AN ACT to:

(1) prohibit the distribution of any tobacco product, coupon redeemable for a tobacco product, cigarette rolling paper, or electronic cigarette to any individual under 21 except under certain circumstances;

(2) prohibit an individual under 21 from using or possessing a tobacco product or electronic cigarette except under certain circumstances; and

(3) generally amend County law regarding smoking, electronic cigarettes, and health and sanitation.

By amending
Montgomery County Code
Chapter 24, Health and Sanitation
Sections 24-9, 24-11, and 24-13

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Sections 24-9, 24-11, and 24-13 are amended as follows:


(a) Definitions. In this Article, the following words and phrases have the meanings indicated:

* * *

Electronic cigarette means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor. Electronic cigarette includes any component, part, or accessory of an electronic cigarette, whether or not sold separately, that is used during the operation of the electronic cigarette, but does not include any battery or battery charger that is sold separately.

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24-11. Distribution of tobacco products and electronic cigarettes to certain persons.

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

[(1) Tobacco product means any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.]

[(2)] Distribute means to:

[(A)] (1) give away, sell, deliver, dispense, or issue;

[(B)] (2) offer to give away, sell, deliver, dispense, or issue; or
[(C)] (3) cause or hire any person to give away, sell, deliver, dispense, or issue or offer to give away, sell, deliver, dispense, or issue.

*Electronic cigarette* has the same meaning as in Section 24-9.

*Tobacco product* means any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.

**(b) Unlawful distribution.**

(1) A person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes must not:

(i) distribute any tobacco product, cigarette rolling paper, coupon redeemable for any tobacco product, or electronic cigarette to [a minor] an individual under 21 years old, unless:

(A) the [minor] individual is acting solely as the agent of the minor’s employer who is engaged in the business of distributing tobacco products; or

(B) the individual is:

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

(ii) distribute cigarette rolling papers to a minor; or

(iii) distribute to a minor a coupon redeemable for any tobacco product.]

(2) A person, who is not a person described under paragraph (b)(1), must not[:]

(i) buy for, [or] sell to, or deliver to [a minor] an individual under 21 years old any tobacco product, cigarette rolling
papers, or electronic cigarette[; or], unless the individual under 21 years old is:

(A) at least 18 years of age;

(B) is an active duty member of the military; and

(C) presents a valid military identification.

[(ii) deliver or sell to a minor cigarette rolling papers.]

(c) Subsection (b) does not apply to the distribution of a coupon which is redeemable for any tobacco product when the coupon is 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 sent through the mail.

(d) A person has not violated this Section if:

(1) that person examined a driver’s license, military identification, or another valid identification issued by an employer, a government entity, or an institution of higher education; and

(2) that license or other identification positively identified the buyer or recipient of a tobacco product or electronic cigarette as at least 18 years old or is at least 18 years old and has a valid military identification.

(e) If an individual under 21 years old bought a tobacco product or electronic cigarette from a vending machine, this Section does not apply to the owner of the vending machine or any other person with control over the vending machine.

(f) A person who violates this Section is liable for a civil violation. The maximum civil fine is $1000 for a first offense and $1000 for each subsequent offense.

(a) Prohibition. A person under [18] 21 years old must not use or possess a tobacco product or an electronic cigarette unless that person is:

[(a)] (1) at least 18 years of age;
[(b)] (2) is an active duty member of the military; and
[(c)] (3) presents a valid military identification.

(b) Penalties. Notwithstanding Section 24-9(l), the monetary penalty for a violation of this Section is $0.00.
Approved:

Sidney Katz, President, County Council 3/31/20

Marc Elrich, County Executive 4/3/20

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council 4/6/20