SECTION IS NOT RELIEVED FROM RESPONSIBILITY FOR:

(1) ANY PENALTY UNDER THIS TITLE OR TITLE 16 OR TITLE 16.5 OF THIS ARTICLE; OR

(2) REIMBURSEMENT OF THE COSTS OF TRANSPORTATION, STORAGE, OR DISPOSAL OF THE SEIZED PROPERTY.

~~(H) (1) ELECTRONIC SMOKING DEVICES SEIZED BY THE STATE UNDER THIS TITLE SHALL BE TRANSPORTED, STORED, AND DESTROYED IN COMPLIANCE WITH APPLICABLE LOCAL, STATE, AND FEDERAL LAW.~~

~~(2) THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL KEEP A RECORD OF ALL PROPERTY DESTROYED UNDER THIS SUBSECTION THAT INCLUDES A DESCRIPTION OF:~~

~~(I) THE NATURE OF THE PROPERTY;~~

~~(II) THE QUANTITY OF THE PROPERTY;~~

~~(III) THE REASON FOR THE SEIZURE OF THE PROPERTY; AND~~

~~(IV) THE MANNER OF DESTRUCTION.~~

~~(3) (I) THE EXECUTIVE DIRECTOR MAY IMPOSE AND COLLECT COSTS SUFFICIENT TO COVER TRANSPORTATION, STORAGE, AND DISPOSAL OF ELECTRONIC SMOKING DEVICES SEIZED BY THE STATE UNDER THIS SECTION.~~

~~(II) FAILURE TO PAY COSTS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE CONSIDERED GROUNDS FOR DENIAL OR REVOCATION OF A LICENSE UNDER THIS TITLE.~~

~~(4) (I) THE EXECUTIVE DIRECTOR MAY RECOVER, IN AN ACTION BROUGHT UNDER THIS SECTION, REASONABLE EXPENSES INCURRED IN INVESTIGATING AND PREPARING THE CASE, INCLUDING ATTORNEY'S FEES.~~

~~(II) FAILURE TO PAY EXPENSES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE CONSIDERED GROUNDS FOR DENIAL OR REVOCATION OF A LICENSE UNDER THIS TITLE.~~

~~(5) (I) THE EXECUTIVE DIRECTOR SHALL POST A NOTICE OF EACH SEIZURE AND FORFEITURE ON THE COMMISSION'S WEBSITE FOR A PERIOD OF NOT~~

~~LESS THAN 1 YEAR AFTER THE NOTICE OF SEIZURE UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(H) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE:~~

- ~~1. A DESCRIPTION OF THE PROPERTY SEIZED;~~
- ~~2. THE REASON FOR THE SEIZURE; AND~~
- ~~3. THE TIME AND PLACE OF THE SEIZURE.~~

16.7-213.4.

THE EXECUTIVE DIRECTOR MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.

Approved by the Governor, May 6, 2025.