

**HB0003/983594/1**

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 3  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, at the top of the page, strike “EMERGENCY BILL”; in line 2, strike “Flavored”; in the same line, after “Products –” insert “Electronic Smoking Devices,”; in the same line, after “Prohibition” insert “on Flavoring, and Sales to Military Members”; in line 4, strike “other tobacco products, and electronic smoking devices”; in line 6, strike “flavored tobacco product” and substitute “cigarette that has a characterizing flavor; providing that certain licenses to manufacture, sell, buy, and store other tobacco products do not authorize the licensee to or to attempt to manufacture, ship, import, or sell into or within the State certain other tobacco products that have a characterizing flavor in certain circumstances; providing that certain licenses to manufacture, sell, buy, and store electronic smoking devices do not authorize the licensee to or to attempt to manufacture, ship, import, or sell certain types of electronic smoking devices”; in line 6, after “cigarettes” strike the comma and substitute “or”; in line 7, strike “, or electronic smoking devices”; in line 8, strike “are flavored tobacco products” and substitute “have a characterizing flavor”; in line 12, strike “flavored” and substitute “certain”; in line 14, strike “flavored tobacco product” and substitute “cigarette that has a characterizing flavor”; in line 15, after “machine,” insert “repealing certain authorizations granted to an electronic smoking devices licensee; prohibiting the sale of electronic smoking devices by mail, computer network, telephonic network, or other electronic network; establishing penalties for a person who sells or ships electronic smoking devices by mail, computer network, telephonic network, or other electronic network; repealing exceptions for certain members of the military to prohibitions relating to the distribution and sale of tobacco products to individuals under a certain age;”; in line 16, after “terms;” insert “altering certain definitions;”; in line 17, strike “making this Act an emergency measure;” and substitute “providing for a delayed effective date;”; in line 18, strike “flavored” and substitute “certain”; in line 22, after “16-206,” insert “16-209,”; in the same line, strike “16-3A-01,”; in the same line, after “16-3A-02,” insert “16-

(Over)

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501(b)(1).”; in line 23, after “16.5–212” insert “16.5–214.1”; in the same line, after “16.7-204,” insert “16.7-204.1.”; and in line 28, strike “16-3A-03” and substitute “16-223, 16-3A-03, and 16.5-217”.

On page 2, after line 2, insert:

“BY adding to

Article - Business Regulation

Section 16.7-215

Annotated Code of Maryland

(2015 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article - Criminal Law

Section 10-107

Annotated Code of Maryland

(2012 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,

Article - Health - General

Section 24–305(a) and (c) and 24–307(b) and (c)

Annotated Code of Maryland

(2019 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Health - General

Section 24-305(b) and (d) and 24-307(a) and (d)

Annotated Code of Maryland

(2019 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Local Government

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Section 1-1203  
Annotated Code of Maryland  
(2013 Volume and 2019 Supplement)".

AMENDMENT NO. 2

On page 2, after line 10, insert:

**“(C) (1) “CHARACTERIZING FLAVOR” MEANS A DISTINGUISHABLE TASTE OR AROMA, OTHER THAN THE TASTE OR AROMA OF TOBACCO, IMPARTED OR DETECTABLE BEFORE OR DURING CONSUMPTION OF A TOBACCO PRODUCT.**

**(2) “CHARACTERIZING FLAVOR” INCLUDES A TASTE OR AN AROMA OF ANY FRUIT, CANDY, DESSERT, ALCOHOLIC BEVERAGE, HERB, OR SPICE, INCLUDING CHOCOLATE, VANILLA, HONEY, COCOA, MENTHOL, MINT, OR WINTERGREEN.**

**(3) “CHARACTERIZING FLAVOR” DOES NOT INCLUDE ANY INGREDIENT, INCLUDING ANY ADDITIVE OR FLAVORING, THAT DOES NOT CONTRIBUTE TO THE DISTINGUISHABLE TASTE OR AROMA OF THE PRODUCT.”;**

in line 11, strike “(c)” and substitute “**(D)**”; and strike in their entirety lines 13 through 20, inclusive.

