City of Baltimore

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

Legislation Details (With Text)

File #:	14-0371	**Version:**	0	**Name:**	Electronic Smoking Devices
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Enactment date:				**Enactment #:**	14-310

Title: Electronic Smoking Devices

FOR the purpose of extending the laws that prohibit smoking in certain places, prohibit the distribution of tobacco products to minors, and regulate the display, storage, and placement of tobacco products to apply to electronic smoking devices; defining certain terms; conforming certain language; and generally relating to the sale, distribution, and use of electronic smoking devices.

Sponsors: James B. Kraft, Brandon M. Scott, Robert Curran, Bill Henry, Sharon Green Middleton, Mary Pat Clarke, Edward Reisinger

Indexes: Electronic Smoking Devices, Smoking

Code sections:

Attachments: 1. 14-0371 - 1st Reader.pdf, 2. ECB - 14-0371.pdf, 3. Health - 14-0371.pdf, 4. City Solicitor 14-0371.pdf, 5. Finance 14-0371.pdf, 6. 14-0371~3rd Reader.pdf

Date	Ver.	Action By	Action	Result
11/26/2014	0	Mayor	Signed by Mayor	
11/17/2014	0	City Council	Approved and Sent to the Mayor	
11/10/2014	0	Judiciary and Legislative Investigations	Recommended Favorably with Amendment	
11/10/2014	0	City Council	3rd Reader, for final passage	
10/27/2014	0	Judiciary and Legislative Investigations	Scheduled for a Public Hearing	
7/17/2014	0	Judiciary and Legislative Investigations	Scheduled for a Public Hearing	
5/1/2014	0	The City Council	Referred for a Report	
5/1/2014	0	The City Council	Referred for a Report	
5/1/2014	0	The City Council	Referred for a Report	
5/1/2014	0	The City Council	Referred for a Report	
4/28/2014	0	City Council	Assigned	
4/28/2014	0	City Council	Introduced	

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

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INTRODUCTORY*
CITY OF BALTIMORE
COUNCIL BILL

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Introduced by: Councilmember Kraft

A BILL ENTITLED

AN ORDINANCE concerning
Electronic Smoking Devices

FOR the purpose of extending the laws that prohibit smoking in certain places, prohibit the distribution of tobacco products to minors, and regulate the display, storage, and placement of tobacco products to apply to electronic smoking devices; defining certain terms; conforming certain language; and generally relating to the sale, distribution, and use of electronic smoking devices.

BY renaming
Article - Health
Title 12. Tobacco Products
to be
Title 12. Tobacco Products and Smoking Devices
Baltimore City Revised Code
(Edition 2000)

BY renaming
Article - Health
Title 12, Subtitle 4. Placement of Tobacco Products
to be
Title 12, Subtitle 4. Placement of Tobacco Products and Smoking Devices
Baltimore City Revised Code
(Edition 2000)

By repealing and reordaining, with amendments
Article - Health
Section(s) 6-603.1(b)(1)(Health Code),12-101, 12-401, 12-402, 12-403, 12-501, 12-502
Baltimore City Revised Code
(Edition 2000)

By repealing and reordaining, with amendments
Article 1. Mayor, City Council, and Municipal Agencies
Section(s) 40-14(e)(7)(Title 12) and 41-14(6)(Title 12)
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 6. Food Service Facilities

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Subtitle 6. Suspensions and Revocations

§ 6-603.1. Suspension or nonrenewal for multiple or unpaid citations.

(b) Covered offenses.

(1) For purposes of this section, citations issued for violations of the following provisions of the City Code are presumed to be issued for reasons related to public health or to the prevention of disease, epidemics, or nuisances affecting public health:

. . .

Health Code

. . .

Title 12: Tobacco Products AND SMOKING DEVICES

. . .

Title 12. Tobacco Products AND SMOKING DEVICES

Subtitle 1. Indoor Smoking

§ 1201. Definitions.

(a) In general.

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

(B) ELECTRONIC SMOKING DEVICE.

(1) IN GENERAL.

"ELECTRONIC SMOKING DEVICE" MEANS AN ELECTRONIC OR BATTERY-OPERATED DEVICE THAT DELIVERS VAPORS FOR INHALATION, WHETHER MANUFACTURED , DISTRIBUTED, MARKETED, OR SOLD:

(I) AS AN ELECTRONIC CIGARETTE, ELECTRONIC CIGAR, OR ELECTRONIC PIPE; OR

(II) BY ANY OTHER PRODUCT NAME OR DESCRIPTOR.

(2) EXCLUSIONS.

"ELECTRONIC SMOKING DEVICE" DOES NOT INCLUDE AN ASTHMA INHALER OR SIMILAR PRODUCT THAT:

(I) CONTAINS NO TOBACCO NOR ANY NICOTINE; AND

(II) HAS BEEN SPECIFICALLY APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION FOR USE IN MITIGATING, TREATING, OR PREVENTING DISEASE.

(C) [(b)] Enclosed area.

