

# HOUSE BILL 1015

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By: **Delegate Rosenberg**

Introduced and read first time: February 13, 2015

Assigned to: Economic Matters and Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Responsible Tobacco Retailing Act of 2015**

3 FOR the purpose of establishing the Responsible Tobacco Retailing Program in the  
4 Department of Health and Mental Hygiene; repealing certain licensing exemptions  
5 for certain retailers of certain tobacco products; increasing certain licensing fees for  
6 certain retailers of certain tobacco products; requiring certain license applicants to  
7 submit certain documentation on or after a certain date; establishing and providing  
8 for the calculation of a certain supplemental license fee for certain licenses;  
9 modifying the expiration date for a certain license; establishing certain conditions  
10 for the renewal of certain licenses; authorizing the Comptroller to deny certain  
11 licenses, reprimand certain licensees, or suspend or revoke certain licenses under  
12 certain circumstances; modifying a certain exception relating to a certain license  
13 suspension and certain offer of compromise; altering the intent of the General  
14 Assembly relating to the use of certain license fees; requiring the Governor to  
15 include, for certain fiscal years, certain appropriations for a certain program;  
16 prohibiting certain laws from being construed to preempt a county or municipal  
17 government from enacting certain provisions, with certain exceptions; requiring a  
18 person to have a certain license when the person acts as a certain electronic smoking  
19 device retailer; establishing certain license fees for certain products authorized for  
20 sale at retail under certain licenses; requiring the clerk of the circuit court to issue  
21 an electronic smoking device retailer license under certain circumstances; providing  
22 for the scope of a certain license; establishing the purpose of a certain program;  
23 requiring the Department to conduct certain inspections, adopt certain regulations,  
24 and provide certain services to certain retailers; prohibiting the distribution of  
25 certain items under certain circumstances; establishing a certain affirmative  
26 defense; requiring distributors of certain items to meet certain requirements on or  
27 before a certain date; authorizing a local health officer or certain designee to issue a  
28 certain citation under certain circumstances; establishing certain penalties;  
29 providing that a certain statement or claim constitutes certain evidence; providing  
30 that a certain citation is governed by certain provisions of law; providing for the  
31 construction and application of this Act; defining certain terms; altering certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 defined terms; and generally relating to the Responsible Tobacco Retailing Program  
2 and the sale and distribution of cigarettes, other tobacco products, and electronic  
3 smoking devices.

4 BY repealing and reenacting, with amendments,  
5 Article – Business Regulation  
6 Section 16–201, 16–202, 16–204(b), 16–206(a), 16–207, 16–210(a), 16–212(e),  
7 16–216, and 16–306; and 16.5–101, 16.5–201, 16.5–203(b), 16.5–204, and  
8 16.5–213, to be under the amended title “Title 16.5. Other Tobacco Products  
9 and Electronic Smoking Device Licenses”  
10 Annotated Code of Maryland  
11 (2010 Replacement Volume and 2014 Supplement)

12 BY adding to  
13 Article – Business Regulation  
14 Section 16.5–104 and 16.5–205(f)  
15 Annotated Code of Maryland  
16 (2010 Replacement Volume and 2014 Supplement)

17 BY adding to  
18 Article – Health – General  
19 Section 24–1701 through 24–1708 to be under the new subtitle “Subtitle 17.  
20 Responsible Tobacco Retailing Program”  
21 Annotated Code of Maryland  
22 (2009 Replacement Volume and 2014 Supplement)

23 Preamble

24 WHEREAS, The federal Synar Program mandates that states prohibit the sale of  
25 tobacco products to minors; and

26 WHEREAS, The Synar noncompliance rate in Maryland currently exceeds the  
27 established federal Synar noncompliance rate, thereby subjecting the State to either the  
28 standard Synar penalty or an alternative Synar penalty; and

29 WHEREAS, 100% of Synar penalties assessed against the State must under federal  
30 law be expended in support of initiatives to reduce the sale of tobacco products to youth  
31 under the age of 18 years, without supplanting existing State funding spent for those  
32 purposes; and

33 WHEREAS, The total anticipated revenue from a supplemental tobacco products  
34 retailer license fee in a given year must approximate the total federal Synar penalty being  
35 assessed, or to be assessed, against the State; now, therefore,

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

**Article – Business Regulation**

16–201.

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

(b) “License” means:

(1) a license issued by the Comptroller under § 16–205(a) of this subtitle to:

(i) act as a manufacturer;

(ii) act as a subwholesaler;

(iii) act as a vending machine operator;

(iv) act as a wholesaler; or

(v) act as a storage warehouse; or

(2) a license issued by the clerk under § 16–205(b) of this subtitle to act as a retailer.

(c) “Licensed manufacturer” means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a manufacturer.

(d) “Licensed retailer” means a person licensed by the clerk under § 16–205(b) of this subtitle to act as a retailer.

(e) “Licensed storage warehouse” means a facility licensed by the Comptroller under § 16–205(a) of this subtitle to act as a storage warehouse.

(f) “Licensed subwholesaler” means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a subwholesaler.

(g) “Licensed vending machine operator” means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a vending machine operator.

(h) “Licensed wholesaler” means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a wholesaler.

(i) “Manufacturer” means a person who:

(1) (i) operates one or more cigarette manufacturing plants; or

(ii) is a participating manufacturer; and

1                   (2)   (i)    sells unstamped cigarettes to a licensed cigarette wholesaler  
2 located in Maryland;

3                   (ii)   sells unstamped cigarettes that may lawfully be sold in Maryland  
4 to a licensed cigarette wholesaler located outside of Maryland;

5                   (iii) unless otherwise prohibited or restricted under local law, this  
6 article, or the Criminal Law Article, distributes sample cigarettes to consumers located in  
7 Maryland; or

8                   (iv)  stores unstamped cigarettes in a cigarette storage warehouse in  
9 Maryland for subsequent shipment to licensed wholesalers, federal reservations, or persons  
10 out of state.

11           (j)    “Participating manufacturer” has the meaning stated in § 16–501 of this title.

12           (k)   “Retailer” means a person who:

13                   (1)   sells cigarettes to consumers through vending machines on fewer than  
14 40 premises;

15                   (2)   otherwise sells cigarettes to consumers; or

16                   (3)   holds cigarettes for sale to consumers.

17           (l)    “Stamped cigarettes” means a package of cigarettes to which tobacco tax  
18 stamps are affixed in the amount and manner required by § 12–304 of the Tax – General  
19 Article.

20           (m)   “Storage warehouse” means a storage facility in Maryland operated for the  
21 purpose of storing unstamped cigarettes on behalf of a licensed cigarette manufacturer.

22           (n)   (1)   “Subwholesaler” means a person who:

23                   (i)    holds stamped cigarettes for sale to another person for resale; or

24                   (ii)  sells stamped cigarettes to another person for resale.

25                   (2)   “Subwholesaler” does not include a person who sells unstamped  
26 cigarettes or holds unstamped cigarettes for sale.