On pages 2 and 3, strike in their entirety the lines beginning with line 26 on page 2 through line 13 on page 3, inclusive.

On page 5, in line 8, strike “**FLAVORED TOBACCO PRODUCT**” and substitute “**CIGARETTE THAT HAS A CHARACTERIZING FLAVOR**”; in line 11, strike “**IS A FLAVORED TOBACCO PRODUCT**” and substitute “**HAS A CHARACTERIZING FLAVOR**”.

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On page 6, in line 3, strike “**FLAVORED TOBACCO PRODUCT**” and substitute “**CIGARETTE THAT HAS A CHARACTERIZING FLAVOR**”.

On page 6, strike in their entirety lines 7 through 29, inclusive, and substitute:

“16–223.

(a) This section applies to a person who is engaged in the business of selling or distributing cigarettes.

(b) (1) Except as provided in paragraph (2) of this subsection, a person covered under this section may not:

(i) sell or ship cigarettes, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, directly to a consumer or other unlicensed recipient in this State; or

(ii) cause cigarettes, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, to be shipped directly to a consumer or other unlicensed recipient in this State.

(2) A licensed retailer may deliver no more than two cartons of cigarettes directly to a consumer if the delivery is made by the licensed retailer or an employee of the licensed retailer.

(c) (1) A licensee who sells or ships cigarettes in violation of this section or causes cigarettes to be shipped in violation of this section is:

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(i) subject to discipline by the Comptroller under § 16–210 of this subtitle; and

(ii) guilty of a felony and, on conviction, is subject to a fine not exceeding \$50 for each carton of cigarettes transported or imprisonment not exceeding 2 years or both.

(2) A person other than a licensee who sells or ships cigarettes in violation of this section or causes cigarettes to be shipped in violation of this section is guilty of a felony and, on conviction, is subject to a fine not exceeding \$50 for each carton of cigarettes transported or imprisonment not exceeding 2 years or both.”.

On page 7, after line 9, insert:

“16-501.

(b) (1) “Brand family” means all styles of cigarettes sold under the same trademark, regardless of whether the cigarettes are differentiated from one another by means of additional modifiers or descriptors such as [“menthol”,] “lights”, “kings”, “100s”, or other differentiation.”.

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On page 7, after line 11, insert:

**“(B) (1) “CHARACTERIZING FLAVOR” MEANS A DISTINGUISHABLE TASTE OR AROMA, OTHER THAN THE TASTE OR AROMA OF TOBACCO, IMPARTED OR DETECTABLE BEFORE OR DURING CONSUMPTION OF A TOBACCO PRODUCT.**

**(2) “CHARACTERIZING FLAVOR” INCLUDES A TASTE OR AN AROMA OF ANY FRUIT, CANDY, DESSERT, ALCOHOLIC BEVERAGE, HERB, OR SPICE,**

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INCLUDING CHOCOLATE, VANILLA, HONEY, COCOA, MENTHOL, MINT, OR WINTERGREEN.

(3) “CHARACTERIZING FLAVOR” DOES NOT INCLUDE ANY INGREDIENT, INCLUDING ANY ADDITIVE OR FLAVORING, THAT DOES NOT CONTRIBUTE TO THE DISTINGUISHABLE TASTE OR AROMA OF A TOBACCO PRODUCT.”;

in line 12, strike “(b)” and substitute “(C)”; and strike in their entirety lines 14 through 21, inclusive.

