

Introduced by: The Council President

At the request of: The Administration (Health Department)

Prepared by: Department of Legislative Reference

Date: December 11, 2019

Referred to: _____ **HEALTH** _____ Committee

Also referred for recommendation and report to municipal agencies listed on reverse.

CITY COUNCIL 19-0476

A BILL ENTITLED

AN ORDINANCE concerning

Tobacco Distribution – Conforming Modifications

FOR the purpose of conforming the City Health Code with certain amendments made by Chapter 396, 2019 Laws of Maryland; prohibiting the distribution of certain tobacco products to individuals under 21; providing for an exception for active military personnel; defining certain terms; and providing for a special effective date.

BY repealing and re-ordaining, with amendments

Article - Health

Section(s) 12-501, 12-502, 12-503, to be under the amended subtitle designation

“Subtitle 12. Unlawful Distribution”

Baltimore City Revised Code

(Edition 2000)

****The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

Agencies

_____	Baltimore City Public School System
_____	Baltimore Development Corporation
_____	City Solicitor
_____	Comptroller's Office
_____	Department of Audits
_____	Department of Finance
_____	Department of General Services
_____	Department of Housing and Community Development
_____	Department of Human Resources
_____	Department of Planning
_____	Other: _____
_____	Other: _____
_____	Other: _____
_____	Department of Public Works
_____	Department of Real Estate
_____	Department of Recreation and Parks
_____	Department of Transportation
_____	Fire Department
_____	Health Department
_____	Mayor's Office of Employment Development
_____	Mayor's Office of Human Services
_____	Mayor's Office of Information Technology
_____	Office of the Mayor
_____	Police Department
_____	Other: _____
_____	Other: _____
_____	Other: _____
_____	Environmental Control Board
_____	Fire & Police Employees' Retirement System
_____	Labor Commissioner
_____	Parking Authority Board
_____	Planning Commission
_____	Wage Commission
_____	Other: _____
_____	Other: _____
_____	Other: _____
_____	Board of Estimates
_____	Board of Ethics
_____	Board of Municipal and Zoning Appeals
_____	Comm. for Historical and Architectural Preservation
_____	Commission on Sustainability
_____	Employees' Retirement System
_____	Other: _____
_____	Other: _____
_____	Other: _____

Boards and Commissions

CITY OF BALTIMORE
ORDINANCE **20.340**
Council Bill 19-0476

Introduced by: The Council President
At the request of: The Administration (Health Department)
Introduced and read first time: December 16, 2019
Assigned to: Health Committee

Committee Report: Favorable
Council action: Adopted
Read second time: January 13, 2020

AN ORDINANCE CONCERNING

Tobacco Distribution – Conforming Modifications

FOR the purpose of conforming the City Health Code with certain amendments made by Chapter 396, 2019 Laws of Maryland; prohibiting the distribution of certain tobacco products to individuals under 21; providing for an exception for active military personnel; defining certain terms; and providing for a special effective date.

BY repealing and re-ordaining, with amendments

Article - Health

Section(s) 12-501, 12-502, 12-503, to be under the amended subtitle designation

“Subtitle 12. Unlawful Distribution”

Baltimore City Revised Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Revised Code

Article – Health

Title 12. Tobacco Products

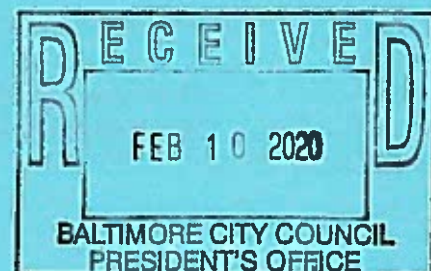
Subtitle 5. UNLAWFUL Distribution [to Minors]

§ 12-501. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.



Council Bill 19-0476

1 [(b) *Electronic smoking device.*]

2 ["Electronic smoking device" has the meaning stated in § 12-101 {"Definitions"} of this
3 title.]

4 (B) [(c)] *Distribute.*

5 "Distribute" means to:

- 6 (1) give away, sell, deliver, dispense, or issue;
7 (2) offer to give away, sell, deliver, dispense, or issue; or
8 (3) cause or hire any person to:
9 (i) give away, sell, deliver, dispense, or issue; or
10 (ii) offer to give away, sell, deliver, dispense, or issue.

11 (C) [(d)] *Tobacco product.*

12 [(1) *In general.*

13 "Tobacco product" means any substance that contains tobacco.

14 (2) *Inclusions.*

15 "Tobacco product" includes any:

- 16 (i) cigarette;
17 (ii) cigar;
18 (iii) bidi;
19 (iv) pipe or other smoking tobacco; or
20 (v) chewing tobacco, spit tobacco, snuff, or other smokeless tobacco.]

21 "TOBACCO PRODUCT" HAS THE MEANING STATED IN STATE HEALTH-GENERAL ARTICLE,
22 § 13-1001 {DEFINITIONS: TOBACCO PRODUCT}.

23 **§ 12-502. Unlawful distribution.**

24 (a) *Persons in business.*

25 A person engaged in the business of selling or otherwise distributing tobacco products [or
26 electronic smoking devices] for commercial purposes may not:

Council Bill 19-0476

- 1 (1) distribute any tobacco product [or electronic smoking device] to [a minor] AN
2 INDIVIDUAL UNDER THE AGE OF 21 YEARS, unless the [minor] INDIVIDUAL is acting
3 solely as the agent of an employer engaged in the business of distributing those
4 products or devices;
- 5 (2) distribute any cigarette rolling paper to [a minor] AN INDIVIDUAL UNDER THE AGE
6 OF 21 YEARS; or
- 7 (3) distribute to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any coupon
8 redeemable for any tobacco product [or electronic smoking device].

9 (b) *Others.*

10 A person not described in subsection (a) of this section may not:

- 11 (1) buy for or sell to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any
12 tobacco product [or electronic smoking device]; or
- 13 (2) buy for or sell or deliver to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS
14 any cigarette rolling paper.

15 § 12-503. **Exceptions.**

16 (a) *Published coupon.*

17 This subtitle does not apply to the distribution of a coupon that is:

- 18 (1) contained in a newspaper, magazine, or other type of publication in
19 which the coupon is incidental to the primary purpose of the publication; or
- 20 (2) sent through the mail.

21 (b) *Identification [as adult] OF AGE.*

22 A person has not violated this subtitle if:

- 23 (1) the person examined a buyer's or recipient's driver's license or other
24 identification issued by an employer, governmental entity, or institution of higher
25 education; and
- 26 (2) the license or other identification identified the buyer or recipient as being at least
27 [18] 21 years old.