27           **(O)   “SYNAR COMPLIANCE INSPECTION” MEANS A RANDOM INSPECTION OF**  
28 **A LICENSED TOBACCO RETAILER CONDUCTED UNDER THE FEDERAL SYNAR**  
29 **PROGRAM.**

1           **(P) “SYNAR NONCOMPLIANCE RATE” MEANS THE ESTIMATED PERCENTAGE**  
2 **OF LICENSED TOBACCO RETAILERS IN MARYLAND WHO ARE SELLING TOBACCO**  
3 **PRODUCTS TO INDIVIDUALS UNDER THE AGE OF 18 YEARS, CALCULATED FROM DATA**  
4 **COLLECTED DURING SYNAR COMPLIANCE INSPECTIONS.**

5           **(Q) (1) “SYNAR PENALTY” MEANS THE LOSS OF UP TO 40% OF**  
6 **MARYLAND’S SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**  
7 **FUNDS IF THE MARYLAND SYNAR NONCOMPLIANCE RATE EXCEEDS THE**  
8 **ESTABLISHED FEDERAL SYNAR NONCOMPLIANCE RATE.**

9           **(2) “SYNAR PENALTY” INCLUDES THE ALTERNATIVE PENALTY**  
10 **MECHANISM BY WHICH A STATE CAN AVOID THE 40% REDUCTION IN ITS SUBSTANCE**  
11 **ABUSE PREVENTION AND TREATMENT BLOCK GRANT FUNDS IF THE STATE**  
12 **STIPULATES THAT IT WILL SPEND ITS OWN FUNDS TO IMPROVE COMPLIANCE WITH**  
13 **THE LAW.**

14           **(R) “SYNAR PROGRAM” MEANS THE FEDERAL PROGRAM CONDUCTED**  
15 **UNDER THE 1992 FEDERAL ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH**  
16 **REORGANIZATION ACT THAT:**

17           **(1) MANDATES THAT STATES PROHIBIT THE SALE OF TOBACCO**  
18 **PRODUCTS TO INDIVIDUALS UNDER THE AGE OF 18 YEARS;**

19           **(2) MANDATES ANNUAL RANDOM COMPLIANCE INSPECTIONS;**

20           **(3) ESTABLISHES A MAXIMUM NONCOMPLIANCE RATE; AND**

21           **(4) SETS FORTH PENALTIES AND ALTERNATIVE PENALTIES FOR**  
22 **EXCEEDING THE MAXIMUM NONCOMPLIANCE RATE.**

23           **[(o)] (S) “Unstamped cigarettes” means a package of cigarettes to which tobacco**  
24 **tax stamps are not affixed in the amount and manner required by § 12–304 of the Tax –**  
25 **General Article.**

26           **[(p)] (T) “Vending machine operator” means a person who:**

27           **(1) holds cigarettes for sale to consumers through vending machines on 40**  
28 **or more premises; or**

29           **(2) sells cigarettes to consumers through vending machines on 40 or more**  
30 **premises.**

31           **[(q)] (U) “Wholesaler” means a person who:**

1 (1) holds cigarettes for sale to another person for resale; or

2 (2) sells cigarettes to another person for resale.

3 16–202.

4 (a) [Except as provided in subsection (b) of this section, a] A person must have  
5 an appropriate license whenever the person acts as a manufacturer, retailer, storage  
6 warehouse, subwholesaler, vending machine operator, or wholesaler in the State.

7 [(b) A person need not get a retailer license to act as a retailer at a vending stand  
8 operated under a trader’s license issued to Blind Industries and Services of Maryland.]

9 [(c) (B) A license to act as a retailer is required for each place of business where  
10 a person acts as a retailer.

11 [(d) (C) (1) A person licensed as a manufacturer, or person connected with  
12 the business of a licensed manufacturer or related by ownership, may not at the same time  
13 hold or have any financial interest in a wholesaler license or in any business of a wholesaler.

14 (2) A person licensed as a wholesaler, or person connected with the  
15 business of a licensed wholesaler or related by ownership, may not at the same time hold  
16 or have any financial interest in a manufacturer license or in any business of a  
17 manufacturer.

18 16–204.

19 (b) (1) An applicant for a license to act as a retailer shall:

20 (i) obtain the county license required under § 16–301 of this title;

21 (ii) submit to the clerk an application for each permanent or  
22 temporary place of business located in the same enclosure and operated by the same  
23 applicant; [and

24 (iii) pay to the clerk a fee of \$30.]

25 (III) ON OR AFTER OCTOBER 1, 2016, SUBMIT TO THE CLERK  
26 DOCUMENTATION ESTABLISHING THAT THE APPLICANT HAS SUCCESSFULLY  
27 COMPLETED TRAINING REQUIRED BY THE RESPONSIBLE TOBACCO RETAILING  
28 PROGRAM ESTABLISHED UNDER TITLE 17, SUBTITLE 24 OF THE HEALTH –  
29 GENERAL ARTICLE; AND

30 (IV) EXCEPT FOR A PERSON THAT OPERATES A VENDING STAND  
31 UNDER A TRADER’S LICENSE ISSUED TO BLIND INDUSTRIES AND SERVICES OF  
32 MARYLAND, PAY TO THE CLERK A RETAIL LICENSE FEE OF:

1                   1.     **\$30 AND ANY ADDITIONAL FEES REQUIRED UNDER**  
2 **PARAGRAPH (3) OF THIS SUBSECTION FOR A LICENSE THAT BECOMES EFFECTIVE**  
3 **PRIOR TO OCTOBER 1, 2015;**

4                   2.     **\$145 AND ANY ADDITIONAL FEES REQUIRED UNDER**  
5 **PARAGRAPH (3) OF THIS SUBSECTION FOR A LICENSE THAT BECOMES EFFECTIVE**  
6 **BETWEEN OCTOBER 1, 2015 AND SEPTEMBER 30, 2016; AND**

7                   3.     **\$175 AND ANY ADDITIONAL FEES REQUIRED UNDER**  
8 **PARAGRAPH (3) OF THIS SUBSECTION FOR A LICENSE THAT BECOMES EFFECTIVE ON**  
9 **OR AFTER OCTOBER 1, 2016.**

10               (2)    The application shall:

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

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

13               (3)    **(I)    THERE IS A SUPPLEMENTAL LICENSE FEE.**

14                   **(II)   BEGINNING IN FISCAL YEAR 2017 AND FOR EACH FISCAL**  
15 **YEAR THEREAFTER, THE SUPPLEMENTAL LICENSE FEE SHALL BE APPLIED TO ALL**  
16 **NEW AND RENEWAL RETAIL LICENSES IN THE MANNER DESCRIBED UNDER**  
17 **SUBPARAGRAPH (IV) OF THIS PARAGRAPH.**

18                   **(III)   THE SUPPLEMENTAL LICENSE FEE SHALL BE CALCULATED**  
19 **BY THE COMPTROLLER AND BECOME EFFECTIVE OCTOBER 1 OF EACH YEAR.**

20                   **(IV)   TO CALCULATE THE SUPPLEMENTAL LICENSE FEE FOR**  
21 **EACH FISCAL YEAR, THE COMPTROLLER SHALL:**

