

Introduced November 4, 2019
Public Hearing November 18, 2019
Council Action December 4, 2019
Executive Action December 16, 2019
Effective Date February 5, 2020

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 13

Bill No. 57 -2019

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending the definition tobacco product to be consistent with State law; related to the distribution of tobacco products, prohibiting the distribution of tobacco products, including electronic smoking devices, to individuals under the age of 21 years; amending the enforcement provisions for unlawful distribution of tobacco products to an individual under the age of 21 years; providing for certain exceptions for individuals in the active military in accordance with State law; amending what constitutes acceptable proof of age; and generally related to the placement and distribution of tobacco products in Howard County.

Introduced and read first time November 4, 2019. Ordered posted and hearing scheduled.

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on November 18, 2019.

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on December 2 2019 and Passed , Passed with amendments , Failed .

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 4th day of December 2019 at 3 a.m.

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive December 16 2019

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard*
2 *County Code is amended as follows:*

3
4 *By amending:*

- 5 *Title 12. Health and Social Services*
- 6 *Section 12.1200. Purpose.*
- 7 *Section 12.1201. Placement of Tobacco Product.*

8
9 *By amending:*

- 10 *Title 12. Health and Social Services*
- 11 *Subtitle 13. Distribution of Tobacco Products to Minors.*

12
13 *By amending:*

- 14 *Title 12. Health and Social Services.*
- 15 *Section 12.1401. Definitions.*

16
17 **Title 12. Health and Social Services.**
18 **Subtitle 12. Placement of tobacco products.**

19
20 **Section 12.1200. Purpose[[]]; DEFINITIONS.**

21 (A) The Howard County Council finds and declares that tobacco products are a hazard to the
22 health of the general public, especially youth, and that tobacco products should be made
23 accessible at retail places only through the intervention of the retail seller or seller's employee.

24 (B) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:

25 (1) *ELECTRONIC SMOKING DEVICE:*

26 (i) *ELECTRONIC SMOKING DEVICE* MEANS A DEVICE THAT CAN BE USED TO DELIVER
27 AEROSOLIZED OR VAPORIZED NICOTINE TO AN INDIVIDUAL INHALING FROM THE DEVICE.

28 (ii) "ELECTRONIC SMOKING DEVICE" INCLUDES:

29 A. AN ELECTRONIC CIGARETTE, AN ELECTRONIC CIGAR, AN ELECTRONIC CIGARILLO,
30 AN ELECTRONIC PIPE, AN ELECTRONIC HOOKAH, A VAPE PEN, AND VAPING LIQUID;
31 AND

32 B. ANY COMPONENT, PART, OR ACCESSORY OF SUCH A DEVICE REGARDLESS OF
33 WHETHER OR NOT IT IS SOLD SEPARATELY, INCLUDING ANY SUBSTANCE INTENDED
34 TO BE AEROSOLIZED OR VAPORIZED DURING USE OF THE DEVICE.

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

4 (2) *TOBACCO PRODUCT* SHALL HAVE THE MEANING SET FORTH IN SUBTITLE 1 OF TITLE 10 OF
5 THE CRIMINAL LAW ARTICLE OF THE MARYLAND ANNOTATED CODE. AS INCLUDED IN
6 SECTION 10-101 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF
7 MARYLAND, A TOBACCO PRODUCT INCLUDES AN ELECTRONIC SMOKING DEVICE.
8

9 **Section 12.1201. - Placement of tobacco products.**

10 (a) A retail seller of any tobacco product must not display or store the product in any place that
11 is accessible to buyers of the product without the intervention of the seller or an employee of the
12 seller.

