

HOUSE BILL 1227

C2, J1, E1

2lr2938

By: **Delegates Hill and Ruth**

Introduced and read first time: February 11, 2022

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Regulation of Tobacco Products – Synthetic Nicotine**

3 FOR the purpose of specifying in provisions of law governing the regulation of tobacco
4 products in the State that a “tobacco product” includes certain products that are
5 made of, derived from, or contain nicotine from any source, including synthetic
6 nicotine; and generally relating to the regulation of tobacco products in the State.

7 BY repealing and reenacting, with amendments,
8 Article – Business Regulation
9 Section 16–3A–01(c) and 16.5–101(j)
10 Annotated Code of Maryland
11 (2015 Replacement Volume and 2021 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Law
14 Section 10–101(d)
15 Annotated Code of Maryland
16 (2021 Replacement Volume and 2021 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Health – General
19 Section 13–1001(u) and 24–307
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2021 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Local Government
24 Section 1–1201(c)
25 Annotated Code of Maryland
26 (2013 Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Business Regulation**

4 16–3A–01.

5 (c) (1) “Tobacco product” means any product that is:

6 (i) intended for human inhalation, absorption, ingestion, smoking,
7 heating, chewing, dissolving, or any other manner of consumption that is made of, derived
8 from, or contains:

9 1. tobacco; or

10 2. nicotine **FROM ANY SOURCE, INCLUDING SYNTHETIC**
11 **NICOTINE**; or

12 (ii) an accessory or a component used in any manner of consumption
13 of a product described in item (i) of this paragraph.

14 (2) “Tobacco product” includes:

15 (i) cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and snus;

16 (ii) electronic smoking devices; and

17 (iii) filters, rolling papers, pipes, and liquids used in electronic
18 smoking devices regardless of nicotine content.

19 (3) “Tobacco product” does not include a drug, device, or combination
20 product authorized for sale by the U.S. Food and Drug Administration under the Federal
21 Food, Drug, and Cosmetic Act.

22 16.5–101.

23 (j) (1) “Other tobacco products” means, except as provided in paragraph (3) of
24 this subsection, a product that is:

25 (i) intended for human consumption or likely to be consumed,
26 whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested in any other
27 manner, and that is made of or derived from, or that contains:

28 1. tobacco; or

29 2. nicotine **FROM ANY SOURCE, INCLUDING SYNTHETIC**
30 **NICOTINE**; or

1 (ii) a component or part used in a consumable product described
2 under item (i) of this paragraph.

3 (2) “Other tobacco products” includes:

4 (i) cigars, premium cigars, pipe tobacco, chewing tobacco, snuff, and
5 snus; and

6 (ii) filters, rolling papers, pipes, and hookahs.

7 (3) “Other tobacco products” does not include:

8 (i) cigarettes;

9 (ii) electronic smoking devices;

10 (iii) drugs, devices, or combination products authorized for sale by
11 the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act;
12 or

13 (iv) tobacco pipes, as defined under § 11–104 of the Tax – General
14 Article.

15 Article – Criminal Law

16 10–101.

17 (d) (1) “Tobacco product” means a product that is:

18 (i) intended for human inhalation, absorption, ingestion, smoking,
19 heating, chewing, dissolving, or any other manner of consumption that is made of, derived
20 from, or contains:

21 1. tobacco; or

22 2. nicotine **FROM ANY SOURCE, INCLUDING SYNTHETIC**
23 **NICOTINE**; or

24 (ii) an accessory or a component used in any manner of consumption
25 of a product described in item (i) of this paragraph.

26 (2) “Tobacco product” includes:

27 (i) cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and snus;

28 (ii) electronic smoking devices; and

1 (iii) filters, rolling papers, pipes, and liquids used in electronic
2 smoking devices regardless of nicotine content.

3 (3) “Tobacco product” does not include a drug, device, or combination
4 product authorized for sale by the U.S. Food and Drug Administration under the Federal
5 Food, Drug, and Cosmetic Act.

6 Article – Health – General

7 13–1001.

8 (u) (1) “Tobacco product” means any product that is:

9 (i) Intended for human inhalation, absorption, ingestion, smoking,
10 heating, chewing, dissolving, or any other manner of consumption that is made of, derived
11 from, or contains:

12 1. Tobacco; or

13 2. Nicotine **FROM ANY SOURCE, INCLUDING SYNTHETIC**
14 **NICOTINE**; or

15 (ii) An accessory or component used in any manner of consumption
16 of a product described in item (i) of this paragraph.

17 (2) “Tobacco product” includes:

18 (i) Cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and snus;

19 (ii) Electronic smoking devices; and

20 (iii) Filters, rolling papers, pipes, and liquids used in electronic
21 smoking devices regardless of nicotine content.

22 (3) “Tobacco product” does not include a drug, device, or combination
23 product authorized for sale by the U.S. Food and Drug Administration under the Federal
24 Food, Drug, and Cosmetic Act.

25 24–307.

26 **(A) IN THIS SECTION, “TOBACCO PRODUCT” HAS THE MEANING STATED IN §**
27 **13–1001 OF THIS ARTICLE.**

28 **[(a)] (B) (1)** This section does not apply to the distribution of a coupon that is
29 redeemable for a tobacco product if the coupon is:

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

3 (ii) Sent through the mail.