22                   1.     **DETERMINE THE TOTAL NUMBER OF RETAIL**  
23 **LICENSES ISSUED UNDER THIS SUBTITLE AND IN EFFECT AT THE END OF THE**  
24 **IMMEDIATELY PRECEDING FISCAL YEAR, EXCLUDING RETAIL LICENSES ISSUED**  
25 **UNDER THIS SUBTITLE TO PERSONS THAT OPERATE A VENDING STAND UNDER A**  
26 **TRADER'S LICENSE ISSUED TO BLIND INDUSTRIES AND SERVICES OF MARYLAND;**

27                   2.     **DETERMINE THE TOTAL NUMBER OF OTHER TOBACCO**  
28 **PRODUCTS RETAIL LICENSES AND TOBACCONIST LICENSES ISSUED UNDER TITLE**  
29 **16.5 OF THIS ARTICLE AND IN EFFECT AT THE END OF THE IMMEDIATELY**  
30 **PRECEDING FISCAL YEAR THAT WERE ISSUED TO PERSONS WHO WERE NOT ALSO**  
31 **ISSUED A RETAIL LICENSE UNDER THIS SUBTITLE, EXCLUDING OTHER TOBACCO**  
32 **PRODUCTS OR TOBACCONIST LICENSES ISSUED UNDER TITLE 16.5 OF THIS ARTICLE**

1 TO PERSONS THAT OPERATE A VENDING STAND UNDER A TRADER'S LICENSE ISSUED  
2 TO BLIND INDUSTRIES AND SERVICES OF MARYLAND;

3                   **3. DIVIDE THE TOTAL FEDERAL SYNAR PENALTY FOR**  
4 **WHICH MARYLAND IS LIABLE AS OF OCTOBER 1 OF EACH YEAR, IF ANY, BY THE**  
5 **TOTAL NUMBER OF LICENSES DETERMINED TO BE IN EFFECT AT THE END OF THE**  
6 **IMMEDIATELY PRECEDING FISCAL YEAR UNDER ITEMS 1 AND 2 OF THIS**  
7 **SUBPARAGRAPH; AND**

8                   **4. ROUND UP TO THE NEAREST WHOLE DOLLAR THE**  
9 **AMOUNT RESULTING UNDER ITEM 3 OF THIS SUBPARAGRAPH.**

10 16–206.

11           (a) A manufacturer license authorizes the licensee to:

12                   (1) sell unstamped cigarettes to:

13                           (i) a licensed cigarette wholesaler located in Maryland; and

14                           (ii) a licensed cigarette wholesaler located outside of Maryland if the  
15 unstamped cigarettes may lawfully be sold in Maryland;

16                   (2) except as otherwise prohibited or restricted under local law, this article,  
17 [or] the Criminal Law Article, **OR FEDERAL LAW**, distribute sample cigarettes to  
18 consumers located in Maryland;

19                   (3) store unstamped cigarettes in a licensed cigarette storage warehouse  
20 for subsequent shipment to licensed wholesalers, federal reservations, or persons out of  
21 state; and

22                   (4) upon approval of the Comptroller, act as an agent of a Maryland  
23 licensed wholesaler for stamping and distribution of cigarettes.

24 16–207.

25           (a) **(1) [Unless] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
26 **SUBSECTION AND UNLESS** a license is renewed for a 1–year term as provided in this  
27 section, the license expires on the first April 30 after its effective date.

28                   **(2) A LICENSE TO ACT AS A RETAILER THAT IS IN EFFECT ON**  
29 **SEPTEMBER 30, 2015, SHALL EXPIRE ON THAT DATE.**



1 (b) At least 1 month before a license issued under this subtitle expires, the issuing  
2 official shall mail to the licensee, at the last known address of the licensee, a renewal notice  
3 that states:

4 (1) the date on which the current license expires;

5 (2) the date by which the issuing official must receive the renewal  
6 application for the renewal to be issued and mailed before the license expires; and

7 (3) the amount of the renewal fee.

8 (c) Before a license issued under this subtitle expires, the licensee may renew it  
9 for an additional 1-year term, if the licensee:

10 (1) otherwise is entitled to be licensed;

11 (2) submits to the issuing official a renewal application on the form that  
12 the issuing official requires; [and]

13 **(3) SUBMITS PROOF OF SUCCESSFUL COMPLETION OF TRAINING IF**  
14 **REQUIRED BY THE RESPONSIBLE TOBACCO RETAILING PROGRAM ESTABLISHED**  
15 **UNDER TITLE 17, SUBTITLE 24 OF THE HEALTH – GENERAL ARTICLE; AND**

16 ~~[(3)]~~ (4) pays to the issuing official:

17 (i) the license fee required under § 16–204 of this subtitle; [and]

18 **(II) THE SUPPLEMENTAL LICENSE FEE WHEN REQUIRED UNDER**  
19 **§ 16–204 OF THIS SUBTITLE; AND**

20 ~~[(ii)]~~ **(III)** if the license is issued by the Comptroller, the renewal fee  
21 required under § 16–204(h) of this subtitle.

22 (d) The issuing official shall renew the license of each licensee who meets the  
23 requirements of this [section] SUBTITLE.

24 16–210.

25 (a) Subject to the hearing provisions of § 16–211 of this subtitle, the Comptroller  
26 may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if  
27 the applicant or licensee:

28 (1) fraudulently or deceptively obtains or attempts to obtain a license for  
29 the applicant or licensee or for another person;

30 (2) fraudulently or deceptively uses a license;

1 (3) fails to comply with the Maryland Cigarette Sales Below Cost Act or  
2 regulations adopted under that Act;

3 (4) fails to comply with the provisions of Title 11, Subtitle 5A of the  
4 Commercial Law Article;

5 **(5) FAILS TO COMPLY WITH ANY FEDERAL, STATE, OR LOCAL LAW**  
6 **REGULATING THE SALE OF TOBACCO PRODUCTS TO MINORS;**

7 **[(5)] (6)** buys cigarettes for resale:

8 (i) in violation of a license; or

9 (ii) from a person who is not a licensed cigarette manufacturer,  
10 licensed subwholesaler, licensed vending machine operator, or licensed wholesaler;

11 **[(6)] (7)** is convicted, under the laws of the United States or of any other  
12 state, of:

13 (i) a felony; or

14 (ii) a misdemeanor that is a crime of moral turpitude and is directly  
15 related to the fitness and qualification of the applicant or licensee; or

16 **[(7)] (8)** has not paid a tax due before October 1 of the year after the tax  
17 became due.

18 16–212.

19 (e) (1) Except for a violation of [§ 10–107 of the Criminal Law Article,]  
20 **FEDERAL, STATE, OR LOCAL LAWS REGULATING THE SALE OF TOBACCO PRODUCTS**  
21 **TO MINORS**, whenever any license issued under the provisions of this subtitle is suspended  
22 or revoked by the Comptroller, the licensee may, before the effective date of the suspension  
23 or revocation, petition the Comptroller for permission to make an offer of compromise  
24 consisting of a sum of money in lieu of serving the suspension or revocation.