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

15 ([[c]]B) This section does not apply to:

16 (1) The sale of any tobacco product from a vending machine that complies with all
17 requirements of State law; and

18 (2) Any store where only or primarily tobacco products are sold.
19

20 **Title 12. Health and Social Services.**

21 **Subtitle 13. Distribution of Tobacco Products to [[Minors]]**

22 **INDIVIDUALS UNDER THE AGE OF 21.**
23

24 **Section 12.1300. Definitions.**

25 In this subtitle the following words have the meanings indicated:

26 (a) *Distribute* means to:

27 (1) Give away, sell, deliver, dispense, or issue;

28 (2) Offer to give away, sell, deliver, dispense, or issue; or

29 (3) Cause or hire any person to give away, sell, deliver, dispense, or issue or offer to give
30 away, sell, deliver, dispense, or issue.

31 (b) *Employee* means an individual employed by an owner.

1 (C) ELECTRONIC SMOKING DEVICE.

2 (1) *ELECTRONIC SMOKING DEVICE* MEANS A DEVICE THAT CAN BE USED TO DELIVER
3 AEROSOLIZED OR VAPORIZED NICOTINE TO AN INDIVIDUAL INHALING FROM THE DEVICE.

4 (2) "ELECTRONIC SMOKING DEVICE" INCLUDES:

5 (I) AN ELECTRONIC CIGARETTE, AN ELECTRONIC CIGAR, AN ELECTRONIC CIGARILLO, AN
6 ELECTRONIC PIPE, AN ELECTRONIC HOOKAH, A VAPE PEN, AND VAPING LIQUID; AND

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

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

13 [[(c) *Minor* means an individual under the age of 18.]]

14 (d) *Owner* means a person engaged in the business of selling or otherwise distributing tobacco
15 products for commercial purposes.

16 (e) *Tobacco product* [[means any substance containing tobacco, including cigarettes, cigars,
17 smoking tobacco, snuff, or smokeless tobacco]] SHALL HAVE THE MEANING SET FORTH IN
18 SUBTITLE 1 OF TITLE 10 OF THE CRIMINAL LAW ARTICLE OF THE MARYLAND ANNOTATED
19 CODE. AS INCLUDED IN SECTION 10-101 OF THE CRIMINAL LAW ARTICLE OF THE
20 ANNOTATED CODE OF MARYLAND, A TOBACCO PRODUCT INCLUDES AN ELECTRONIC
21 SMOKING DEVICE.

22
23 **Section 12.1301. Unlawful distribution.**

24 (a) A person engaged in the business of selling or otherwise distributing tobacco products for
25 commercial purposes shall not:

26 (1) Distribute any tobacco product to [[a minor]] AN INDIVIDUAL UNDER THE AGE OF 21
27 YEARS, unless the [[minor]] INDIVIDUAL is acting solely as the agent of the
28 [[minor's]] INDIVIDUAL'S employer who is engaged in the business of distributing tobacco
29 products;

30 (2) Distribute cigarette rolling papers to [[a minor]] AN INDIVIDUAL UNDER THE AGE OF 21
31 YEARS; or

1 (3) Distribute to [[a minor]]AN INDIVIDUAL UNDER THE AGE OF 21 YEARS a coupon
2 redeemable for any tobacco product.

3 (b) A person, who is not a person described under subsection (a) of this section, shall not:

4 (1) Buy for or sell to [[a minor]]AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any tobacco
5 product; or

6 (2) Buy for or sell to [[a minor]]AN INDIVIDUAL UNDER THE AGE OF 21 YEARS cigarette rolling
7 papers.

8 (C) IN ACCORDANCE WITH SECTION 10-107 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED
9 CODE OF MARYLAND, THE PROVISIONS OF SUBSECTION (A) AND (B) OF THIS SECTION DO NOT APPLY
10 TO A PERSON WHO DISTRIBUTES TOBACCO PRODUCTS TO AN INDIVIDUAL UNDER 21 YEARS WHO IS:

11 (1) IS AT LEAST 18 YEARS OF AGE;

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

13 (3) PRESENTS A VALID MILITARY IDENTIFICATION.

14 ([[c]]D) This section does not apply to the distribution of a coupon which is redeemable for any
15 tobacco product when the coupon is contained in a newspaper, a magazine, or any other type of
16 publication in which the coupon is incidental to the primary purpose of the publication, or sent
17 through the mail.