28 (c) *ACTIVE DUTY MILITARY.*

29 A PERSON HAS NOT VIOLATED THIS SUBTITLE IF:

- 30 (1) THE PERSON EXAMINED A BUYER'S OR RECIPIENT'S VALID MILITARY
31 IDENTIFICATION; AND

Council Bill 19-0476

1 (2) THE IDENTIFICATION INDICATED THAT THE BUYER OR RECIPIENT IS:


2 (I) AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

3 (II) AT LEAST 18 YEARS OLD.

4 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
5 are not law and may not be considered to have been enacted as a part of this or any prior
6 Ordinance.

7 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
8 enacted.

Certified as duly passed this _____ day of JAN 27 2020, 20__



President, Baltimore City Council

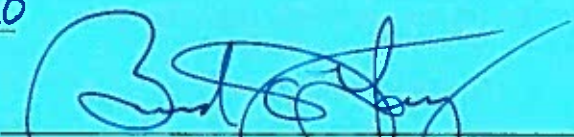
Certified as duly delivered to His Honor, the Mayor,

this _____ day of JAN 27 2020, 20__



Chief Clerk


Approved this 4th day of February, 2020



Mayor, Baltimore City

Approved For Form and Legal Sufficiency

This 3rd Day of February 2020



Chief Solicitor

BALTIMORE CITY COUNCIL HEALTH COMMITTEE VOTING RECORD

DATE: 12-17-19

BILL #: 19-0476

BILL TITLE: Tobacco Distribution – Conforming Modifications



MOTION BY: Reisinger SECONDED BY: Clarke

- FAVORABLE FAVORABLE WITH AMENDMENTS
 UNFAVORABLE WITHOUT RECOMMENDATION

NAME	YEAS	NAYS	ABSENT	ABSTAIN
Burnett, Kristerfer - Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henry, Bill - Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Clarke, Mary Pat	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reisinger, Edward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schleifer, Isaac "Yitzy"	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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TOTALS	4	—	1	—

CHAIRPERSON: Kristerfer Burnett, *[Signature]*

COMMITTEE STAFF: ~~Matthew Peters~~, Initials: M.M.C.
M.M. Curran

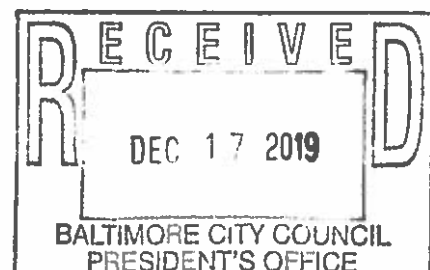
F R O M	Name & Title	Letitia Dzirasa, M.D., Commissioner 	Health Department AGENCY REPORT	
	Agency Name & Address	Health Department 1001 E. Fayette Street Baltimore, Maryland 21202		
	Subject: Position:	CC #19-0476 FAVORABLE		

**To: President and Members
of the City Council
c/o 409 City Hall**

December 17, 2019

The Baltimore City Health Department (BCHD) is pleased to have the opportunity to review City Council Bill #19-0476, entitled "Tobacco Distribution - Conforming Modifications." This legislation will modify Title 12 of the Baltimore City Health Code to conform to new tobacco control regulations established by Chapter 396, 2019 Laws of Maryland; specifically, the bill would prohibit the distribution of tobacco products to individuals under 21, excepting active military personnel.

To ensure compliance with state law and prevent any enforcement interruptions, BCHD urges a favorable report on Council Bill #19-0476.



A



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CITY OF BALTIMORE

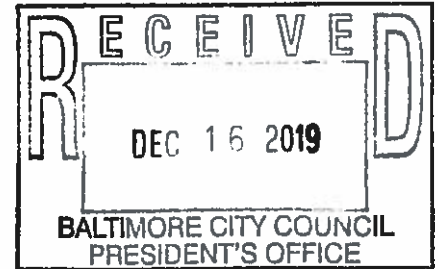
BERNARD C. "JACK" YOUNG
Mayor



DEPARTMENT OF LAW
ANDRE M. DAVIS, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

December 16, 2019

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202



Re: City Council Bill 19-0476 – Tobacco Distribution – Conforming Modifications

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 19-0476 for form and legal sufficiency. The bill amends Subtitle 5 of Title 12 (Tobacco Products) of the Health Article of the Baltimore City Code in two significant ways. First, it removes electronic smoking devices from the Subtitle. Second, it replaces the word “minor” with “under the age of 21.” Both changes are intended to allow the City to comply with existing state laws.

Existing state laws on tobacco are extensive and generally local governments have little room in which to legislate on the topic. *Altadis USA, Inc. v. Prince George’s County*, 431 Md. 307, 316 (2013) (In discussing the state’s business and professional regulations, the Court held that “State law comprehensively regulates the packaging, sale and distribution of tobacco products, including cigars, and thus preempts this field.”). However, the state prohibition on sales of tobacco to minors is contained in Section 10-107 of the Criminal Law Article of the Maryland Code. There is nothing in that section preventing concurrent local criminal legislation. In fact, other counties do have similar laws preventing sales to minors. *See, e.g., Montgomery County Code*, §§24-11; 24-13. Moreover, there is a program in state law that allows local health departments to monitor retail compliance with the prohibition on sales to those too young to buy tobacco. Md. Code, Health-Gen., §24-307.

Thus, City legislation forbidding tobacco sales to minors is within the City’s general power to “provide for the preservation of the health of all persons within the City,” “to prevent and remove nuisances” and to “pass any ordinance, not inconsistent with the provisions of this Charter or the laws of the State, which it may deem proper in the exercise of any of the powers, either express or implied, enumerated in this Charter, as well as any ordinance as it may deem proper in maintaining the peace, good government, health and welfare of Baltimore City.” *See City Charter*, Art. II, §§11, 47.

The City law used to prohibit sales to minors but now must be updated to comply with a change in state law that prohibits sales to more than mere minors, but to all under 21 years of age unless they actively serve in the military. 2019 Md. Laws, ch. 396 (codified in Md. Code, Crim. Law, §10-107). State law was also recently changed to include electronic smoking devices within

Fav w/ Comments



etc

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the definition of tobacco. 2019 Md. Laws, ch. 396 (codified in Md. Code, Health-Gen., §13-1001). Therefore, this bill's elimination of the definition of "electronic smoking device" from the City code is not eliminating City regulation of the product but merely including it in the definition of tobacco.

The Law Department approves the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

cc: Andre M. Davis, City Solicitor
Matthew Stegman, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalá, Chief Solicitor
Ashlea Brown, Assistant Solicitor

City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Meeting Minutes - Final

Health

Tuesday, December 17, 2019

9:50 AM

Du Burns Council Chamber, 4th floor, City Hall

19-0476
CHARM TV 25

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

Present 4 - Kristerfer Burnett, Mary Pat Clarke, Edward Reisinger, and Isaac "Yitzy" Schleifer

Absent 1 - Bill Henry

ITEM SCHEDULED FOR PUBLIC HEARING

19-0476

Tobacco Distribution - Conforming Modifications

For the purpose of conforming the City Health Code with certain amendments made by Chapter 396, 2019 Laws of Maryland; prohibiting the distribution of certain tobacco products to individuals under 21; providing for an exception for active military personnel; defining certain terms; and providing for a special effective date.