On page 10, strike in their entirety lines 10 through 27, inclusive, and substitute:

“(T) “SMOKING BAR” MEANS A RETAIL TOBACCO ESTABLISHMENT:

(1) THAT IS PRIMARILY ENGAGED IN THE RETAIL SALE OF PREMIUM CIGARS, PIPE TOBACCO, OR OTHER TOBACCO PRODUCTS FOR ON-PREMISES CONSUMPTION;

(2) IN WHICH THE SALE OF OTHER PRODUCTS IS INCIDENTAL; AND

(3) THAT PRIMARILY OCCUPIES AN ENCLOSED INDOOR SPACE.”.

On page 12, in line 22, strike “A” and substitute “EXCEPT AS IT APPLIES TO PREMIUM CIGARS, A”; and in line 24, strike “A FLAVORED TOBACCO PRODUCT” and substitute “AN OTHER TOBACCO PRODUCT THAT HAS A CHARACTERIZING FLAVOR FOR OFF-PREMISES CONSUMPTION.”

**(2) THIS SUBSECTION MAY NOT BE INTERPRETED TO PROHIBIT THE HOLDER OF A LICENSE ISSUED UNDER THIS TITLE FROM MANUFACTURING, SHIPPING, IMPORTING, OR SELLING INTO OR WITHIN THE STATE:**

**(I) PREMIUM CIGARS WITH OR WITHOUT A CHARACTERIZING FLAVOR FOR ON- OR OFF-PREMISES CONSUMPTION;**

**(II) PIPE TOBACCO WITH A CHARACTERIZING FLAVOR FOR ON-PREMISES CONSUMPTION AT A SMOKING BAR; OR**

**(III) AN OTHER TOBACCO PRODUCT WITH A CHARACTERIZING FLAVOR FOR ON-PREMISES CONSUMPTION AT A SMOKING BAR**".

On page 12, in line 25, strike "(2)" and substitute "(3)".

On page 13, strike beginning with "A" in line 17 down through "ATTEMPTS" in line 18 and substitute "IT IS A VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION FOR A PERSON TO MANUFACTURE, SHIP, IMPORT, OR SELL OR ATTEMPT"; strike line 19 in its entirety and substitute "FOR OFF-PREMISES CONSUMPTION, AN OTHER TOBACCO PRODUCT WITH A CHARACTERIZING FLAVOR, OTHER THAN PREMIUM CIGARS.".

AMENDMENT NO. 4

On page 13, after line 25, insert:

**"(B) (1) "CARTRIDGE-BASED ESD" MEANS AN ELECTRONIC SMOKING DEVICE THAT CONSISTS OF, INCLUDES, OR INVOLVES A CARTRIDGE OR POD THAT HOLDS LIQUID THAT IS TO BE AEROSOLIZED THROUGH PRODUCT USE.**

**(2) “CARTRIDGE-BASED ESD” INCLUDES AN ELECTRONIC SMOKING DEVICE THAT INCLUDES A CARTRIDGE, A POD, OR ANY SMALL ENCLOSED UNIT, SEALED OR UNSEALED, THAT IS DESIGNED TO FIT WITHIN OR OPERATE AS PART OF AN ELECTRONIC SMOKING DEVICE.**

**(C) “CLOSED ESD” MEANS AN ELECTRONIC SMOKING DEVICE, WHETHER DISPOSABLE, RECHARGEABLE, OR REUSABLE, THAT IS SEALED AND PREFILLED WITH VAPING LIQUID IN A CONTAINER THAT AFFIXES DIRECTLY TO THE BATTERY OR HEATING MECHANISM OF THE ELECTRONIC SMOKING DEVICE.”.**

On page 13, in lines 26 and 28, strike “(b)” and “(c)”, respectively, and substitute “**(D)**” and “**(E)**”, respectively.

On page 14, in lines 8, 22, and 28, strike “(d)”, “(e)”, and “(f)”, respectively, and substitute “**(F)**”, “**(G)**”, and “**(H)**”, respectively.