18 ([[d]]E) A person has not violated this section if:

19 (1) The person examined a driver's license or another valid identification issued by [[an
20 employer,]] a government entity[, or an institution of higher learning]]; and

21 (2) The license or [[other]]VALID identification ISSUED BY A GOVERNMENT ENTITY identified
22 the buyer or recipient of a tobacco product as being at least [[18]]21 years old.

23 ([[e]]F) If [[a minor]]AN INDIVIDUAL UNDER THE AGE OF 21 YEARS bought a tobacco product
24 from a vending machine, this section does not apply to the owner of the vending machine or any
25 other person with control over the vending machine.

26
27 **Section 12.1302. Enforcement and penalties.**

28 (a) This subtitle shall be enforced by the Health Officer.

29 (b) A person who believes that a violation of this subtitle has occurred may file a complaint with
30 the Health Officer.

1 (c) ~~[[A person]] AN OWNER AND/OR EMPLOYEE~~ who violates subsection 12.1301(a) of this subtitle
2 is subject to a civil penalty ~~[[under title 24 of this Code, as follows]]~~ NOT EXCEEDING:

3 (1) UP TO \$500 FOR A FIRST VIOLATION;

4 (2) UP TO \$1000 FOR A SECOND OR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 24
5 MONTHS AFTER THE PRIOR VIOLATION.

6 ~~[[~~(1) A violation by an owner is a Class B offense, and a subsequent violation within one
7 year is a Class A offense;

8 (2) A violation by an employee is:

9 i. For the employee a Class D offense, and for a subsequent violation within one year a
10 Class C offense; and

11 ii. For the owner a Class B offense, and for a subsequent violation within one year a
12 Class A offense.]]

13 ~~[[~~(d) A violation of subsection 12.1301(b) of this subtitle is a Class D offense.]]

14 ~~[[~~(e)]D) For the purposes of this section, a subsequent violation means a separate and distinct
15 action at a different time and occasion.

16
17 **Title 12. Health and Social Services.**

18 **Subtitle 14. Distribution of Tobacco Products.**

19
20 **Section 12.1401. Definitions.**

21 In this subtitle the following words have the meaning indicated:

22 (A) ELECTRONIC SMOKING DEVICE.

23 (1) *ELECTRONIC SMOKING DEVICE* MEANS A DEVICE THAT CAN BE USED TO DELIVER
24 AEROSOLIZED OR VAPORIZED NICOTINE TO AN INDIVIDUAL INHALING FROM THE DEVICE

25 (2) "ELECTRONIC SMOKING DEVICE" INCLUDES:

26 (I) AN ELECTRONIC CIGARETTE, AN ELECTRONIC CIGAR, AN ELECTRONIC CIGARILLO, AN
27 ELECTRONIC PIPE, AN ELECTRONIC HOOKAH, A VAPE PEN, AND VAPING LIQUID; AND

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

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

4 ([[a]]B) *Tobacco product* [[means:

5 (1) Any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff,
6 or tobacco in any other form that may be chewed or held in the mouth or inhaled through
7 the nostrils.

8 (2) Any tobacco or nicotine product that is now, or in the future, defined in]] SHALL HAVE THE
9 MEANING SET FORTH IN subtitle 1 of title 10 of the Criminal Law Article of the Maryland
10 Annotated Code and made illegal to distribute to [[a minor]] AN INDIVIDUAL UNDER THE
11 21 YEARS IN SUBTITLE 13 OF THIS TITLE. AS INCLUDED IN SECTION 10-101 OF THE
12 CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND, A TOBACCO PRODUCT
13 INCLUDES AN ELECTRONIC SMOKING DEVICE.

14 ([[b]]C) *Distribute* means to give, dispense, issue, deliver or offer to give dispense, deliver or
15 issue; or to cause or hire any person to give, dispense, issue, deliver or offer to give, dispense,
16 deliver or issue.

17
18 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
19 ***this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on December 6, 2019.