Sponsors: City Council President (Administration)

A motion was made by Reisinger, seconded by Clarke, that Ordinance 19-0476 be recommended favorably. The motion carried by the following vote:

Yes: 4 - Burnett, Clarke, Reisinger, and "Yitzy" Schleifer

Absent: 1 - Henry

ADJOURNMENT

CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director
415 City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202
410-396-7215 / Fax: 410-545-7596
email: larry.greene@baltimorecity.gov

HEARING NOTES

Bill: 19-0476

Tobacco Distribution - Conforming Modifications

Committee: Health

Chaired By: Kristerfer Burnett

Hearing Date: Tuesday, December 17, 2019

Time (Beginning): 10:00 AM thru 10:15 AM (hearing called to recess)

Time (Ending): 10:55 AM thru 11:00 AM (hearing reconvened and concluded)

Location: Council Chambers

Total Attendance: Approximately 20

Committee Members in Attendance:

Kristerfer Burnett

Mary Pat Clarke

Edward Reisinger

Isaac "Yitzy" Schleifer

Form with checkboxes for: Bill Synopsis in the file?, Attendance sheet in the file?, Agency reports read?, Video or audio-digitally recorded?, Certification of advertising/posting notices in the file?, Evidence of notification to property owners?, Final vote taken at this hearing?, Motioned by: Councilmember Reisinger, Seconded by: Councilmember Clarke, Final Vote: Favorable

Major Speakers

(This is not an attendance record.)

- D'Paul Nibber, Health Department

Major Issues Discussed

1. The representative from the Health Department briefly talked about the background associated with the bill stating there was the possibility of enforcement issues in other jurisdictions when the bill when into effect. We (the City) want to be on board with the State law, he said.
2. The hearing was called to recess and later reconvened; vote taken.

Further Study

Was further study requested?

Yes No

If yes, describe.

Committee Vote:

K. Burnett Yea
B. Henry..... Absent
M. Clarke Yea
E. Reisinger Yea
I. Schleifer: Yea

Marguerite M. Currin

Marguerite M. Currin, Committee Staff

Date: December 17, 2019

cc: Bill File
OCS Chrono File



Baltimore City Council Committee Hearing Attendance Record

Subject: Ordinance – Tobacco Distribution – Conforming Modifications	BILL NUMBER #: 19-0476
Committee: Health	Chair: Kristerfer Burnett
Date: Tuesday, December 17, 2019	Time: 9:50 AM
Location: Clarence "Du" Burns Council Chamber	

PLEASE PRINT CLEARLY

SIGN IN



First Name	Last Name	Address / Organization / Email	Testify	What is your position on this bill?		Lobbyist: Are you registered in the City?*	
				For	Against	Yes	No
John	Doe	400 N. Holliday St. Johndoenbmore@yahoo.com	✓	✓	✓	✓	✓
D Paul	Ribber	Health Dept					

*NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD AS A LOBBYIST. REGISTRATION CAN BE DONE ONLINE AND IS A SIMPLE PROCESS. FOR INFORMATION VISIT: [HTTPS://ETHICS.BALTIMORECITY.GOV/](https://ethics.baltimorecity.gov/) OR CALL: 410-396-4730



Baltimore City Council Committee Hearing Attendance Record

*NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD AS A LOBBYIST. REGISTRATION CAN BE DONE ONLINE AND IS A SIMPLE PROCESS. FOR INFORMATION VISIT: [HTTPS://ETHICS.BALTIMORECITY.GOV/](https://ethics.baltimorecity.gov/) OR CALL: 410-396-4730

Page No. ____

City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Meeting Agenda - Final

Health

Tuesday, December 17, 2019

9:50 AM

Du Burns Council Chamber, 4th floor, City Hall

19-0476
CHARM TV 25

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

ITEM SCHEDULED FOR PUBLIC HEARING

19-0476 Tobacco Distribution - Conforming Modifications
For the purpose of conforming the City Health Code with certain amendments made by Chapter 396, 2019 Laws of Maryland; prohibiting the distribution of certain tobacco products to individuals under 21; providing for an exception for active military personnel; defining certain terms; and providing for a special effective date.

Sponsors: City Council President (Administration)

ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC



BALTIMORE CITY COUNCIL HEALTH COMMITTEE

Mission Statement

On behalf of the Citizens of Baltimore City, the mission of the Health Committee is to study, examine and propose regulations concerning health and environmental issues; and to make recommendations and propose legislation for improving the overall health and welfare of all residents of Baltimore City.

**The Honorable Kristerfer Burnett
Chairman**

PUBLIC HEARING

**TUESDAY, DECEMBER 17, 2019
9:50AM**

CLARENCE "DU" BURNS COUNCIL CHAMBERS

***Council Bill #19-0476*
Tobacco Distribution – Conforming Modifications**

CITY COUNCIL COMMITTEES

BUDGET AND APPROPRIATIONS

Eric Costello – Chair
Leon Pinkett – Vice Chair
Bill Henry
Sharon Green Middleton
Isaac "Yitzy" Schleifer
Shannon Sneed
Danielle McCray
Staff: Marguerite Currin

CYBERSECURITY AND EMERGENCY PREPAREDNESS

Eric Costello – Co-chair
Isaac "Yitzy" Schleifer – Co-
chair
Sharon Green Middleton
Staff: Samuel Johnson

EDUCATION AND YOUTH

Zeke Cohen – Chair
Mary Pat Clarke – Vice Chair
John Bullock
Kristerfer Burnett
Leon Pinkett
Staff: Matthew Peters

EXECUTIVE APPOINTMENTS

Robert Stokes – Chair
Kristerfer Burnett – Vice Chair
Mary Pat Clarke
Zeke Cohen
Isaac "Yitzy" Schleifer
Staff: Marguerite Currin

HEALTH

Kristerfer Burnett – Chair
Bill Henry - Vice Chair
Mary Pat Clarke
Edward Reisinger
Isaac "Yitzy" Schleifer
Staff: Marguerite Currin

HOUSING AND URBAN AFFAIRS

John Bullock – Chair
Isaac "Yitzy" Schleifer – Vice
Chair
Kristerfer Burnett
Zeke Cohen
Ryan Dorsey
Bill Henry
Shannon Sneed
Staff: Richard Krummerich

JUDICIARY

Eric Costello – Chair
Mary Pat Clarke – Vice Chair
John Bullock
Leon Pinkett
Edward Reisinger
Shannon Sneed
Robert Stokes
Staff: Matthew Peters