(1) "Enclosed area" means an area that is bounded on all sides by walls that extend, with or without doors, windows,

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vents, or like openings, from floor to ceiling.

(2) "Enclosed area" includes the interior of a vehicle.

(D) [(c)] Person in charge.

"Person in charge" means the person who owns, operates, or manages a place subject to this subtitle.

(E) [(d)] Smoke.

"Smoke" means to:

(1) inhale, burn, or carry any lighted cigarette, cigar, OR pipe tobacco, or ANY other tobacco, weed, or plant product of any kind; or

(2) TO INHALE VAPORS FROM OR OTHERWISE ALLOW VAPORS TO BE EMITTED FROM AN ELECTRONIC SMOKING DEVICE.

Subtitle 4. Placement of Tobacco Products AND SMOKING DEVICES

§ 12401. Definitions.

(a) In general.

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

(B) ELECTRONIC SMOKING DEVICE.

"ELECTRONIC SMOKING DEVICE" HAS THE MEANING STATED IN § 12-101 {"DEFINITIONS"} OF THIS TITLE.

(C) [(b)] 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.

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§ 12402. Placement requirements - In general.

(a) Prohibited placement.

Except as otherwise specified in this subtitle, no establishment that sells tobacco products OR ELECTRONIC SMOKING DEVICES at retail may display, store, or place any tobacco product OR ELECTRONIC SMOKING DEVICE anywhere that is accessible to customers without the intervention of the seller or an employee of the seller.

(b) Examples of complying placement.

The display, storage, or placement of tobacco products OR ELECTRONIC SMOKING DEVICES in accord with one of the following methods does not violate subsection (a) of this section:

(1) behind a sales counter in a place that, absent extraordinary efforts, is beyond the physical reach of customers;

(2) in a locked display case for which seller assistance is needed to gain access to products in the case; or

(3) in an overhead merchandise rack that:

(i) at its lowest point, is at least 6 feet above the floor; and

(ii) permits access to products in the rack only from the side facing away from customers.

§ 12403. Placement requirements - Exceptions.

This subtitle does not apply to:

(1) the sale of tobacco products OR ELECTRONIC SMOKING DEVICES from a vending machine that complies with all requirements of State Business Regulation Article, Title 16, Subtitle 3A; or

(2) an establishment that:

(i) sells tobacco products OR ELECTRONIC SMOKING DEVICES exclusively or primarily; and

(ii) makes bona fide efforts to prevent minors from entering the establishment.

Subtitle 5. Distribution to Minors

§ 12-501. Definitions.

(a) In general.

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

(B) ELECTRONIC SMOKING DEVICE.

"ELECTRONIC SMOKING DEVICE" HAS THE MEANING STATED IN § 12-101 {"DEFINITIONS"} OF THIS TITLE.

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(C) [(b)] Distribute.

"Distribute" means to:

(3) give away, sell, deliver, dispense, or issue;

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

(5) 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.

(D) [(c)] 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.

§ 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 DEVICES to a minor, unless the minor is acting solely as the agent of an employer engaged in the business of distributing [tobacco] THOSE products OR DEVICES;
(1)

(2) distribute any cigarette rolling paper to a minor; or

(3) distribute to a minor any coupon redeemable for any tobacco product OR ELECTRONIC SMOKING DEVICE.

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(b) Others.

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

(1) buy for or sell to a minor any tobacco product OR ELECTRONIC SMOKING DEVICE; or

(2) buy for or sell or deliver to a minor any cigarette rolling paper.

Subtitle 8. Smoking Near Playgrounds

§ 12-801. Definitions.

(f) Smoke.

"Smoke" has the meaning stated in § 12-101 {"Definitions"} of this [Title] TITLE.

Baltimore City Code

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 4014. Violations to which subtitle applies.

(e) Provisions and penalties enumerated.

(7) Health Code

. . .

Title 12: Tobacco Products AND SMOKING DEVICES

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Subtitle 1: Indoor Smoking

Person smoking			$500
Employer, other person in charge		$750	
Subtitle 2: Sale of Unpackaged Cigarettes	$500		
Subtitle 4: Placement of Tobacco Products AND SMOKING DEVICES	$500		
Subtitle 5: Distribution to Minors		$500	
Subtitle 6: Flavored Tobacco Wrappings	$500		
Subtitle 8: Smoking Near Playgrounds	$500		

. . .

. . .

Subtitle 41. Civil Citations

§ 41-14. Offenses to which subtitle applies - Listing.

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(6) Health Code

Title 12: Tobacco Products AND SMOKING DEVICES

. . .

Subtitle 1: Indoor Smoking

Person smoking			
$500			
Employer, other person in charge			$750
Subtitle 2: Sale of Unpackaged Cigarettes		$500	
Subtitle 4: Placement of Tobacco Products AND SMOKING DEVICES	$500		
Subtitle 5: Distribution to Minors			$500
Subtitle 6: Flavored Tobacco Wrappings		$500	
Subtitle 8: Smoking Near Playgrounds	$500		

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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 30th day after the date it is enacted.

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