Diane Schwartz Jones
Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

Amendment 1 to Council Bill No. 57-2019

BY: The Chairperson at the request
of the County Executive

Legislative Day 14
Date: December 2, 2019

Amendment No. 1

(This amendment corrects a penalty provision to be consistent with State law that only allows penalties to be assessed against a store owner.)

- 1 On the 5th page, in line 1, strike "AND/OR EMPLOYEE".

ADOPTED December 2, 2019

FAILED _____

SIGNATURE DRJ

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 13

Bill No. 57-2019

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending the definition tobacco product to be consistent with State law; related to the distribution of tobacco products, prohibiting the distribution of tobacco products, including electronic smoking devices, to individuals under the age of 21 years; amending the enforcement provisions for unlawful distribution of tobacco products to an individual under the age of 21 years; providing for certain exceptions for individuals in the active military in accordance with State law; amending what constitutes acceptable proof of age; and generally related to the placement and distribution of tobacco products in Howard County.

Introduced and read first time November 4, 2019. Ordered posted and hearing scheduled.
By order Diane A. Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2019.

By order _____
Diane Schwartz Jones, Administrator

This Bill was read the third time on _____, 2019 and Passed _____, Passed with amendments _____, Failed _____.

By order _____
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2019 at ___ a.m./p.m.

By order _____
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive _____, 2019

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Code is amended as follows:

3
4 *By amending:*

5 *Title 12. Health and Social Services*

6 *Section 12.1200. Purpose.*

7 *Section 12.1201. Placement of Tobacco Product.*

8
9 *By amending:*

10 *Title 12. Health and Social Services*

11 *Subtitle 13. Distribution of Tobacco Products to Minors.*

12
13 *By amending:*

14 *Title 12. Health and Social Services.*

15 *Section 12.1401. Definitions.*

16
17 **Title 12. Health and Social Services.**

18 **Subtitle 12. Placement of tobacco products.**

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20 **Section 12.1200. Purpose[.]; DEFINITIONS.**

21 (A) The Howard County Council finds and declares that tobacco products are a hazard to the
22 health of the general public, especially youth, and that tobacco products should be made
23 accessible at retail places only through the intervention of the retail seller or seller's employee.

24 (B) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:

25 (1) *ELECTRONIC SMOKING DEVICE:*

26 (i) *ELECTRONIC SMOKING DEVICE* MEANS A DEVICE THAT CAN BE USED TO DELIVER
27 AEROSOLIZED OR VAPORIZED NICOTINE TO AN INDIVIDUAL INHALING FROM THE DEVICE.

28 (ii) "ELECTRONIC SMOKING DEVICE" INCLUDES:

29 A. AN ELECTRONIC CIGARETTE, AN ELECTRONIC CIGAR, AN ELECTRONIC CIGARILLO,
30 AN ELECTRONIC PIPE, AN ELECTRONIC HOOKAH, A VAPE PEN, AND VAPING LIQUID;
31 AND

32 B. ANY COMPONENT, PART, OR ACCESSORY OF SUCH A DEVICE REGARDLESS OF
33 WHETHER OR NOT IT IS SOLD SEPARATELY, INCLUDING ANY SUBSTANCE INTENDED
34 TO BE AEROSOLIZED OR VAPORIZED DURING USE OF THE DEVICE.

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

4 (2) *TOBACCO PRODUCT* SHALL HAVE THE MEANING SET FORTH IN SUBTITLE 1 OF TITLE 10 OF
5 THE CRIMINAL LAW ARTICLE OF THE MARYLAND ANNOTATED CODE, AS INCLUDED IN
6 SECTION 10-101 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF
7 MARYLAND, A TOBACCO PRODUCT INCLUDES AN ELECTRONIC SMOKING DEVICE.

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9 **Section 12.1201. - Placement of tobacco products.**

10 (a) A retail seller of any tobacco product must not display or store the product in any place that
11 is accessible to buyers of the product without the intervention of the seller or an employee of the
12 seller.