LABOR

Shannon Sneed – Chair
Robert Stokes – Vice Chair
Mary Pat Clarke
Bill Henry
Danielle McCray
Staff: Samuel Johnson

LEGISLATIVE INVESTIGATIONS

Kristerfer Burnett – Chair
Danielle McCray – Vice Chair
Ryan Dorsey
Isaac "Yitzy" Schleifer
Shannon Sneed
Staff: Matthew Peters

LAND USE

Edward Reisinger - Chair
Shannon Sneed – Vice Chair
Mary Pat Clarke
Eric Costello
Ryan Dorsey
Sharon Green Middleton
Leon Pinkett
Robert Stokes
Staff: Jennifer Coates

PUBLIC SAFETY

Isaac "Yitzy" Schleifer – Chair
Kristerfer Burnett – Vice Chair
Zeke Cohen
Danielle McCray
Leon Pinkett
Shannon Sneed
Staff: Richard Krummerich

TAXATION, FINANCE AND ECONOMIC DEVELOPMENT

Sharon Green Middleton – Chair
Danielle McCray – Vice Chair
Eric Costello
Edward Reisinger
Robert Stokes
Staff: Samuel Johnson
*- Larry Greene (pension
only)*

TRANSPORTATION

Ryan Dorsey – Chair
Leon Pinkett – Vice Chair
John Bullock
Staff: Jennifer Coates

CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director
415 City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202
410-396-7215 / Fax: 410-545-7596
email: larry.greene@baltimorecity.gov

Committee: Health

Bill 19-0476

Tobacco Distribution – Conforming Modifications

Sponsor: *President Scott at the request of the Health Department*

Introduced: *December 16, 2019*

Purpose:

FOR the purpose of conforming the City Health Code with certain amendments made by Chapter 396, 2019 Laws of Maryland; prohibiting the distribution of certain tobacco products to individuals under 21; providing for an exception for active military personnel; defining certain terms; and providing for a special effective date.

Effective: On the date it is enacted.

Background

The Maryland General Assembly passed House Bill 1169, prohibiting the sale of tobacco products to those under the age 21. (*See attached copy of HB1169*). The law became effective on October 1, 2019. Changes to Maryland's Tobacco 21 law increases the legal sale age of tobacco products to 21 years, but exempts active duty members of the military who are at least 18 years old and who provide valid military ID upon purchase.

Council Bill 19-0476, upon approval will conform the City's Health Code (local law) with State law.

Additional Information

Fiscal Note: None

Information Source(s): Council Bill 19-0476 and House Bill 1169.

Analysis by: *Marguerite M. Currin*
Analysis Date: December 16, 2019

Direct Inquiries to: 443-984-3485

HOUSE
BILL 1169

Chapter 396

(House Bill 1169)

AN ACT concerning

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

FOR the purpose of ~~increasing the amount of certain license fees~~; requiring certain licensees to post a certain sign in a certain location; altering the minimum age for an individual to purchase or be sold tobacco products; exempting certain individuals from a certain minimum age requirement for an individual to purchase or be sold tobacco products; authorizing the Maryland Department of Health to conduct certain inspections of licensed retailers for a certain purpose; authorizing the Department to use certain individuals to assist in conducting a certain inspection; prohibiting the sale of tobacco products through a vending machine unless it is located in a certain establishment; renaming electronic nicotine delivery systems to be electronic smoking devices; prohibiting repealing certain provisions of law authorizing an affirmative defense for examining employer and school identifications; repealing a provision of law prohibiting an underage individual from using or possessing tobacco products or obtaining tobacco products with false identification; requiring certain retailers to pay for certain civil fines on behalf of certain other individuals; altering the definitions of certain terms; making conforming changes; and generally relating to tobacco products.

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section ~~16-204(b)~~, 16-209, 16-302, 16-3A-01, and 16-3A-02, ~~and 16.5-203(b)~~; and 16.7-101, 16.7-102, 16.7-201 through 16.7-204, 16.7-206, 16.7-207, 16.7-209(e), 16.7-211, and 16.7-213 to be under the amended title “Title 16.7. Electronic Smoking Devices Licenses”

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

BY adding to

Article – Business Regulation

Section 16-308.2, 16.5-214.1, 16.5-217.1, 16.7-204.1, and 16.7-213.1

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 10-101 and 10-107

Annotated Code of Maryland

(2012 Replacement Volume and 2018 Supplement)

BY repealing

Article – Criminal Law
 Section 10–108
 Annotated Code of Maryland
 (2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General
 Section 13–1001(a)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
 Section 13–1001(u), 13–1015, 24–305(b), (c), and (d), and 24–307(a) through (d)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Local Government
 Section 1–1201 and 1–1203(c) and (d)
 Annotated Code of Maryland
 (2013 Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,

Article – Local Government
 Section 1–1203(a)
 Annotated Code of Maryland
 (2013 Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement
 Section 7–317(f)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2018 Supplement)

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

Article – Business Regulation

~~16-204.~~

- ~~(b) (1) An applicant for a licence to act as a retailer shall:~~
- ~~(i) obtain the county licence required under § 16-201 of this title;~~

~~(ii) submit 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~~

~~(iii) pay to the clerk a fee of ~~[\$20]~~ \$300.~~

~~(2) The application shall:~~

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

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

16-209.

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

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

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

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

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

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

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

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

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

16-302.

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

(1) submit an application to the clerk; and

- (2) pay to the clerk a license fee of:
- (i) \$25 in a county other than Cecil County or Montgomery County;
 - (ii) \$50 in Cecil County; or
 - (iii) \$125 in Montgomery County.

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

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

(2) Funds distributed under paragraph (1)(ii) of this subsection may not be used to supplant existing funding for the enforcement of laws banning the sale or distribution of tobacco or tobacco products to [minors] **INDIVIDUALS UNDER THE AGE OF 21 YEARS.**

16-308.2.

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

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

16-3A-01.

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

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

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

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

1. TOBACCO; OR

2. NICOTINE; OR

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

(2) "TOBACCO PRODUCT" INCLUDES:

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

(II) ELECTRONIC SMOKING DEVICES; AND

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

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

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

16-3A-02.

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

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

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

~~16.5-203.~~

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

~~(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 ~~[\$15] \$300.~~~~

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

~~(3) The application shall:~~

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

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

16.5-214.1.

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

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

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

16.5-217.1.

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

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

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

16.7-101.

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

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

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

(2) "Electronic [nicotine delivery system] **SMOKING DEVICE**" includes:

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

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

(3) "Electronic [nicotine delivery system] **SMOKING DEVICE**" does not include[:

(i) a nicotine 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 that purpose;

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

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

(d) "Electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer" means a person that:

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

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

(ii) if the electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer also holds a license to act as an electronic [nicotine delivery systems] **SMOKING DEVICES** retailer or a vape shop vendor, sells electronic [nicotine delivery systems] **SMOKING DEVICES** 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 [nicotine delivery systems] **SMOKING DEVICES** to a licensed electronic [nicotine delivery systems] **SMOKING DEVICES** retailer or vape shop vendor.