On page 15, in lines 2, 16, and 26, strike “(g)”, “**(I)**”, and “**(J)**”, respectively, and substitute “**(I)**”, “**(J)**”, and “**(L)**”, respectively; strike in their entirety lines 8 through 15, inclusive; and after line 25, insert:

**“(K) “OPEN ESD” MEANS AN ELECTRONIC SMOKING DEVICE THAT HAS A TANK, RESERVOIR, OR OTHER CONTAINER FOR VAPING LIQUID THAT CAN BE MANUALLY FILLED AND REFILLED WITH VAPING LIQUID.”.**

On pages 15 and 16, strike in their entirety the lines beginning with line 28 on page 15 through line 16 on page 16, inclusive.

On page 16, in lines 17 and 20, strike “**(L)**” and “**(M)**”, respectively, and substitute “**(M)**” and “**(N)**”, respectively.

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On page 17, in line 5, after “Maryland;” insert “AND”; and strike beginning with “and” in line 6 down through the semicolon in line 10.

On page 18, in line 19, strike “A FLAVORED TOBACCO PRODUCT.” and substitute “A CARTRIDGE-BASED ESD OR CLOSED ESD.”.

On pages 18 and 19, strike in their entirety the lines beginning with line 20 on page 18 through line 3 on page 19, inclusive.

On page 19, strike beginning with “A” in line 9 down through “ATTEMPTS” in line 10 and substitute “IT SHALL BE A VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION FOR A PERSON TO MANUFACTURE, SHIP, IMPORT, OR SELL OR ATTEMPT”; and in line 11, strike “A FLAVORED TOBACCO PRODUCT VIOLATES PARAGRAPH (1) OF THIS SUBSECTION” and substitute “A CARTRIDGE-BASED ESD OR CLOSED ESD”.

AMENDMENT NO. 5

On page 5, after line 24, insert:

“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:

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(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.”.

On page 13, after line 23, insert:

“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.

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(a) This section applies to a person who is engaged in the business of selling or distributing other tobacco products.

(b) (1) This subsection does not apply to the order, purchase, sale, or shipment of premium cigars or pipe tobacco by a licensed other tobacco products retailer or licensed tobacconist.

(2) Except as provided in paragraph (3) of this subsection, a person covered under this section may not:

(i) sell or ship other tobacco products, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, directly to a consumer or other unlicensed recipient in this State; or

(ii) cause other tobacco products, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, to be shipped directly to a consumer or other unlicensed recipient in this State.

(3) A licensed other tobacco products retailer or licensed tobacconist may deliver not more than two packages of other tobacco products directly to a consumer if the delivery is made by the licensed other tobacco products retailer or licensed tobacconist or an employee of the licensed other tobacco products retailer or licensed tobacconist.

(c) (1) A licensee who sells or ships other tobacco products in violation of this section or causes other tobacco products to be shipped in violation of this section is:

(i) subject to discipline by the Comptroller under § 16.5–208 of this subtitle; and

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(ii) guilty of a felony and on conviction is subject to a fine not exceeding \$50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both.

(2) A person other than a licensee who sells or ships other tobacco products in violation of this section or causes other tobacco products to be shipped in violation of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both.”.

On page 19, after line 3, insert:

“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.”.

On page 19, after line 15, insert:

“16.7-215.

**(A) THIS SECTION APPLIES ONLY TO A PERSON WHO IS ENGAGED IN THE BUSINESS OF SELLING OR DISTRIBUTING ELECTRONIC SMOKING DEVICES.**

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON COVERED UNDER THIS SECTION MAY NOT:

(I) SELL OR SHIP ELECTRONIC SMOKING DEVICES, ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK, BY A CONSUMER OR OTHER UNLICENSED RECIPIENT, DIRECTLY TO A CONSUMER OR OTHER UNLICENSED RECIPIENT IN THE STATE; OR

(II) CAUSE ELECTRONIC SMOKING DEVICES, ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER UNLICENSED RECIPIENT, TO BE SHIPPED DIRECTLY TO A CONSUMER OR OTHER UNLICENSED RECIPIENT IN THE STATE.