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

15 ([[c]]B) This section does not apply to:

- 16 (1) The sale of any tobacco product from a vending machine that complies with all
17 requirements of State law; and
18 (2) Any store where only or primarily tobacco products are sold.

19
20 **Title 12. Health and Social Services.**

21 **Subtitle 13. Distribution of Tobacco Products to [[Minors]]**

22 **INDIVIDUALS UNDER THE AGE OF 21.**

23
24 **Section 12.1300. Definitions.**

25 In this subtitle the following words have the meanings indicated:

26 (a) *Distribute* means to:

- 27 (1) Give away, sell, deliver, dispense, or issue;
28 (2) Offer to give away, sell, deliver, dispense, or issue; or
29 (3) Cause or hire any person to give away, sell, deliver, dispense, or issue or offer to give
30 away, sell, deliver, dispense, or issue.

31 (b) *Employee* means an individual employed by an owner.

1 (C) ELECTRONIC SMOKING DEVICE.

2 (1) *ELECTRONIC SMOKING DEVICE* MEANS A DEVICE THAT CAN BE USED TO DELIVER
3 AEROSOLIZED OR VAPORIZED NICOTINE TO AN INDIVIDUAL INHALING FROM THE DEVICE.

4 (2) "ELECTRONIC SMOKING DEVICE" INCLUDES:

5 (I) AN ELECTRONIC CIGARETTE, AN ELECTRONIC CIGAR, AN ELECTRONIC CIGARILLO, AN
6 ELECTRONIC PIPE, AN ELECTRONIC HOOKAH, A VAPE PEN, AND VAPING LIQUID; AND

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

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

13 [[(c) *Minor* means an individual under the age of 18.]]

14 (d) *Owner* means a person engaged in the business of selling or otherwise distributing tobacco
15 products for commercial purposes.

16 (e) *Tobacco product* [[means any substance containing tobacco, including cigarettes, cigars,
17 smoking tobacco, snuff, or smokeless tobacco]] SHALL HAVE THE MEANING SET FORTH IN
18 SUBTITLE 1 OF TITLE 10 OF THE CRIMINAL LAW ARTICLE OF THE MARYLAND ANNOTATED
19 CODE. AS INCLUDED IN SECTION 10-101 OF THE CRIMINAL LAW ARTICLE OF THE
20 ANNOTATED CODE OF MARYLAND, A TOBACCO PRODUCT INCLUDES AN ELECTRONIC
21 SMOKING DEVICE.

22
23 **Section 12.1301. Unlawful distribution.**

24 (a) A person engaged in the business of selling or otherwise distributing tobacco products for
25 commercial purposes shall not:

26 (1) Distribute any tobacco product to [[a minor]] AN INDIVIDUAL UNDER THE AGE OF 21
27 YEARS, unless the [[minor]] INDIVIDUAL is acting solely as the agent of the
28 [[minor's]] INDIVIDUAL'S employer who is engaged in the business of distributing tobacco
29 products;

30 (2) Distribute cigarette rolling papers to [[a minor]] AN INDIVIDUAL UNDER THE AGE OF 21
31 YEARS; or

1 (3) Distribute to [[a minor]]AN INDIVIDUAL UNDER THE AGE OF 21 YEARS a coupon
2 redeemable for any tobacco product.

3 (b) A person, who is not a person described under subsection (a) of this section, shall not:

4 (1) Buy for or sell to [[a minor]]AN INDIVIDUAL UNDER THE AGE OF 21 YEARS any tobacco
5 product; or

6 (2) Buy for or sell to [[a minor]]AN INDIVIDUAL UNDER THE AGE OF 21 YEARS cigarette rolling
7 papers.

8 (C) IN ACCORDANCE WITH SECTION 10-107 OF THE CRIMINAL LAW ARTICLE OF THE ANNOTATED
9 CODE OF MARYLAND, THE PROVISIONS OF SUBSECTION (A) AND (B) OF THIS SECTION DO NOT APPLY
10 TO A PERSON WHO DISTRIBUTES TOBACCO PRODUCTS TO AN INDIVIDUAL UNDER 21 YEARS WHO IS:

11 (1) IS AT LEAST 18 YEARS OF AGE;

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

13 (3) PRESENTS A VALID MILITARY IDENTIFICATION.