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

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

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

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

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

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

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

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

(g) "Electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler importer" means a person that:

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

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

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

(h) "License" means:

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

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

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

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

(ii) act as a licensed vape shop vendor.

(i) "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.

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

(k) "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.

16.7-102.

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

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

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

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

16.7-201.

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

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

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

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

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

(5) a vape shop vendor.

(b) A place of business in which a person acts as an electronic [nicotine delivery systems] **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 [nicotine delivery systems] SMOKING DEVICES manufacturer, electronic [nicotine delivery systems] SMOKING DEVICES wholesaler distributor, or electronic [nicotine delivery systems] SMOKING DEVICES wholesaler importer shall:

(i) obtain an appropriate county license by submitting an application to the Comptroller on the form and containing the information that the Comptroller 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 Comptroller a fee of \$25 for each license for which the applicant applies.

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

(b) (1) An applicant for a license to act as an electronic [nicotine delivery systems] 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]~~ \$300.

(2) The application shall:

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

(ii) contain the information that the Comptroller requires.

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

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

16.7-203.

(a) The Comptroller shall issue an appropriate license to each applicant that meets the requirements of this subtitle for a license to act as an electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer, electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler distributor, or electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler importer.

(b) The clerk shall issue to each applicant that meets the requirements of this subtitle a license to act as an electronic [nicotine delivery systems] **SMOKING DEVICES** retailer or a vape shop vendor.

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

16.7-204.

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

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

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

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

(iii) a licensed vape shop vendor; and

(iv) a consumer if:

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

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

(2) if the electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer licensee also holds a license to act as an electronic [nicotine delivery systems] **SMOKING DEVICES** retailer or a vape shop vendor, transfer electronic [nicotine delivery systems] **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 [nicotine delivery systems] **SMOKING DEVICES** products to a licensed electronic [nicotine delivery systems] **SMOKING DEVICES** retailer or vape shop vendor.

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

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

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

(3) if the electronic [nicotine delivery systems] **SMOKING DEVICES** retailer licensee also holds a license to act as an electronic [nicotine delivery systems] **SMOKING DEVICES** manufacturer, sell at retail electronic [nicotine delivery systems] **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 [nicotine delivery systems] **SMOKING DEVICES** products to consumers in the State.

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

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

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

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

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

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

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

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

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

16.7-204.1.

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

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

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

16.7-206.

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

(2) If a licensed electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler distributor or electronic [nicotine delivery systems] **SMOKING DEVICES** wholesaler importer sells the licensee's electronic [nicotine delivery systems] **SMOKING DEVICES** business and pays to the Comptroller 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 [nicotine delivery systems] **SMOKING DEVICES** wholesaler's distributor or importer license.

(b) If the electronic [nicotine delivery systems] **SMOKING DEVICES** business of a licensee is transferred because of bankruptcy, death, incompetency, receivership, or otherwise by operation of law, the Comptroller 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.

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

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

16.7-207.

(a) Subject to the hearing provisions of § 16.7-208 of this subtitle, the Comptroller 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 [nicotine delivery systems] **SMOKING DEVICES** for resale:

(i) in violation of a license; or

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

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

(b) Subject to the hearing provisions of § 16.7–208 of this subtitle, the Comptroller 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 Comptroller that the applicant will comply with this title and any regulations adopted under this title.

(c) Prior to the issuance or renewal of any license, the Comptroller 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.

16.7–209.

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

(ii) Subparagraph (i) of this paragraph does not apply if a license is suspended or revoked for a violation of § 24–305 of the Health – General Article, or any other federal, State, or local law prohibiting the sale of electronic [nicotine delivery systems] **SMOKING DEVICES** to [minors] **INDIVIDUALS UNDER THE AGE OF 21 YEARS**.

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

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

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

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

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

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

16.7-211.

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

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

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

16.7-213.

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

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

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

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

(i) federal trademark laws; or

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

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

16.7-213.1.

(A) **THE MARYLAND DEPARTMENT OF HEALTH MAY CONDUCT UNANNOUNCED INSPECTIONS OF LICENSED RETAILERS TO ENSURE THE LICENSEE'S**

COMPLIANCE WITH THE PROVISIONS OF THIS TITLE AND § 10-107 OF THE CRIMINAL LAW ARTICLE.

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

Article – Criminal Law

10-101.

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

(b) “Distribute” means to:

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

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

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

(2) “Tobacco paraphernalia” includes:

(i) a cigarette rolling paper;

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

(iii) a water pipe;

(iv) a carburetion tube or device;

(v) a smoking or carburetion mask;

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

(vii) a chamber pipe;

(viii) a carburetor pipe;

(ix) an electric pipe;

- (x) an air-driven pipe;
- (xi) a chillum;
- (xii) a bong; and
- (xiii) an ice pipe or chiller.

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

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

1. **TOBACCO; OR**
2. **NICOTINE; OR**

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

(2) "Tobacco product" includes:

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

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

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

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

(e) "Venereal disease" includes gonorrhea, syphilis, chancroid, and any diseased condition of the human genitalia caused by, related to, or resulting from a venereal disease.

10-107.

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

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

(2) sent through the mail.

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

(I) [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS who is acting solely as the agent of the [minor's] INDIVIDUAL'S employer if the employer distributes tobacco products[,] OR tobacco paraphernalia[, or electronic nicotine delivery systems] 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.**

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

(i) a tobacco product;

(ii) tobacco paraphernalia; OR

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

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

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

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

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

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

(III) PRESENTS A VALID MILITARY IDENTIFICATION; or

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

(I) IS AT LEAST 18 YEARS OF AGE;

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

(III) PRESENTS A VALID MILITARY IDENTIFICATION.

(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 [an employer,] A government unit[, or institution of higher education] that positively identified the purchaser or recipient as at least [18] **21 years of age OR AS AT LEAST 18 YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY.**

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

(i) \$300 for a first violation;

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

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

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

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

[10-108.

(a) In this section, "violation" has the meaning stated in § 3-8A-01 of the Courts Article.

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

(c) A minor may not:

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

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

(i) is falsified; or

(ii) identifies an individual other than the minor.

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

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

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

Article – Health – General

13-1001.

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

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

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

1. TOBACCO; OR

2. NICOTINE; OR

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

(2) “TOBACCO PRODUCT” INCLUDES:

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

(II) ELECTRONIC SMOKING DEVICES; AND

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

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

13-1015.

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

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

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

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

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

(5) Implementation of school-based tobacco education programs.