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

27 (3) An offer of compromise shall not exceed \$2,000 in the case of retail  
28 licensees, and shall not exceed \$50,000 for other licensees.

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

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

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

5 (5) The Comptroller may promulgate rules and regulations necessary to  
6 carry out the purposes of this subsection.

7 16–216.

8 (a) The Comptroller shall pay into the General Fund of the State all license fees  
9 collected under this title.

10 (b) The General Assembly intends that these license fees be used to:

11 (1) administer this title; [and]

12 (2) enforce the Maryland Cigarette Sales Below Cost Act; AND

13 **(3) OTHERWISE SUPPORT ENFORCEMENT OF PROHIBITIONS ON**  
14 **UNDERAGE SALES OF TOBACCO PRODUCTS.**

15 **(C) FOR FISCAL YEAR 2017 AND EACH SUBSEQUENT FISCAL YEAR, THE**  
16 **GOVERNOR SHALL INCLUDE THE FOLLOWING APPROPRIATIONS FOR THE**  
17 **RESPONSIBLE TOBACCO RETAILING PROGRAM ESTABLISHED UNDER TITLE 24,**  
18 **SUBTITLE 17 OF THE HEALTH – GENERAL ARTICLE IN THE ANNUAL STATE BUDGET:**

19 **(1) AT A MINIMUM, 80% OF ESTIMATED RETAIL LICENSE FEE**  
20 **REVENUE PROVIDED BY § 16–204(B)(1)(IV)2 AND 3 OF THIS SUBTITLE; AND**

21 **(2) 100% OF THE SUPPLEMENTAL LICENSE FEE REVENUE PROVIDED**  
22 **BY § 16–204(B)(3) OF THIS SUBTITLE.**

23 16–306.

24 Subject to the hearing provisions of § 16–307 of this subtitle, the Comptroller may  
25 deny a county license to an applicant, reprimand a county licensee, or suspend or revoke a  
26 county license if the applicant or licensee:

27 (1) fraudulently or deceptively obtains or attempts to obtain a license for  
28 the applicant or licensee or for another person;

29 (2) fraudulently or deceptively uses a license;

1 (3) violates § 16–308.1 of this subtitle; [or]

2 (4) fails to comply with the Maryland Cigarette Sales Below Cost Act and  
3 regulations adopted under it; OR

4 (5) ENGAGES IN AN ACT OR OMISSION THAT WOULD BE GROUNDS FOR  
5 DISCIPLINE UNDER § 16–210 OF THIS TITLE.

6 Title 16.5. Other Tobacco Products AND ELECTRONIC SMOKING DEVICE Licenses.  
7 16.5–101.

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

9 (B) (1) “CIGAR” MEANS A ROLL FOR SMOKING MADE IN WHOLE OR IN  
10 PART OF TOBACCO.

11 (2) “CIGAR” DOES NOT INCLUDE A CIGARETTE AS DEFINED IN §  
12 12–101 OF THE TAX – GENERAL ARTICLE.

13 (C) “COMPONENT PART” MEANS THE TOBACCO, FILTER, PAPER, POUCH,  
14 STRIP, STICK, OR ANY OTHER DISTINGUISHABLE PART OF A CIGAR.

15 (D) (1) “CONSTITUENT” MEANS ANY INGREDIENT, SUBSTANCE,  
16 CHEMICAL, OR COMPOUND THAT IS ADDED BY THE MANUFACTURER TO A  
17 COMPONENT PART OF A CIGAR DURING THE PROCESSING, MANUFACTURING, OR  
18 PACKAGING OF THE CIGAR.

19 (2) “CONSTITUENT” INCLUDES SMOKE CONSTITUENTS.

20 (3) “CONSTITUENT” DOES NOT INCLUDE TOBACCO, WATER, OR  
21 RECONSTITUTED TOBACCO SHEET.

22 [(b)] (E) “County license” means a license issued by the clerk to sell other tobacco  
23 products OR ELECTRONIC SMOKING DEVICES at retail in a county.

24 (F) “DISTRIBUTE” MEANS TO:

25 (1) GIVE, SELL, DELIVER, DISPENSE, OR ISSUE;

26 (2) OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR

27 (3) CAUSE OR HIRE AN INDIVIDUAL TO:

1           **(I) GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR**

2           **(II) OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE.**

3           **(G) (1) “ELECTRONIC SMOKING DEVICE” MEANS A DEVICE THAT CAN BE**  
4 **USED TO DELIVER NICOTINE OR OTHER SUBSTANCES TO THE PERSON INHALING**  
5 **FROM THE DEVICE.**

6           **(2) “ELECTRONIC SMOKING DEVICE” INCLUDES AN ELECTRONIC**  
7 **CIGARETTE, CIGAR, CIGARILLO, PIPE, AND HOOKAH.**

8           **(3) “ELECTRONIC SMOKING DEVICE” DOES NOT INCLUDE ANY**  
9 **DEVICE THAT HAS BEEN APPROVED BY THE FOOD AND DRUG ADMINISTRATION AS**  
10 **A SMOKING CESSATION AIDE.**

11           **(H) “ELECTRONIC SMOKING DEVICE PARAPHERNALIA” MEANS**  
12 **CARTRIDGES, CARTOMIZERS, E-LIQUID, SMOKE JUICE, TIPS, ATOMIZERS,**  
13 **ELECTRONIC SMOKING DEVICE BATTERIES, ELECTRONIC SMOKING DEVICE**  
14 **CHARGERS, AND ANY OTHER ITEM SPECIFICALLY DESIGNED FOR THE**  
15 **PREPARATION, CHARGING, OR USE OF ELECTRONIC SMOKING DEVICES.**

16           **(I) “ELECTRONIC SMOKING DEVICE RETAILER” MEANS A PERSON WHO**  
17 **SELLS ELECTRONIC SMOKING DEVICES TO CONSUMERS OR HOLDS ELECTRONIC**  
18 **SMOKING DEVICES FOR SALE TO CONSUMERS.**

19           **[(c)] (J) “License” means:**

20           (1) a license issued by the Comptroller under § 16.5–204(a) of this title to:

21           (i) act as a licensed other tobacco products manufacturer;

22           (ii) act as an other tobacco products wholesaler; or

23           (iii) act as an other tobacco products storage warehouse; or

24           (2) a license issued by the clerk under § 16.5–204(b) of this title to act as  
25 an other tobacco products retailer, **AN ELECTRONIC SMOKING DEVICE RETAILER**, or a  
26 tobacconist.