14 ([[c]]D) This section does not apply to the distribution of a coupon which is redeemable for any
15 tobacco product when the coupon is contained in a newspaper, a magazine, or any other type of
16 publication in which the coupon is incidental to the primary purpose of the publication, or sent
17 through the mail.

18 ([[d]]E) A person has not violated this section if:

19 (1) The person examined a driver's license or another valid identification issued by [[an
20 employer,]] a government entity[[, or an institution of higher learning]]; and

21 (2) The license or [[other]]VALID IDENTIFICATION ISSUED BY A GOVERNMENT ENTITY identified
22 the buyer or recipient of a tobacco product as being at least [[18]]21 years old.

23 ([[e]]F) If [[a minor]]AN INDIVIDUAL UNDER THE AGE OF 21 YEARS bought a tobacco product
24 from a vending machine, this section does not apply to the owner of the vending machine or any
25 other person with control over the vending machine.

26
27 **Section 12.1302. Enforcement and penalties.**

28 (a) This subtitle shall be enforced by the Health Officer.

29 (b) A person who believes that a violation of this subtitle has occurred may file a complaint with
30 the Health Officer.

1 (c) ~~[[A person]]~~ AN OWNER AND/OR EMPLOYEE who violates subsection 12.1301(a) of this subtitle
2 is subject to a civil penalty ~~[[under title 24 of this Code, as follows]]~~ NOT EXCEEDING:

3 (1) UP TO \$500 FOR A FIRST VIOLATION;

4 (2) UP TO \$1000 FOR A SECOND OR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 24
5 MONTHS AFTER THE PRIOR VIOLATION.

6 ~~[[~~(1) A violation by an owner is a Class B offense, and a subsequent violation within one
7 year is a Class A offense;

8 (2) A violation by an employee is:

9 i. For the employee a Class D offense, and for a subsequent violation within one year a
10 Class C offense; and

11 ii. For the owner a Class B offense, and for a subsequent violation within one year a
12 Class A offense.]]

13 ~~[[~~(d) A violation of subsection 12.1301(b) of this subtitle is a Class D offense.]]

14 ~~[[~~(e)]D) For the purposes of this section, a subsequent violation means a separate and distinct
15 action at a different time and occasion.

16
17 **Title 12. Health and Social Services.**

18 **Subtitle 14. Distribution of Tobacco Products.**

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20 **Section 12.1401. Definitions.**

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6 or tobacco in any other form that may be chewed or held in the mouth or inhaled through
7 the nostrils.

8 (2) Any tobacco or nicotine product that is now or in the future, defined in]] SHALL HAVE THE
9 MEANING SET FORTH IN subtitle 1 of title 10 of the Criminal Law Article of the Maryland
10 Annotated Code and made illegal to distribute to [[a minor]] AN INDIVIDUAL UNDER THE
11 21 YEARS IN SUBTITLE 13 OF THIS TITLE. AS INCLUDED IN SECTION 10-101 OF THE
12 CRIMINAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND, A TOBACCO PRODUCT
13 INCLUDES AN ELECTRONIC SMOKING DEVICE.

14 ([[b]]C) *Distribute* means to give, dispense, issue, deliver or offer to give dispense, deliver or
15 issue; or to cause or hire any person to give, dispense, issue, deliver or offer to give, dispense,
16 deliver or issue.

17
18 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
19 *this Act shall become effective 61 days after its enactment.*

Amendment 1 to Council Bill No. 57-2019

**BY: The Chairperson at the request
of the County Executive**

**Legislative Day 14
Date: December 2, 2019**

Amendment No. 1

(This amendment corrects a penalty provision to be consistent with State law that only allows penalties to be assessed against a store owner.)

- 1 On the 5th page, in line 1, strike "AND/OR EMPLOYEE".