4 (2) This section does not apply to the distribution of a tobacco product or
5 tobacco paraphernalia to:

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

9 (ii) A purchaser or recipient who:

10 1. Is at least 18 years of age;

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

12 3. Presents a valid military identification.

13 **[(b)] (C)** A person who distributes tobacco products for commercial purposes,
14 including a person licensed under Title 16 of the Business Regulation Article, may not
15 distribute to an individual under the age of 21 years:

16 (1) A tobacco product;

17 (2) Tobacco paraphernalia; or

18 (3) A coupon redeemable for a tobacco product.

19 **[(c)] (D)** (1) A person who violates subsection **[(b)] (C)** of this section is
20 subject to a civil penalty not exceeding:

21 (i) \$300 for a first violation;

22 (ii) \$1,000 for a second violation occurring within 24 months after
23 the first violation; and

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

26 (2) The local health departments shall report violations of subsection (b) of
27 this section to the Comptroller's Office.

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

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

3 ~~[(d)]~~ (E) In a prosecution for a violation of subsection ~~[(b)]~~ (C) of this section, it
4 is a defense that the defendant examined the purchaser's or recipient's driver's license or
5 other valid identification issued by a governmental unit that positively identified the
6 purchaser or recipient as at least 21 years old or as at least 18 years of age and an active
7 duty member of the military.

8 ~~[(e)]~~ (F) (1) In this subsection, "designee" means a retired sworn law
9 enforcement officer employed by a county health officer or an employee of a local health
10 department trained in civil enforcement.

11 (2) A sworn law enforcement officer, a county health officer, or a designee
12 of a county health officer may issue a civil citation for a violation of subsection ~~[(b)]~~ (C) of
13 this section.

14 (3) A citation issued under this subsection shall include:

15 (i) The name and address of the person charged;

16 (ii) The nature of the violation;

17 (iii) The location and time of the violation;

18 (iv) The amount of the civil penalty;

19 (v) The manner, location, and time in which the civil penalty may be
20 paid;

21 (vi) A notice stating the person's right to elect to stand trial for the
22 violation; and

23 (vii) A warning that failure to pay the civil penalty or to contest
24 liability in a timely manner in accordance with the citation:

25 1. Is an admission of liability; and

26 2. May result in entry of a default judgment that may include
27 the civil penalty, court costs, and administrative expenses.

28 (4) The county health officer or designee shall retain a copy of the citation
29 issued under this subsection.

30 (5) (i) A person who receives a citation from a county health officer or
31 designee under this subsection may elect to stand trial for the violation by filing a notice of
32 intention to stand trial with the county health officer or designee at least 5 days before the

1 date set in the citation for the payment of the civil penalty.

2 (ii) After receiving a notice of intention to stand trial under
3 subparagraph (i) of this paragraph, the county health officer or designee shall forward the
4 notice and a copy of the citation to the District Court.

5 (6) (i) After receiving a citation and notice under this subsection, the
6 District Court shall schedule the case for trial and notify the defendant of the trial date.

7 (ii) In a proceeding before the District Court, a violation of
8 subsection **[(b)] (C)** of this section shall be handled in the same manner as a municipal
9 infraction under §§ 6–108 through 6–115 of the Local Government Article.

10 (7) The District Court shall remit any penalties collected for a violation of
11 subsection (b) of this section to the county in which the violation occurred.

12 (8) Adjudication of a violation of subsection **[(b)] (C)** of this section is not a
13 criminal conviction for any purpose.

14 **[(f)] (G)** (1) The Maryland Department of Health, in collaboration and
15 consultation with the Office of the Comptroller, local health departments, and local law
16 enforcement agencies, shall develop ongoing strategies for enforcement of §§ 10–107 and
17 10–108 of the Criminal Law Article.

18 (2) On or before October 1 each year, the Department shall report to the
19 General Assembly, in accordance with § 2–1257 of the State Government Article, on:

20 (i) The development of enforcement strategies required under
21 paragraph (1) of this subsection; and

22 (ii) Training and assistance to tobacco retailers to improve
23 compliance with § 10–107 of the Criminal Law Article.

24 Article – Local Government

25 1–1201.

26 (c) (1) “Tobacco product” means a product that is:

27 (i) intended for human inhalation, absorption, ingestion, smoking,
28 heating, chewing, dissolving, or any other manner of consumption that is made of, derived
29 from, or contains:

30 1. tobacco; or

31 2. nicotine **FROM ANY SOURCE, INCLUDING SYNTHETIC**
32 **NICOTINE**; or

1 (ii) an accessory or a component used in any manner of consumption
2 of a product described in item (i) of this paragraph.

3 (2) "Tobacco product" includes:

4 (i) cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and snus;

5 (ii) electronic smoking devices; and

6 (iii) filters, rolling papers, pipes, and liquids used in electronic
7 smoking devices regardless of nicotine content.

8 (3) "Tobacco product" does not include a drug, device, or combination
9 product authorized for sale by the U.S. Food and Drug Administration under the Federal
10 Food, Drug, and Cosmetic Act.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2022.