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

24-305.

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

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

(I) AN electronic [nicotine delivery system] **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.

(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 [an employer,] A government unit[, or institution of higher education] that positively identified the purchaser or recipient as at least [18] 21 years of age OR AS AT LEAST 18 YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY.

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 [a minor] ~~AN~~:

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

- (1) A tobacco product;
- (2) Tobacco paraphernalia; or
- (3) A coupon redeemable for a tobacco product.

(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 Comptroller's Office.

(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 [an employer,] a governmental unit[, or an institution of higher education] that positively identified the purchaser or recipient as at least [18] 21 years old OR AS AT LEAST 18 YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY.

Article – Local Government

1-1201.

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

(b) "Distribute" means to:

- (1) give, sell, deliver, dispense, or issue;
- (2) offer to give, sell, deliver, dispense, or issue; or
- (3) cause or hire any person to give, sell, deliver, dispense, or issue or offer to give, sell, deliver, dispense, or issue.

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

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

1. TOBACCO; OR
2. NICOTINE; OR

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

(2) "Tobacco product" includes:

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

(II) ELECTRONIC SMOKING DEVICES; AND

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

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

1-1203.

(a) This section applies only in:

- (1) Carroll County;
- (2) Cecil County;
- (3) Garrett County; and
- (4) St. Mary's County.

(c) A person may not:

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

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

(II) THE INDIVIDUAL:

1. IS AT LEAST 18 YEARS OF AGE;

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

3. PRESENTS A VALID MILITARY IDENTIFICATION;

(2) distribute cigarette rolling papers to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS, UNLESS THE INDIVIDUAL:

(I) IS AT LEAST 18 YEARS OF AGE;

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

(III) PRESENTS A VALID MILITARY IDENTIFICATION; or

(3) distribute to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS a coupon redeemable for a tobacco product, UNLESS THE INDIVIDUAL:

- (I) IS AT LEAST 18 YEARS OF AGE;**
- (II) IS AN ACTIVE DUTY MEMBER OF THE MILITARY; AND**
- (III) PRESENTS A VALID MILITARY IDENTIFICATION.**

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

(1) the person examined the driver's license or other valid government-issued identification presented by the recipient of a tobacco product, cigarette rolling paper, or coupon redeemable for a tobacco product; and

(2) the license or other identification positively identified the recipient as being at least [18] 21 years old **OR AS BEING AT LEAST 18 YEARS OF AGE AND AN ACTIVE DUTY MEMBER OF THE MILITARY.**

Article – State Finance and Procurement

7-317.

(f) (1) The Cigarette Restitution Fund shall be used to fund:

(i) the Tobacco Use Prevention and Cessation Program established under Title 13, Subtitle 10 of the Health – General Article;

(ii) the Cancer Prevention, Education, Screening, and Treatment Program established under Title 13, Subtitle 11 of the Health – General Article; and

(iii) other programs that serve the following purposes:

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

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

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

4. smoking cessation programs;

5. enforcement of the laws regarding tobacco sales;

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

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

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

9. substance abuse treatment and prevention programs; and

10. any other public purpose.

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

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

Approved by the Governor, May 13, 2019.

INTRODUCTORY

COPY

COUNCIL

BILL 19-0476

INTRODUCTORY*

**CITY OF BALTIMORE
COUNCIL BILL 19-0476**

Introduced by: The Council President
At the request of: The Administration (Health Department)

A BILL ENTITLED

AN ORDINANCE concerning

Tobacco Distribution – Conforming Modifications

FOR the purpose of conforming the City Health Code with certain amendments made by Chapter 396, 2019 Laws of Maryland; prohibiting the distribution of certain tobacco products to individuals under 21; providing for an exception for active military personnel; defining certain terms; and providing for a special effective date.

BY repealing and re-ordaining, with amendments

Article - Health

Section(s) 12-501, 12-502, 12-503, to be under the amended subtitle designation

“Subtitle 12. Unlawful Distribution”

Baltimore City Revised Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Revised Code

Article – Health

Title 12. Tobacco Products

Subtitle 5. UNLAWFUL Distribution [to Minors]

§ 12-501. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.**

[(b) *Electronic smoking device.*]

["Electronic smoking device" has the meaning stated in § 12-101 {"Definitions"} of this title.]

(B) [(c)] *Distribute.*

"Distribute" means to:

- (1) give away, sell, deliver, dispense, or issue;
- (2) offer to give away, sell, deliver, dispense, or issue; or
- (3) cause or hire any person to:
 - (i) give away, sell, deliver, dispense, or issue; or
 - (ii) offer to give away, sell, deliver, dispense, or issue.

(C) [(d)] *Tobacco product.*

[(1) *In general.*

"Tobacco product" means any substance that contains tobacco.

(2) *Inclusions.*

"Tobacco product" includes any:

- (i) cigarette;
- (ii) cigar;
- (iii) bidi;
- (iv) pipe or other smoking tobacco; or
- (v) chewing tobacco, spit tobacco, snuff, or other smokeless tobacco.]

"TOBACCO PRODUCT" HAS THE MEANING STATED IN STATE HEALTH-GENERAL ARTICLE, § 13-1001 {DEFINITIONS: TOBACCO PRODUCT}.

§ 12-502. Unlawful distribution.

(a) *Persons in business.*

A person engaged in the business of selling or otherwise distributing tobacco products [or electronic smoking devices] for commercial purposes may not:

- (1) distribute any tobacco product [or electronic smoking device] to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS, unless the [minor] INDIVIDUAL is acting solely as the agent of an employer engaged in the business of distributing those products or devices;

(2) distribute any cigarette rolling paper to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS; or

(3) distribute to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any coupon redcmable for any tobacco product [or electronic smoking device].

(b) *Others.*

A person not described in subsection (a) of this section may not:

(1) buy for or sell to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any tobacco product [or electronic smoking device]; or

(2) buy for or sell or deliver to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any cigarette rolling paper.

§ 12-503. Exceptions.

(a) *Published coupon.*

This subtitle does not apply to the distribution of a coupon that is:

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

(2) sent through the mail.

(b) *Identification [as adult] OF AGE.*

A person has not violated this subtitle if:

(1) the person examined a buyer's or recipient's driver's license or other identification issued by an employer, governmental entity, or institution of higher education; and

(2) the license or other identification identified the buyer or recipient as being at least [18] 21 years old.

(c) *ACTIVE DUTY MILITARY.*

A PERSON HAS NOT VIOLATED THIS SUBTITLE IF:

(1) THE PERSON EXAMINED A BUYER'S OR RECIPIENT'S VALID MILITARY IDENTIFICATION; AND

(2) THE IDENTIFICATION INDICATED THAT THE BUYER OR RECIPIENT IS:

(i) AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

(ii) AT LEAST 18 YEARS OLD.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is enacted.