CB57

Sayers, Margery

From: Laura Hale <Laura.Hale@heart.org>
Sent: Monday, November 18, 2019 1:31 PM
To: CouncilMail
Subject: Written Testimony CB57-2019
Attachments: Support CB57 2019 American Heart Association.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

To whom it may concern,

Please find attached AHA's written testimony for tonight's hearing for the record.

Kind Regards,

Laura



Laura Hale
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November 18, 2019

Testimony of Laura Hale
American Heart Association Director of Government Relations
Support with Amendment CB57-2019 - Tobacco products - age change and updates for consistency with State law

Dear Chair Mercer-Rigby and Members of the Howard County Council,

Thank you for the opportunity to speak before you today. My name is Laura Hale and I am the Director of Government Relations for the American Heart Association. On behalf of the American Heart Association, I offer support with amendment to CB57-2019.

Tobacco use is the number one preventable cause of death and disease in the United Statesⁱ. Maryland youth need stronger protection from preventable diseases caused by tobacco use. Raising the minimum legal sales age of all tobacco products does just that.

Although, this bill generally complies with the state bill, it does create one issue: it puts possible fines on clerks rather than just on owners. Owners have a duty to properly train their employees and should bear the fine with this is not done properly. We ask that the phrase "and/or clerk" be removed from the legislation to comply with state law and to protect clerks.

Increasing the minimum legal sale age for all tobacco products to 21 is critical to protect Maryland youth from the dangers of tobacco use and nicotine addiction. Currently, over 13 percent of Maryland high school students use electronic cigarettesⁱⁱ.

The Institute of Medicine issued a 2015 report estimating that raising the tobacco sales age to 21 would reduce the smoking rate by up to 12% and decrease smoking related deaths by 10%ⁱⁱⁱ. If existing smoking rates continue the U.S. Centers for Disease Control and Prevention (CDC) estimate that nearly 5.6 million youth (ages 0-17) will die prematurely from a smoking-related illness^{iv}. Specifically, in Maryland, it is projected that approximately 288,900 youth (ages 0-17 years of age) will begin smoking and that 92,000 will die prematurely due to a smoking related illness^v. If Maryland raises the minimum legal sales age 34,668 children would never become smokers and 9,200 children would not die prematurely due to a smoking related illness.

Hawaii, California, Oregon, New Jersey, Maine, Massachusetts, and Washington, DC have enacted laws raising the minimum legal sales age of all tobacco products 21. More than 420 cities and counties, including Boston, Chicago, Cleveland, Kansas City, New York, and St. Louis, have likewise raised the minimum legal sales age to 21.

As noted in the 2016 Surgeon Generals Report, *E-cigarette use among youth and young adults: A report of the Surgeon General* youth who use nicotine are more likely to become addicted relative to adults who use nicotine. Nicotine can also harm youth brain development.^{vi}

The evidence is clear, the tobacco sales age needs to be increased to 21 years of age without delay to save more lives from a lifetime of addiction.

The American Heart Association urges a favorable report with amendment to protect our youth from the harms of tobacco.

ⁱ The Center for Disease Control. https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm

ⁱⁱ Campaign for Tobacco Free Kids. The Toll of Tobacco Use
<https://www.tobaccofreekids.org/problem/toll-us/maryland>

ⁱⁱⁱ Institute of Medicine, Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products (2015), http://www.nationalacademies.org/hmd/~media/Files/Report%20Files/2015/TobaccoMinAge/tobacco_minimum_age_report_brief.pdf

^{iv} U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and health Promotion, Office on Smoking and Health, 2014.

^v Campaign for Tobacco Free Kids, Key State Specific Tobacco Related Data and Rankings, <https://www.tobaccofreekids.org/research/factsheets/pdf/0176.pdf>.

^{vi} Office of the Surgeon General. E-cigarette use among youth and young adults: A report of the Surgeon General. US Department of Health and Human Services. 2016.
https://ecigarettes.surgeongeneral.gov/documents/2016_sgr_full_report_non-508.pdf.