27           **(K) “LICENSED ELECTRONIC SMOKING DEVICE RETAILER” MEANS A**  
28 **PERSON LICENSED BY THE CLERK UNDER § 16.5–204(B) OF THIS TITLE TO ACT AS**  
29 **AN ELECTRONIC SMOKING DEVICE RETAILER.**

1           **[(d)] (L)**       “Licensed other tobacco products manufacturer” means a person  
2 licensed by the Comptroller under § 16.5–204(a) of this title who:

3                   (1)       manufactures or otherwise produces other tobacco products in the State  
4 intended for sale in the State, including other tobacco products intended for sale in the  
5 State through an importer; and

6                   (2)       (i)       sells other tobacco products on which the tobacco tax has not  
7 been paid to a licensed other tobacco products wholesaler in the State;

8                               (ii)       sells other tobacco products on which the tobacco tax has not  
9 been paid and which may lawfully be sold in the State to a licensed other tobacco products  
10 wholesaler located outside of the State;

11                               (iii)       unless otherwise prohibited or restricted under local law, this  
12 article, or the Criminal Law Article, distributes sample other tobacco products to  
13 consumers located in the State; or

14                               (iv)       stores other tobacco products in an other tobacco products  
15 warehouse in the State for subsequent shipment to licensed wholesalers, federal  
16 reservations, or persons outside of the State.

17           **[(e)] (M)**       “Licensed other tobacco products retailer” means a person licensed by  
18 the clerk under § 16.5–204(b) of this title to act as an other tobacco products retailer.

19           **[(f)] (N)**       “Licensed other tobacco products storage warehouse” means a facility  
20 licensed by the Comptroller under § 16.5–204(a) of this title to act as an other tobacco  
21 products storage warehouse.

22           **[(g)] (O)**       “Licensed other tobacco products wholesaler” means a person licensed  
23 by the Comptroller under § 16.5–204(a) of this title to act as an other tobacco products  
24 wholesaler.

25           **[(h)] (P)**       “Licensed tobacconist” means a person licensed by the clerk of a circuit  
26 court under § 16.5–204(b) of this title to act as a tobacconist.

27           **[(i)] (Q)**       “Other tobacco products” means:

28                   (1)       any cigar or roll for smoking, other than a cigarette, made in whole or  
29 in part of tobacco; or

30                   (2)       any other tobacco or product made primarily from tobacco, other than a  
31 cigarette, that is intended for consumption by smoking or chewing or as snuff.

32           **[(j)] (R)**       “Other tobacco products manufacturer” means a person who:

1 (1) manufactures or otherwise produces other tobacco products intended  
2 for sale in this State, including other tobacco products intended for sale in the United States  
3 through an importer;

4 (2) (i) sells other tobacco products on which the tobacco tax has not  
5 been paid to a licensed other tobacco products wholesaler in Maryland;

6 (ii) sells other tobacco products on which the tobacco tax has not  
7 been paid and which may lawfully be sold in Maryland to a licensed other tobacco products  
8 wholesaler located outside Maryland;

9 (iii) unless otherwise prohibited or restricted under local law, this  
10 article, or the Criminal Law Article, distributes sample other tobacco products to  
11 consumers located in Maryland; or

12 (iv) stores other tobacco products in an other tobacco products  
13 storage warehouse in Maryland for subsequent shipment to licensed other tobacco products  
14 wholesalers, federal reservations, or persons out of state; or

15 (3) is a licensed other tobacco products manufacturer under this title.

16 **[(k)] (S)** “Other tobacco products retailer” means a person who:

17 (1) sells other tobacco products to consumers; or

18 (2) holds other tobacco products for sale to consumers.

19 **[(l)] (T)** “Other tobacco products storage warehouse” means a storage facility in  
20 Maryland operated for the purpose of storing other tobacco products on which the tobacco  
21 tax has not been paid on behalf of an other tobacco products manufacturer.

22 **[(m)] (U)** “Other tobacco products wholesaler” means a person who:

23 (1) holds other tobacco products for sale to another person for resale; or

24 (2) sells other tobacco products to another person for resale.

25 **[(n)] (V)** (1) “Package” means a pack, box, carton, can, wrap, pouch, bag, or  
26 container of any kind designed for retail consumption in which other tobacco products are  
27 offered for sale, sold, or otherwise distributed.

28 (2) “Package” includes not more than 10 cigars offered for sale, sold, or  
29 distributed as single cigars.

30 **[(o)] (W)** “Pipe tobacco” means any tobacco that, because of its appearance, type,  
31 packaging, or labeling, is suitable for use and likely to be offered to, or purchased by,  
32 consumers as tobacco to smoke in a pipe.

1            **[(p)] (X)**        “Premium cigars” means cigars that:

2                    (1)        have hand-rolled wrappers made from whole tobacco leaves where the  
3 filler, binder, and wrapper are made of all tobacco, and may include adhesives or other  
4 materials used to maintain size, texture, or flavor; or

5                    (2)        are designated as premium cigars by the Comptroller by regulation.

6            **[(q)] (Y)**        “Sell” means to exchange or transfer, or to agree to exchange or  
7 transfer, title or possession of property, in any manner or by any means, for consideration.

8            **[(r)] (Z)**        “Sell other tobacco products at retail” means to sell other tobacco  
9 products to a consumer.

10           **(AA) “SMOKELESS TOBACCO” MEANS ANY PRODUCT THAT CONTAINS**  
11 **TOBACCO THAT IS:**

12                    (1)        **INTENDED FOR HUMAN CONSUMPTION;**

13                    (2)        **NOT INTENDED FOR SMOKING; AND**

14                    (3)        **NOT APPROVED BY THE FOOD AND DRUG ADMINISTRATION AS A**  
15 **SMOKING CESSATION AID.**

16           **(BB) “SYNAR COMPLIANCE INSPECTION” MEANS A RANDOM INSPECTION OF**  
17 **A LICENSED TOBACCO RETAILER CONDUCTED UNDER THE FEDERAL SYNAR**  
18 **PROGRAM.**

19           **(CC) “SYNAR NONCOMPLIANCE RATE” MEANS THE ESTIMATED PERCENTAGE**  
20 **OF LICENSED TOBACCO RETAILERS IN MARYLAND WHO ARE SELLING TOBACCO**  
21 **PRODUCTS TO INDIVIDUALS UNDER THE AGE OF 18 YEARS, CALCULATED FROM DATA**  
22 **COLLECTED DURING SYNAR COMPLIANCE INSPECTIONS.**

23           **(DD) (1) “SYNAR PENALTY” MEANS THE LOSS OF UP TO 40% OF**  
24 **MARYLAND’S SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**  
25 **FUNDS IF THE MARYLAND SYNAR NONCOMPLIANCE RATE EXCEEDS THE**  
26 **ESTABLISHED FEDERAL SYNAR NONCOMPLIANCE RATE.**

27                    (2)        **“SYNAR PENALTY” INCLUDES THE ALTERNATIVE PENALTY**  
28 **MECHANISM BY WHICH A STATE CAN AVOID THE 40% REDUCTION IN ITS SUBSTANCE**  
29 **ABUSE PREVENTION AND TREATMENT BLOCK GRANT FUNDS IF THE STATE**  
30 **STIPULATES THAT IT WILL SPEND ITS OWN FUNDS TO IMPROVE COMPLIANCE WITH**  
31 **THE LAW.**



1           **(EE) “SYNAR PROGRAM” MEANS THE FEDERAL PROGRAM CONDUCTED**  
2 **UNDER THE 1992 FEDERAL ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH**  
3 **REORGANIZATION ACT THAT:**

4           **(1) MANDATES THAT STATES PROHIBIT THE SALE OF TOBACCO**  
5 **PRODUCTS TO INDIVIDUALS UNDER THE AGE OF 18 YEARS;**

6           **(2) MANDATES ANNUAL RANDOM COMPLIANCE INSPECTIONS;**

7           **(3) ESTABLISHES A MAXIMUM NONCOMPLIANCE RATE; AND**

8           **(4) SETS FORTH PENALTIES AND ALTERNATIVE PENALTIES FOR**  
9 **EXCEEDING THE MAXIMUM NONCOMPLIANCE RATE.**

10           **[(s)] (FF)** “Tobacconist” means an other tobacco products business that derives at  
11 least 70% of its revenues, measured by average daily receipts, from the sale of other tobacco  
12 products and tobacco–related accessories.