**CITY OF BALTIMORE
COUNCIL BILL 19-0476
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Health Department)
Introduced and read first time: December 16, 2019
Assigned to: Health Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Tobacco Distribution – Conforming Modifications**

3 FOR the purpose of conforming the City Health Code with certain amendments made by Chapter
4 396, 2019 Laws of Maryland; prohibiting the distribution of certain tobacco products to
5 individuals under 21; providing for an exception for active military personnel; defining
6 certain terms; and providing for a special effective date.

7 BY repealing and re-ordaining, with amendments

8 Article - Health

9 Section(s) 12-501, 12-502, 12-503, to be under the amended subtitle designation
10 "Subtitle 12. Unlawful Distribution"

11 Baltimore City Revised Code
12 (Edition 2000)

13 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the**
14 **Laws of Baltimore City read as follows:**

15 **Baltimore City Revised Code**

16 **Article – Health**

17 **Title 12. Tobacco Products**

18 **Subtitle 5. UNLAWFUL Distribution [to Minors]**

19 **§ 12-501. Definitions.**

20 (a) *In general.*

21 In this subtitle, the following terms have the meanings indicated.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 19-0476

1 [(b) *Electronic smoking device.*]

2 ["Electronic smoking device" has the meaning stated in § 12-101 {"Definitions"} of this
3 title.]

4 (B) [(c)] *Distribute.*

5 "Distribute" means to:

- 6 (1) give away, sell, deliver, dispense, or issue;
7 (2) offer to give away, sell, deliver, dispense, or issue; or
8 (3) cause or hire any person to:
9 (i) give away, sell, deliver, dispense, or issue; or
10 (ii) offer to give away, sell, deliver, dispense, or issue.

11 (C) [(d)] *Tobacco product.*

12 [(1) *In general.*

13 "Tobacco product" means any substance that contains tobacco.

14 (2) *Inclusions.*

15 "Tobacco product" includes any:

- 16 (i) cigarette;
17 (ii) cigar;
18 (iii) bidi;
19 (iv) pipe or other smoking tobacco; or
20 (v) chewing tobacco, spit tobacco, snuff, or other smokeless tobacco.]

21 "TOBACCO PRODUCT" HAS THE MEANING STATED IN STATE HEALTH-GENERAL ARTICLE,
22 § 13-1001 {DEFINITIONS: TOBACCO PRODUCT}.

23 **§ 12-502. Unlawful distribution.**

24 (a) *Persons in business.*

25 A person engaged in the business of selling or otherwise distributing tobacco products [or
26 electronic smoking devices] for commercial purposes may not:

Council Bill 19-0476

- 1 (1) distribute any tobacco product [or electronic smoking device] to [a minor] AN
2 INDIVIDUAL UNDER THE AGE OF 21 YEARS, unless the [minor] INDIVIDUAL is acting
3 solely as the agent of an employer engaged in the business of distributing those
4 products or devices;
- 5 (2) distribute any cigarette rolling paper to [a minor] AN INDIVIDUAL UNDER THE AGE
6 OF 21 YEARS; or
- 7 (3) distribute to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any coupon
8 redeemable for any tobacco product [or electronic smoking device].

9 (b) *Others.*

10 A person not described in subsection (a) of this section may not:

- 11 (1) buy for or sell to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any
12 tobacco product [or electronic smoking device]; or
- 13 (2) buy for or sell or deliver to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS
14 any cigarette rolling paper.

15 § 12-503. **Exceptions.**

16 (a) *Published coupon.*

17 This subtitle does not apply to the distribution of a coupon that is:

- 18 (1) contained in a newspaper, magazine, or other type of publication in
19 which the coupon is incidental to the primary purpose of the publication; or
- 20 (2) sent through the mail.

21 (b) *Identification [as adult] OF AGE.*

22 A person has not violated this subtitle if:

- 23 (1) the person examined a buyer's or recipient's driver's license or other
24 identification issued by an employer, governmental entity, or institution of higher
25 education; and
- 26 (2) the license or other identification identified the buyer or recipient as being at least
27 [18] 21 years old.

28 (c) *ACTIVE DUTY MILITARY.*

29 A PERSON HAS NOT VIOLATED THIS SUBTITLE IF:

- 30 (1) THE PERSON EXAMINED A BUYER'S OR RECIPIENT'S VALID MILITARY
31 IDENTIFICATION; AND

Council Bill 19-0476

1 (2) THE IDENTIFICATION INDICATED THAT THE BUYER OR RECIPIENT IS:

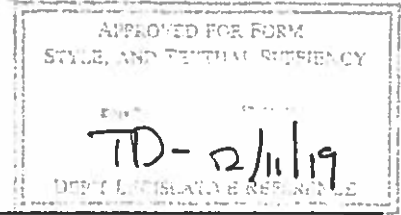
2 (I) AN ACTIVE DUTY MEMBER OF THE MILITARY; AND

3 (II) AT LEAST 18 YEARS OLD.

4 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
5 are not law and may not be considered to have been enacted as a part of this or any prior
6 Ordinance.

7 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
8 enacted.

INTRODUCTORY*
CITY OF BALTIMORE
COUNCIL BILL _____



Introduced by: The Council President
At the request of: The Administration (Health Department)

A BILL ENTITLED

AN ORDINANCE concerning

Tobacco Distribution – Conforming Modifications

FOR the purpose of conforming the City Health Code with certain amendments made by Chapter 396, 2019 Laws of Maryland; prohibiting the distribution of certain tobacco products to individuals under 21; providing for an exception for active military personnel; defining certain terms; and providing for a special effective date.

BY repealing and re-ordaining, with amendments

Article - Health

Section(s) 12-501, 12-502, 12-503, to be under the amended subtitle designation

“Subtitle 12. Unlawful Distribution”

Baltimore City Revised Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Revised Code

Article – Health

Title 12. Tobacco Products

Subtitle 5. UNLAWFUL Distribution [to Minors]

§ 12-501. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

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[(b) *Electronic smoking device.*]

["Electronic smoking device" has the meaning stated in § 12-101 {"Definitions"} of this title.]

(B) [(c)] *Distribute.*

"Distribute" means to:

- (1) give away, sell, deliver, dispense, or issue;
- (2) offer to give away, sell, deliver, dispense, or issue; or
- (3) cause or hire any person to:
 - (i) give away, sell, deliver, dispense, or issue; or
 - (ii) offer to give away, sell, deliver, dispense, or issue.

(C) [(d)] *Tobacco product.*

[(1) *In general.*

"Tobacco product" means any substance that contains tobacco.

(2) *Inclusions.*

"Tobacco product" includes any:

- (i) cigarette;
- (ii) cigar;
- (iii) bidi;
- (iv) pipe or other smoking tobacco; or
- (v) chewing tobacco, spit tobacco, snuff, or other smokeless tobacco.]