(2) A LICENSED ELECTRONIC SMOKING DEVICES RETAILER MAY DELIVER NOT MORE THAN TWO ELECTRONIC SMOKING DEVICES DIRECTLY TO A CONSUMER IF THE DELIVERY IS MADE BY THE LICENSED ELECTRONIC SMOKING DEVICES RETAILER OR AN EMPLOYEE OF THE LICENSED ELECTRONIC SMOKING DEVICES RETAILER.

(C) (1) A LICENSEE WHO SELLS OR SHIPS ELECTRONIC SMOKING DEVICES IN VIOLATION OF THIS SECTION OR CAUSES ELECTRONIC SMOKING DEVICES TO BE SHIPPED IN VIOLATION OF THIS SECTION IS:

(I) SUBJECT TO DISCIPLINE BY THE EXECUTIVE DIRECTOR UNDER § 16.7-207 OF THIS ARTICLE; AND

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(II) 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) A PERSON OTHER THAN A LICENSEE WHO SELLS OR SHIPS ELECTRONIC SMOKING DEVICES IN VIOLATION OF THIS SECTION OR CAUSES ELECTRONIC SMOKING DEVICES TO BE SHIPPED IN VIOLATION OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$50 FOR EACH ELECTRONIC SMOKING DEVICE TRANSPORTED OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.

Article – Criminal Law

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 to[

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

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(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 an individual under the age of 21 years:

- (i) a tobacco product;
- (ii) tobacco paraphernalia; or
- (iii) a coupon redeemable for a tobacco product.

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

(1)] purchase for or sell a tobacco product to 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 an individual under the age of 21 years, unless the individual:

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- (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 a government unit that positively identified the purchaser or recipient as at least 21 years of age [or as at least 18 years of age and an active duty member of the military].

(e) (1) 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 to 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.

Article – Health – General

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24-305.

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

(b) (1) Except as provided in paragraph (2) of this subsection, a person may not sell, distribute, or offer for sale to an individual under the age of 21 years an electronic smoking device, as defined in § 16.7–101(c) of the Business Regulation Article.

(2) This subsection does not apply to [:

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

(ii) A purchaser or recipient who:

1. Is at least 18 years of age;

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

3. Presents a valid military identification].

(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

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

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

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

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

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[:

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

(ii) A purchaser or recipient who:

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

(b) 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 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.

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(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 a governmental unit that positively identified the purchaser or recipient as at least 21 years old [or as at least 18 years of age and an active duty member of the military].

Article – Local Government

1-1203.

(a) This section applies only in:

(1) Carroll County;

(2) Cecil County;

(3) Garrett County; and

(4) St. Mary's County.

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(b) Subsection (c)(3) of this section does not apply to the distribution of a coupon that is redeemable for a tobacco product if the coupon:

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

(2) is sent through the mail.

(c) A person may not:

(1) distribute a tobacco product to an individual under the age of 21 years, unless[:

(i) the individual is acting solely as the agent of the 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 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

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(iii) presents a valid military identification]; or

(3) distribute to 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 21 years old [or as being at least 18 years of age and an active duty member of the military].

(e) (1) In Carroll County and St. Mary's County, a person who violates this section commits a civil infraction and is subject to a civil penalty of:

(i) \$300 for the first violation; and

(ii) \$500 for any subsequent violation within 24 months after the previous citation.

(2) In Cecil County, a person who violates this section commits a civil infraction and is subject to a civil penalty of:

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- (i) \$300 for the first violation;
- (ii) \$500 for a second violation; and
- (iii) \$750 for any subsequent violation.

(3) In Garrett County, a person who violates this section commits a civil infraction and is subject to a civil penalty not exceeding \$300.”.

On page 19, strike beginning with “is” in line 16 down through “enacted.” in line 20 and substitute “shall take effect January 1, 2021.”.