13 **16.5–104.**

14           **EXCEPT WITH RESPECT TO THE ISSUANCE OF LICENSES UNDER THIS TITLE OR**  
15 **TITLE 16 OF THIS ARTICLE, OR THE COLLECTION OF TOBACCO TAXES UNDER TITLE**  
16 **12 OF THE TAX – GENERAL ARTICLE, A LAW REGULATING THE SALE, MARKETING,**  
17 **AND ADVERTISING OF CIGARETTES AND OTHER TOBACCO PRODUCTS MAY NOT BE**  
18 **CONSTRUED TO PREEMPT A COUNTY OR MUNICIPAL GOVERNMENT FROM ENACTING**  
19 **AND ENFORCING MORE STRINGENT PROVISIONS.**

20 **16.5–201.**

21           (a) Except as provided in subsection (b) of this section, a person must have an  
22 appropriate license whenever the person acts as a licensed other tobacco products  
23 manufacturer, a licensed other tobacco products retailer, a licensed other tobacco products  
24 storage warehouse, a licensed other tobacco products wholesaler, **A LICENSED**  
25 **ELECTRONIC SMOKING DEVICE RETAILER** or a licensed tobacconist in the State.

26           **[(b)]** A person need not obtain an other tobacco products retailer license under this  
27 subtitle to act as a retailer at a vending stand operated under a trader’s license issued to  
28 Blind Industries and Services of Maryland.]

29           **[(c)] (B)** A license to act as an other tobacco products retailer or a tobacconist is  
30 required for each place of business where a person acts as an other tobacco products retailer  
31 or a tobacconist.

1            ~~[(d)]~~ (C)        (1)    An other tobacco products manufacturer, or person connected  
2 with the business of an other tobacco products manufacturer or related by ownership, may  
3 not at the same time hold or have any financial interest in an other tobacco products  
4 wholesaler license or in any business of an other tobacco products wholesaler.

5                            (2)    A person licensed as an other tobacco products wholesaler, or person  
6 connected with the business of a licensed other tobacco products wholesaler or related by  
7 ownership, may not at the same time hold or have any financial interest in an other tobacco  
8 products manufacturer license or in any business of an other tobacco products  
9 manufacturer.

10 16.5–203.

11            (b)        (1)    An applicant for a license to act as an other tobacco products retailer,  
12 **AN ELECTRONIC SMOKING DEVICE RETAILER**, or a tobacconist:

13                            (i)       shall obtain a county license by submitting to the clerk an  
14 application for each permanent or temporary place of business located in the same  
15 enclosure and operated by the same applicant; [and

16                            (ii)      except as provided in paragraph (2) of this subsection, shall pay  
17 to the clerk a fee of \$15.

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

21                            **(II)    EXCEPT FOR A PERSON THAT OPERATES A VENDING STAND**  
22 **OPERATED UNDER A TRADER’S LICENSE ISSUED TO BLIND INDUSTRIES AND**  
23 **SERVICES OF MARYLAND OR A PERSON ALREADY POSSESSING A CIGARETTE**  
24 **RETAILER’S LICENSE UNDER TITLE 16 OF THIS ARTICLE, SHALL PAY TO THE CLERK**  
25 **AN OTHER TOBACCO PRODUCTS LICENSE FEE OF \$175; AND**

26                            **(III)    IN ADDITION TO ANY APPLICABLE LICENSE FEE, EXCEPT**  
27 **FOR A PERSON THAT OPERATES A VENDING STAND UNDER A TRADER’S LICENSE**  
28 **ISSUED TO BLIND INDUSTRIES AND SERVICES OF MARYLAND, IF APPLICABLE, PAY**  
29 **TO THE CLERK THE FEE SPECIFIED FOR EACH OF THE FOLLOWING PRODUCT TYPES**  
30 **AUTHORIZED FOR SALE AT RETAIL UNDER THE LICENSE:**

31                            **1.    FLAVORED TOBACCO PRODUCTS, OTHER THAN**  
32 **PREMIUM CIGARS – \$50; AND**

33                            **2.    DISPOSABLE ELECTRONIC SMOKING DEVICES,**  
34 **REFILLABLE ELECTRONIC SMOKING DEVICES, AND ELECTRONIC SMOKING DEVICE**  
35 **PARAPHERNALIA – \$50.**

1            **[(3)] (2)**        The application shall:

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

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

4            **(3) (I)        THERE IS A SUPPLEMENTAL LICENSE FEE.**

5                            **(II)       BEGINNING IN FISCAL YEAR 2017 AND FOR EACH FISCAL**  
6 **YEAR THEREAFTER, THE SUPPLEMENTAL LICENSE FEE SHALL BE APPLIED TO ALL**  
7 **NEW AND RENEWAL RETAIL OTHER TOBACCO PRODUCTS LICENSES AND**  
8 **TOBACCONIST LICENSES IN THE MANNER DESCRIBED UNDER SUBPARAGRAPH (IV)**  
9 **OF THIS PARAGRAPH.**

10                           **(III)       THE SUPPLEMENTAL LICENSE FEE SHALL BE CALCULATED**  
11 **BY THE COMPTROLLER AND BECOME EFFECTIVE OCTOBER 1 OF EACH YEAR.**

12                           **(IV)       TO CALCULATE THE SUPPLEMENTAL LICENSE FEE FOR**  
13 **EACH FISCAL YEAR, THE COMPTROLLER SHALL:**

14                                1.        DETERMINE THE TOTAL NUMBER OF RETAIL  
15 LICENSES ISSUED UNDER TITLE 16 OF THIS ARTICLE AND IN EFFECT AT THE END OF  
16 THE IMMEDIATELY PRECEDING FISCAL YEAR, EXCLUDING RETAIL LICENSES ISSUED  
17 UNDER TITLE 16 OF THIS ARTICLE TO PERSONS THAT OPERATE A VENDING STAND  
18 UNDER A TRADER'S LICENSE ISSUED TO BLIND INDUSTRIES AND SERVICES OF  
19 MARYLAND;