"TOBACCO PRODUCT" HAS THE MEANING STATED IN STATE HEALTH-GENERAL ARTICLE, § 13-1001 {DEFINITIONS: TOBACCO PRODUCT}.

§ 12-502. Unlawful distribution.

(a) *Persons in business.*

A person engaged in the business of selling or otherwise distributing tobacco products [or electronic smoking devices] for commercial purposes may not:

- (1) distribute any tobacco product [or electronic smoking device] to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS, unless the [minor] INDIVIDUAL is acting solely as the agent of an employer engaged in the business of distributing those products or devices;

- (2) distribute any cigarette rolling paper to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS; or
- (3) distribute to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any coupon redeemable for any tobacco product [or electronic smoking device].

(b) *Others.*

A person not described in subsection (a) of this section may not:

- (1) buy for or sell to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any tobacco product [or electronic smoking device]; or
- (2) buy for or sell or deliver to [a minor] AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any cigarette rolling paper.

§ 12-503. Exceptions.

(a) *Published coupon.*

This subtitle does not apply to the distribution of a coupon that is:

- (1) contained in a newspaper, magazine, or other type of publication in which the coupon is incidental to the primary purpose of the publication; or
- (2) sent through the mail.

(b) *Identification [as adult] OF AGE.*

A person has not violated this subtitle if:

- (1) the person examined a buyer's or recipient's driver's license or other identification issued by an employer, governmental entity, or institution of higher education; and
- (2) the license or other identification identified the buyer or recipient as being at least [18] 21 years old.

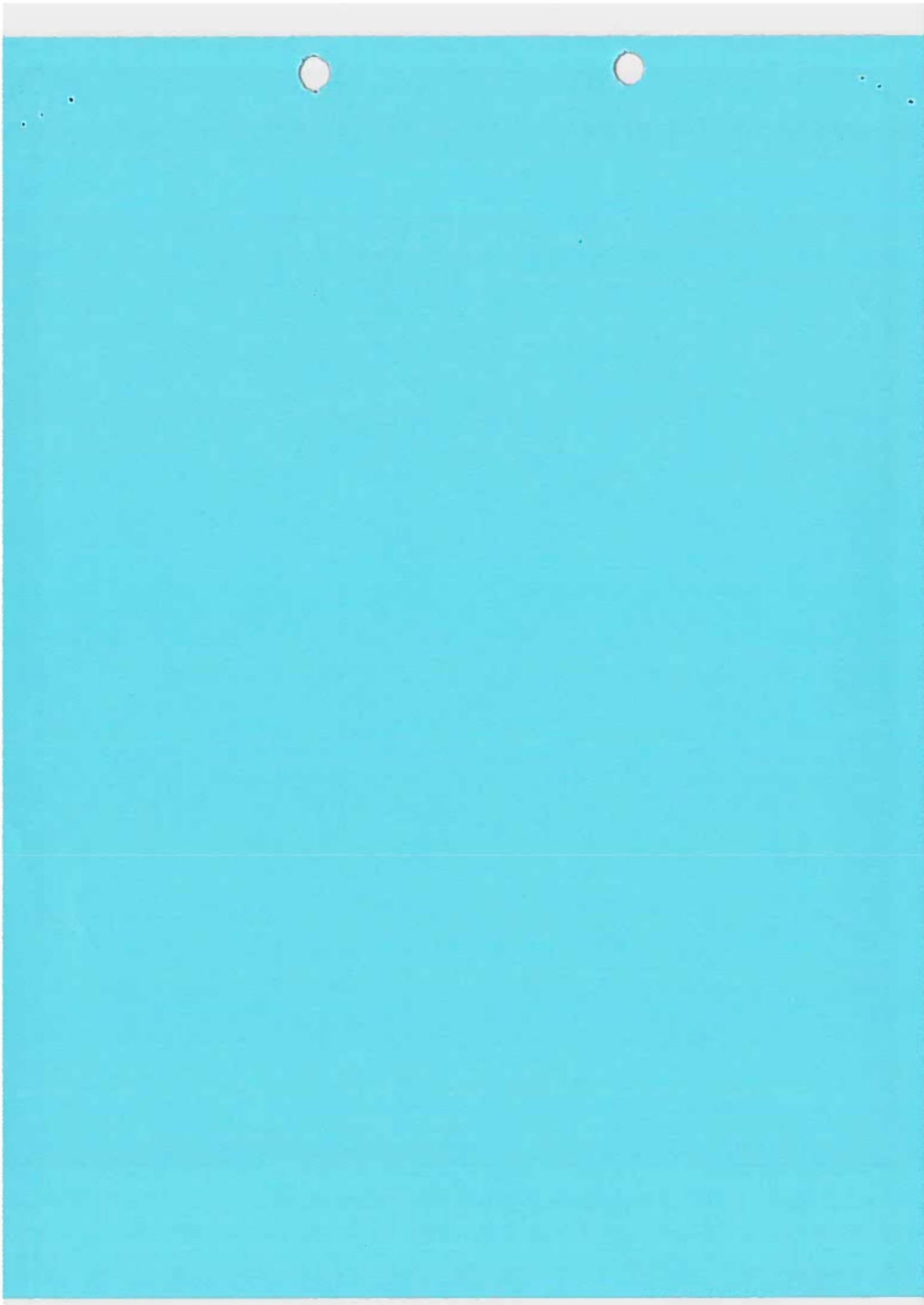
(c) *ACTIVE DUTY MILITARY.*

A PERSON HAS NOT VIOLATED THIS SUBTITLE IF:

- (1) THE PERSON EXAMINED A BUYER'S OR RECIPIENT'S VALID MILITARY IDENTIFICATION; AND
- (2) THE IDENTIFICATION INDICATED THAT THE BUYER OR RECIPIENT IS:
 - (I) AN ACTIVE DUTY MEMBER OF THE MILITARY; AND
 - (II) AT LEAST 18 YEARS OLD.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is enacted.



ACTION BY THE CITY COUNCIL

FIRST READING (INTRODUCTION) _____ DEC 17 2019

PUBLIC HEARING HELD ON December 17, 2019 _____ 20 _____

COMMITTEE REPORT AS OF January 13, 2020 _____ 20 _____

FAVORABLE _____ UNFAVORABLE _____ FAVORABLE AS AMENDED _____ WITHOUT RECOMMENDATION

[Signature] _____
Chair

COMMITTEE MEMBERS:

COMMITTEE MEMBERS:

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

_____ JAN 13 2020
_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING _____ JAN 27 2020
_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (ENROLLED) _____ 20 _____
_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (RE-ENROLLED) _____ 20 _____

WITHDRAWAL _____ 20 _____

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.

President

Chief Clerk