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Maura J. Rossman, M.D., Health Officer

Maura J. Rossman, MD
Position: Support

Testimony for CB 57-2019
November 1, 2019

Howard County Health Department supports CB 57- 2109 to raise the age for tobacco and e-cigarette purchases from 18 to 21 years in Howard County and to align with the new Maryland State Law which became effective October 1, 2019. Amendments include:

- Defining electronic smoking devices, (ESDs), to include e-liquid regardless of nicotine content
- Replacing “minor” with “an individual under the age of 21 years”
- Defining “tobacco products” to be more comprehensive and include ESDs
- Increasing penalty fines for owners
- Including ESD placement in the “placement of tobacco products”

Tobacco use remains a persistent public health problem and electronic smoking devices, (ESD), are threatening to addict a new generation. Adolescents are increasingly using ESD. Vaping, a term for ESD use, has sharply increased in the adolescent-aged population. According to the 2018 National Youth Tobacco Survey, high school students reported an e-cigarette use increase of 78% between 2017-18. Similarly, among middle school students, the survey reported an e-cigarette use increase of 48%, between 2017-18. Today, more adolescents report using ESD than any other tobacco product. Research has shown that youth and young adults are more susceptible to nicotine addiction due to their developing brains. Nearly all smokers start as kids or young adults and these age groups are heavily targeted by the tobacco industry. The younger the age that someone uses nicotine-containing products, the heavier their eventual use and the harder it is for them to quit.

Tobacco remains the leading cause of preventable death and disability in the U.S. Long-term tobacco use results in shortened life expectancy, increased cancer rates, increased healthcare costs and reduced quality of life. Although the full potential for health risks of ESD are still being assessed, research has clearly shown that vaping causes harm. Recent reports of serious lung injury and death associated with vaping are very troubling. As of October 29, 2019, 1,888 cases of e-cigarette, or vaping, product use associated lung injury have been reported to CDC from 49 states (all except Alaska), the District of Columbia, and 1 U.S. territory.

Aside from the very negative health effects of tobacco use, the Center for Disease Control (CDC) estimates that in Maryland alone, tobacco costs \$2.7 billion in health expenditures every year and an additional \$2.2 billion in lost productivity to Maryland businesses. This costs Maryland taxpayers on average \$798/household each year.

Thank you for your support of this bill which will:

Maura J. Rossman, M.D., Health Officer

- Prevent adolescents from becoming addicted to tobacco products
- Decrease the burden of disease in Howard County
- Decrease health care costs associated with tobacco use
- Save lives

Sources:

1. Increasing the Sale of Age for Tobacco to 21 Will Reduce Smoking and Save Lives
<https://www.tobaccofreekids.org/assets/content/whatwedo/statelocalissues/sales21/tobacco21factsheetbrief.pdf>
2. Best Practices for Comprehensive Tobacco Control Programs, 2014
<http://www.cdc.gov/tobacco/stateandcommunity/bestpractices/index.htm>
3. Harold J. Farber, Smita Pakhale, and Enid R. Neptune (). Tobacco 21: An Important Public Policy to Protect Our Youth. *Ann Am Thorac Soc* Vol 13, No 12, pp 2115–2118.
4. US Department of Health and Human Services. The health consequences of smoking—50 years of progress: a report of the surgeon general, 2014. Available at:
<http://www.surgeongeneral.gov/library/reports/50-years-of-progress>.

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Maura J. Rossman, M.D., Health Officer

An amendment to correct language in the bill will be forthcoming. Currently in State law, only the retailer is fined even if an employee violates the law by selling a product to a minor. The amendment will recommend changing County language to reflect the same.

Thank you for your support of this bill which will:

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2. Best Practices for Comprehensive Tobacco Control Programs, 2014
<http://www.cdc.gov/tobacco/stateandcommunity/bestpractices/index.htm>
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4. US Department of Health and Human Services. The health consequences of smoking—50 years of progress: a report of the surgeon general, 2014. Available at:
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