20                                2.        DETERMINE THE TOTAL NUMBER OF OTHER TOBACCO  
21 PRODUCTS RETAIL LICENSES AND TOBACCONIST LICENSES ISSUED UNDER THIS  
22 SUBTITLE AND IN EFFECT AT THE END OF THE IMMEDIATELY PRECEDING FISCAL  
23 YEAR THAT WERE ISSUED TO PERSONS WHO WERE NOT ALSO ISSUED A RETAIL  
24 LICENSE UNDER TITLE 16 OF THIS ARTICLE, EXCLUDING OTHER TOBACCO  
25 PRODUCTS OR TOBACCONIST LICENSES ISSUED UNDER THIS SUBTITLE TO PERSONS  
26 THAT OPERATE A VENDING STAND UNDER A TRADER'S LICENSE ISSUED TO BLIND  
27 INDUSTRIES AND SERVICES OF MARYLAND;

28                                3.        DIVIDE THE TOTAL FEDERAL SYNAR PENALTY FOR  
29 WHICH MARYLAND IS LIABLE AS OF OCTOBER 1 OF EACH YEAR, IF ANY, BY THE  
30 TOTAL NUMBER OF LICENSES DETERMINED TO BE IN EFFECT AT THE END OF THE  
31 IMMEDIATELY PRECEDING FISCAL YEAR UNDER ITEMS 1 AND 2 OF THIS  
32 SUBPARAGRAPH; AND



1           **SUBTITLE 17. RESPONSIBLE TOBACCO RETAILING PROGRAM.**

2   **24-1701.**

3           **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
4 **INDICATED.**

5           **(B) “DISTRIBUTE” MEANS TO:**

6                   **(1) GIVE, SELL, DELIVER, DISPENSE, OR ISSUE;**

7                   **(2) OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR**

8                   **(3) CAUSE OR HIRE AN INDIVIDUAL TO:**

9                           **(I) GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR**

10                           **(II) OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE.**

11           **(C) “ELECTRONIC SMOKING DEVICE” HAS THE MEANING STATED IN §**  
12 **16.5-101 OF THE BUSINESS REGULATION ARTICLE.**

13           **(D) “ELECTRONIC SMOKING DEVICE PARAPHERNALIA” HAS THE MEANING**  
14 **STATED IN § 16.5-101 OF THE BUSINESS REGULATION ARTICLE.**

15           **(E) “FLAVORED CIGAR” MEANS A CIGAR THAT CONTAINS A CONSTITUENT**  
16 **OR COMPONENT PART THAT IMPARTS A CHARACTERIZING FLAVOR TO THE CIGAR OR**  
17 **THE SMOKE OF THE CIGAR.**

18           **(F) “IDENTIFICATION CARD” MEANS A CARD THAT BEARS A PHOTOGRAPH**  
19 **OF THE HOLDER THAT:**

20                   **(1) IS ISSUED BY A GOVERNMENTAL UNIT OR PUBLIC INSTITUTION OF**  
21 **HIGHER EDUCATION; AND**

22                   **(2) CONTAINS DISTINGUISHING DATA INCLUDING THE NAME AND**  
23 **DATE OF BIRTH OF THE HOLDER.**

24           **(G) “PROGRAM” MEANS THE RESPONSIBLE TOBACCO RETAILING**  
25 **PROGRAM ESTABLISHED UNDER § 24-1702 OF THIS SUBTITLE.**

26           **(H) “RETAILER” MEANS:**

1           (1) A RETAILER AS DEFINED IN § 16-201 OF THE BUSINESS  
2 REGULATION ARTICLE;

3           (2) AN ELECTRONIC SMOKING DEVICE RETAILER AS DEFINED IN §  
4 16.5-101 OF THE BUSINESS REGULATION ARTICLE; OR

5           (3) AN OTHER TOBACCO PRODUCTS RETAILER AS DEFINED IN §  
6 16.5-101 OF THE BUSINESS REGULATION ARTICLE.

7           (I) "TOBACCO PRODUCT" HAS THE MEANING STATED IN § 16-3A-01 OF THE  
8 BUSINESS REGULATION ARTICLE.

9 24-1702.

10          (A) THERE IS A RESPONSIBLE TOBACCO RETAILING PROGRAM IN THE  
11 DEPARTMENT.

12          (B) THE PURPOSE OF THE PROGRAM IS TO:

13           (1) REDUCE ACCESS BY MINORS TO TOBACCO PRODUCTS AND  
14 ELECTRONIC SMOKING DEVICES SOLD AT RETAIL LOCATIONS IN THE STATE;

15           (2) PROVIDE EDUCATION AND OUTREACH TO MARYLAND RETAILERS  
16 TO ENSURE AWARENESS OF RESTRICTIONS ON THE SALE OF TOBACCO PRODUCTS;  
17 AND

18           (3) RECOGNIZE RETAILERS THAT HANDLE RETAIL TOBACCO SALES  
19 RESPONSIBLY OVER TIME.

20          (C) THE DEPARTMENT SHALL:

21           (1) CONDUCT INSPECTIONS TO ENSURE RETAILER COMPLIANCE  
22 WITH THE FEDERAL SYNAR LAW; AND

23           (2) PROVIDE TO RETAILERS, AT NO CHARGE:

24           (I) RETAILER EDUCATION AND OUTREACH; AND

25           (II) A WEB-BASED RETAILER TRAINING COURSE THAT  
26 RETAILERS AND EMPLOYEES OF THE RETAILERS MUST SUCCESSFULLY COMPLETE.

1           **(D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER THE**  
2 **PROGRAM.**

3 **24-1703.**

4           **(A) A PERSON MAY NOT DISTRIBUTE THE FOLLOWING TO AN INDIVIDUAL**  
5 **UNDER THE AGE OF 18 YEARS:**

6                   **(1) A TOBACCO PRODUCT;**

7                   **(2) AN ELECTRONIC SMOKING DEVICE; OR**

8                   **(3) ELECTRONIC SMOKING DEVICE PARAPHERNALIA.**

9           **(B) (1) A PERSON MAY NOT DISTRIBUTE THE ITEMS LISTED IN**  
10 **SUBSECTION (A) OF THIS SECTION FOR COMMERCIAL PURPOSES UNLESS THE**  
11 **PERSON:**

12                   **(I) REQUESTS THAT THE PROSPECTIVE PURCHASER OR**  
13 **RECIPIENT PROVIDE AN IDENTIFICATION CARD;**

14                   **(II) EXAMINES THE IDENTIFICATION CARD AND REASONABLY**  
15 **CONCLUDES THAT THE PROSPECTIVE PURCHASER OR RECIPIENT IS THE SAME**  
16 **INDIVIDUAL IN THE PHOTOGRAPH CONTAINED ON THE IDENTIFICATION;**

17                   **(III) EXAMINES THE DATE OF BIRTH ON THE IDENTIFICATION**  
18 **CARD AND FINDS THAT THE PROSPECTIVE PURCHASER OR RECIPIENT IS AT LEAST**  
19 **18 YEARS OLD; AND**

