



Montgomery
County Council

Committee
Staff: Amanda Mihill, Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #SmokeFreeMontgomery

AGENDA ITEM #7B
September 24, 2019
Introduction

SUBJECT

Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution
Lead Sponsors: Councilmembers Huckler and Albornoz

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce Bill – no vote expected

DESCRIPTION/ISSUE

Bill 31-19 would prohibit the distribution of any tobacco product, coupon redeemable for a tobacco product, cigarette rolling paper, or electronic cigarette to any individual under 21 except under certain circumstances. It would also prohibit an individual under 21 from using or possessing a tobacco product or electronic cigarette except under certain circumstances.

SUMMARY OF KEY DISCUSSION POINTS

- None

This report contains:

Staff Report

Bill 31-19

Legislative Request Report

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MEMORANDUM

September 19, 2019

TO: County Council

FROM: Amanda Mihill, Legislative Attorney

SUBJECT: Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession

PURPOSE: Introduction – no Council vote required

Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession, sponsored by Lead Sponsors Councilmembers Huckler and Albornoz, is scheduled to be introduced on September 24. A public hearing is tentatively scheduled for November 5 at 7:30 p.m.

Bill 31-19 would prohibit the distribution of any tobacco product, coupon redeemable for a tobacco product, cigarette rolling paper, or electronic cigarette to any individual under 21 except under certain circumstances. It would also prohibit an individual under 21 from using or possessing a tobacco product or electronic cigarette except under certain circumstances.¹

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F:\LAWBILLS\1931 Vaping Enforcement\Intro Memo.Docx

Bill No. 31-19
Concerning: Health and Sanitation –
Electronic Cigarettes – Distribution,
Use, and Possession
Revised: 9/17/2019 Draft No. 2
Introduced: September 24, 2019
Expires: March 24, 2021
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Hucker and Alborno

AN ACT to:

- (1) prohibit the distribution of any tobacco product, coupon redeemable for a tobacco product, cigarette rolling paper, or electronic cigarette to any individual under 21 except under certain circumstances;
- (2) prohibit an individual under 21 from using or possessing a tobacco product or electronic cigarette except under certain circumstances; and
- (2) generally amend County law regarding smoking, electronic cigarettes, and health and sanitation.

By amending

Montgomery County Code
Chapter 24, Health and Sanitation
Sections 24-9, 24-11, and 24-13

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 24-9, 24-11, and 24-13 are amended as follows:

24-9. [Smoking] Definitions; smoking and using electronic cigarettes in public places.

(a) *Definitions.* In this Article, the following words and phrases have the meanings indicated:

* * *

Electronic cigarette means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor. Electronic cigarette includes any component, part, or accessory of an electronic cigarette, whether or not sold separately, that is used during the operation of the electronic cigarette, but does not include any battery or battery charger that is sold separately.

* * *

24-11. Distribution of tobacco products and electronic cigarettes to [minors] certain persons.

(a) *Definitions.* In this Section the following words have the meanings indicated.

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

[(2)] *Distribute* means to:

[(A)] (1) give away, sell, deliver, dispense, or issue;

[(B)] (2) offer to give away, sell, deliver, dispense, or issue; or

28 [(C)] (3) cause or hire any person to give away, sell, deliver,
 29 dispense, or issue or offer to give away, sell, deliver,
 30 dispense, or issue.

31 Electronic cigarette has the same meaning as in Section 24-9.

32 Tobacco product means any substance containing tobacco, including
 33 cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.

34 (b) *Unlawful distribution.*

35 (1) A person engaged in the business of selling or otherwise
 36 distributing tobacco products for commercial purposes must not[:

37 (i)] distribute any tobacco product, cigarette rolling paper,
 38 coupon redeemable for any tobacco product, or electronic
 39 cigarette to [a minor] an individual under 21 years old,
 40 unless:

41 (A) the [minor] individual is acting solely as the agent of the
 42 minor's employer who is engaged in the business of
 43 distributing tobacco products; or

44 (B) the individual is:
 45 (i) at least 18 years of age;
 46 (ii) is an active duty member of the military; and
 47 (iii) presents a valid military identification.

48 [(ii) distribute cigarette rolling papers to a minor; or

49 (iii) distribute to a minor a coupon redeemable for any tobacco
 50 product.]

51 (2) A person, who is not a person described under paragraph (b)(1),
 52 must not[:]

53 [(i)] buy for, [or] sell to, or deliver to [a minor] an individual
 54 under 21 years old any tobacco product, cigarette rolling

55 papers, or electronic cigarette[; or], unless the individual
 56 under 21 years old is:

- 57 (A) at least 18 years of age;
- 58 (B) is an active duty member of the military; and
- 59 (C) presents a valid military identification.

60 [(ii) deliver or sell to a minor cigarette rolling papers.]

61 (c) Subsection (b) does not apply to the distribution of a coupon which is
 62 redeemable for any tobacco product when the coupon is contained in a
 63 newspaper, a magazine, or any other type of publication in which the
 64 coupon is incidental to the primary purpose of the publication, or sent
 65 through the mail.

66 (d) A person has not violated this Section if:
 67 (1) that person examined a driver’s license, military identification, or
 68 another valid identification issued by an employer, a government
 69 entity, or an institution of higher education; and
 70 (2) that license or other identification positively identified the buyer or
 71 recipient of a tobacco product or electronic cigarette as at least [18]
 72 21 years old or is at least 18 years old and has a valid military
 73 identification.

74 (e) If [a minor] an individual under 21 years old bought a tobacco product or
 75 electronic cigarette from a vending machine, this Section does not apply
 76 to the owner of the vending machine or any other person with control
 77 over the vending machine.

78 (f) A person who violates this Section is liable for a civil violation. The
 79 maximum civil fine is \$1000 for a first offense and \$1000 for each
 80 subsequent offense.

81 **24-13. Use and possession of tobacco products or electronic cigarettes by [minors]**
82 **certain persons prohibited.**

83 A person under [18] 21 years old must not use or possess a tobacco product or
84 an electronic cigarette unless that person is:

- 85 (a) at least 18 years of age;
86 (b) is an active duty member of the military; and
87 (c) presents a valid military identification.

LEGISLATIVE REQUEST REPORT

Bill 31-19

Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession

DESCRIPTION:	Bill 31-19 would update County law prohibiting the distribution of tobacco products, cigarette rolling paper, or coupons redeemable for tobacco to people under 21 (or 18 with military ID), extend the distribution prohibition to electronic cigarettes, and prohibit the use and possession of tobacco products and electronic cigarettes for people under 21 (or 18 with military ID).
PROBLEM:	State law, set to become effective October 1, raises the age to purchase tobacco products and electronic cigarettes to 21 (or 18 with military ID). This same law repeals provisions related to the use and possession of tobacco products. There is a therefore a void in the law.
GOALS AND OBJECTIVES:	To update County law to reflect state law changes and provide an enforcement mechanism for young people using and possessing tobacco products and electronic cigarettes.
COORDINATION:	Health and Human Services
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	Not applicable.
EXPERIENCE ELSEWHERE:	Not applicable.
SOURCE OF INFORMATION:	Amanda Mihill, Legislative Attorney (240) 777-7815
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	Not applicable.