20                   **(IV) EXAMINES THE IDENTIFICATION CARD AND FINDS NO**  
21 **INDICATION THAT THE IDENTIFICATION CARD HAD BEEN TAMPERED WITH,**  
22 **ALTERED, OR FORGED.**

23                   **(2) THE IDENTIFICATION VERIFICATION DESCRIBED IN THIS**  
24 **SECTION IS NOT REQUIRED IF A PROSPECTIVE PURCHASER OR RECIPIENT IS AT**  
25 **LEAST 27 YEARS OLD.**

26           **(C) IN AN ACTION FOR A VIOLATION OF THIS SECTION, IT IS AN AFFIRMATIVE**  
27 **DEFENSE THAT THE DEFENDANT:**

28                   **(1) EXAMINED THE PURCHASER'S OR RECIPIENT'S IDENTIFICATION**  
29 **CARD THAT POSITIVELY IDENTIFIED THE PURCHASER OR RECIPIENT AS BEING AT**  
30 **LEAST 18 YEARS OLD; AND**

1           **(2) SOLD OR DISTRIBUTED THE ITEM IN REASONABLE RELIANCE ON**  
2 **THE VISUAL CONFIRMATION OF THE PURCHASER'S OR RECIPIENT'S IDENTITY AND**  
3 **THE AUTHENTICITY OF THE PHOTO IDENTIFICATION.**

4           **(D) ON OR BEFORE JANUARY 1, 2017, EACH PERSON WHO DISTRIBUTES AN**  
5 **ITEM LISTED IN SUBSECTION (A) OF THIS SECTION FOR COMMERCIAL PURPOSES**  
6 **SHALL:**

7           **(1) SUCCESSFULLY COMPLETE A WEB-BASED RETAILER TRAINING**  
8 **COURSE MADE AVAILABLE BY THE DEPARTMENT PRIOR TO DISTRIBUTING; AND**

9           **(2) ON REQUEST, SHOW PROOF OF SUCCESSFUL COMPLETION OF THE**  
10 **TRAINING TO ANY PERSON AUTHORIZED TO ENFORCE THIS SUBTITLE.**

11 **24-1704.**

12           **A LOCAL HEALTH OFFICER OR THE LOCAL HEALTH OFFICER'S DESIGNEE,**  
13 **INCLUDING LAW ENFORCEMENT, MAY ISSUE A CIVIL CITATION TO A PERSON WHO**  
14 **VIOLATES ANY PROVISION OF THIS SUBTITLE IN THE SAME MANNER AS DESCRIBED**  
15 **IN TITLE 1, SUBTITLE 12 OF THE LOCAL GOVERNMENT ARTICLE.**

16 **24-1705.**

17           **(A) A CIVIL CITATION MAY BE ISSUED TO A PERSON IF THE PERSON WHO**  
18 **DISTRIBUTES ANY OF THE ITEMS LISTED IN § 24-1703(A) OF THIS SUBTITLE:**

19           **(1) DISTRIBUTES THE ITEM TO AN INDIVIDUAL UNDER THE AGE OF 18**  
20 **YEARS;**

21           **(2) FAILS TO EXAMINE THE IDENTIFICATION CARD OF ANY**  
22 **INDIVIDUAL UNDER THE AGE OF 27 YEARS TO VISUALLY CONFIRM THE**  
23 **PURCHASER'S IDENTITY; OR**

24           **(3) HAS NOT SUCCESSFULLY COMPLETED THE WEB-BASED**  
25 **RETAILER TRAINING COURSE REQUIRED UNDER § 24-1703(D) OF THIS SUBTITLE.**

26           **(B) A SEPARATE CIVIL CITATION MAY BE ISSUED FOR EACH VIOLATION OF**  
27 **SUBSECTION (A) OF THIS SECTION.**

28 **24-1706.**



1           (A) A PERSON WHO IS ISSUED A CIVIL CITATION UNDER § 24-1705 OF THIS  
2 SUBTITLE IS SUBJECT TO A CIVIL PENALTY OF:

3           (1) NOT LESS THAN \$300 BUT NOT MORE THAN \$600 FOR A FIRST  
4 VIOLATION;

5           (2) NOT LESS THAN \$1,000 BUT NOT MORE THAN \$1,500 FOR A  
6 SECOND VIOLATION OCCURRING WITHIN 24 MONTHS AFTER THE DATE THE CIVIL  
7 CITATION FOR THE FIRST VIOLATION WAS ISSUED; AND

8           (3) NOT LESS THAN \$3,000 BUT NOT MORE THAN \$5,000 FOR EACH  
9 SUBSEQUENT VIOLATION OCCURRING WITHIN 24 MONTHS AFTER THE DATE THE  
10 CIVIL CITATION FOR THE PRECEDING VIOLATION WAS ISSUED.

11 24-1707.

12           (A) A PERSON WHO IS ISSUED A CIVIL CITATION UNDER § 24-1705 OF THIS  
13 SUBTITLE IS SUBJECT TO THE FOLLOWING ADDITIONAL CIVIL PENALTY IF THE  
14 VIOLATION INVOLVED A FLAVORED CIGAR OTHER THAN A PREMIUM CIGAR:

15           (1) NOT LESS THAN \$300 BUT NOT MORE THAN \$600 FOR A FIRST  
16 VIOLATION;

17           (2) NOT LESS THAN \$1,000 BUT NOT MORE THAN \$1,500 FOR A  
18 SECOND VIOLATION OCCURRING WITHIN 24 MONTHS AFTER THE DATE THE CIVIL  
19 CITATION FOR THE FIRST VIOLATION WAS ISSUED; AND

20           (3) NOT LESS THAN \$3,000 BUT NOT MORE THAN \$5,000 FOR EACH  
21 SUBSEQUENT VIOLATION OCCURRING WITHIN 24 MONTHS AFTER THE DATE THE  
22 CIVIL CITATION FOR THE PRECEDING VIOLATION WAS ISSUED.

23           (B) A PUBLIC STATEMENT OR CLAIM THAT A CIGAR POSSESSES OR  
24 PRODUCES A CHARACTERIZING FLAVOR THAT IS MADE OR DISSEMINATED BY THE  
25 MANUFACTURER OF A CIGAR, OR BY A PERSON AUTHORIZED BY THE  
26 MANUFACTURER TO MAKE OR DISSEMINATE PUBLIC STATEMENTS OR CLAIMS  
27 CONCERNING A CIGAR, SHALL CONSTITUTE PRESUMPTIVE EVIDENCE THAT THE  
28 CIGAR IS A FLAVORED CIGAR.

29 24-1708.

30           A CIVIL CITATION ISSUED UNDER § 24-1705 OF THIS SUBTITLE IS GOVERNED  
31 BY TITLE 1, SUBTITLE 12 OF THE LOCAL GOVERNMENT ARTICLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed  
2 to preempt or prevail over any ordinance, resolution, law, or rule more stringent than this  
3 Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
5 apply only prospectively and may not be applied or interpreted to have any effect on or  
6 application to any cause of action arising before the effective date of this Act.

7 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
8 1, 2015.