



Committee HHS
Staff: Amanda Mihill, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #SmokeFreeMontgomery

AGENDA ITEM #4D & 5B
March 31, 2020
Action

SUBJECT

Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution
Resolution to adopt Bill 31-19 as a Board of Health Regulation
Lead Sponsors: Councilmembers Huckler and Albornoz
Co-Sponsors: Councilmember Rice, then-Council Vice President Katz, Councilmembers Riemer, Glass, Jawando and then-Council President Navarro

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Action on Bill and Resolution – Council vote expected
- The Committee recommended enacting Bill 31-19 with an amendment to specify that the monetary penalty for violating the provisions of Section 24-13 would be \$0 and adopting the Board of Health regulation as introduced.

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

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F:\LAW\BILLS\1931 Vaping Enforcement\Action Cover Sheet.Docx

MEMORANDUM

March 26, 2020

TO: County Council

FROM: Amanda Mihill, Legislative Attorney

SUBJECT: Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession
Resolution to adopt Bill 31-19 as a Board of Health regulation ¹

PURPOSE: Action – Roll call vote on Bill and Resolution

Health and Human Services Committee recommendation (3-0): enact Bill 31-19 with an amendment to specify that the monetary penalty for violating the provisions of Section 24-13 would be \$0; adopt the Board of Health regulation as introduced.

Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession and a Resolution to adopt Bill 31-19 as a Board of Health regulation, sponsored by Lead Sponsors Councilmembers Huckler and Albornoz and Co-Sponsors, Councilmember Rice, then-Council Vice President Katz, Councilmembers Riemer, Glass, Jawando, and then-Council President Navarro was introduced on September 24, 2019. The corresponding Board of Health regulation was introduced on October 1, 2019. A public hearing was held on November 5 on this bill, ZTA 19-06, Vape Shops, along with related Bills 29-19 and 32-19 and their companion resolutions adopting each Bill as a Board of Health regulation. A Health and Human Services Committee worksession was held on November 25 on Bill 31-19 in addition to related Bills and companion resolutions.

Bill 31-19 and the Regulation 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.

#VapeFreeMontgomery

Key words: vape, vaping, e-cigarette, electronic cigarette, vape shops, schools, zoning, Board of Health

Public Hearing/Correspondence

The Council held a public hearing on November 5 on Bill 31-19 and its companion regulation as well as related Bills 29-19 and 32-19 and ZTA 19-06. It was a joint hearing and most written testimony submitted on these bills is attached to the staff report of Bill 29-19. If testimony/correspondence was submitted specifically referencing Bills 29-19 or 32-19, that testimony/correspondence is in the staff report for those bills. Similarly, to the extent that testimony/correspondence was submitted on the ZTA, that testimony is attached to the staff report for the ZTA.

Testimony and correspondence specific to Bill 31-19 is attached on ©25-32. The Maryland Association of Convenience Stores and Energy Distributors opposed Bills 29-19 and 32-19 and did not specifically support Bill 31-19, but did recommend legislation that includes penalties for use and possession of vape products by individuals under 21 (©32).

Issues/Committee Recommendation

Overlap with state law. County Code §24-11, which is amended by Bill 31-19, is substantially similar to Sections 10-101 and 10-107 of the Criminal Law Article of the Maryland Code (see state law on ©14-19) and Sections 24-305 and 24-307 of the Health-General Article of the Maryland Code (see state law on ©20-24). One significant difference between the provisions of the state law is that a violation of the Criminal Law Article is a misdemeanor whereas a violation of the Health-General Article receives a civil penalty. The monetary amount associated with each violation is the same. However, state law specifies that a person cannot receive a citation under both the Criminal Law article and the Health-General article for the same violation.

The American Cancer Society Cancer Action Network, American Heart Association, and American Lung Association submitted a joint letter to the Council urging amendments to Bill 31-19 to update the tobacco definition to match state law, impose fines on the retailer not the clerk, and remove the purchase, use and possession provisions regarding youth (©25-27).

Imposition of fines. One significant difference between the provisions in the Criminal Law Article and the provisions in the Health-General Article is that under the Health-General Article “if a violation is committed by a person acting on behalf of a retailer, the civil penalty imposed...shall be paid by the retailer” (§§24-305(c)(3) and 24-307(c)(3)). The above referenced letter urges the Council to amend Bill 31-19 to incorporate this language.

Council staff comments: Council staff understands that when the County issues citations for violating §24-11, both the clerk and the retailer receive a violation – the clerk receives a lesser monetary penalty. Council staff believes that this an appropriate practice.

Purchase, use, and possession by youth. State Criminal Law formerly prohibited a minor from using or possessing a tobacco product or electronic cigarette. This was repealed by the 2019 “Tobacco 21” legislation.² Section 24-13 of existing County law prohibited a minor from using an electronic cigarette. Bill 31-19 would prohibit someone under 21 from using or possessing a

² 2019 Md. Chap. 396.

tobacco product or electronic cigarette (except if the person is 18, is an active duty member of the military, and presents a valid military ID). The above referenced letter urges the Council to remove these provisions. A violation of this County law would be a Class C violation, which is a \$50 fine for an initial offense and \$75 for a repeat offense.

Council staff comments: As Council staff understands it, these provisions are an important tool for keeping tobacco products and electronic cigarettes away from minors. The Lead Sponsors of Bill 31-19 are not recommending removing these provisions, but do concur with the American Cancer Society Cancer Action Network, American Heart Association, and American Lung Association that it is not desirable for youth to be monetarily penalized for violating §24-13.

The Committee recommended (3-0) an amendment to Bill 31-19 that specifies that the monetary fine for a violation of §24-13 should be \$0 (©5, lines 88-89). By specifying this, it is the Committee’s intent that youth would not be unintentionally, and unnecessarily, be caught up in the criminal justice system, but the enforcement agency can still confiscate the tobacco products and electronic cigarettes.

Allowable age for use and possession of tobacco products and electronic cigarettes. As introduced, Bill 31-19 would prohibit someone under 21 from using or possessing a tobacco product or electronic cigarette (except if the person is 18, is an active duty member of the military, and presents a valid military ID). Ms. Patty Winters urged an amendment to Bill 31-19 that would prohibit a person under 18 from using or possessing a tobacco product or electronic cigarette, regardless of whether the person is an active duty military member (©28-31).

Council staff comments: The provisions related to active duty military members mirror those in state law; Council staff does not recommend removing the military exemption.

Committee recommendation (3-0): continue to mirror state law in this respect.

The Committee (3-0) recommended the Council enact Bill 31-19 with the above amendment and adopt the corresponding Board of Health regulation as introduced.

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Bill No. 31-19
Concerning: Health and Sanitation –
Electronic Cigarettes – Distribution,
Use, and Possession
Revised: 2/28/2020 Draft No. 3
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
Co-Sponsors: Councilmember Rice, Council Vice President Katz, Councilmembers Riemer, Glass,
Jawando and Council President Navarro

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
- (3) 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

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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

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

85 ~~[(a)]~~ (1) at least 18 years of age;

86 ~~[(b)]~~ (2) is an active duty member of the military; and

87 ~~[(c)]~~ (3) presents a valid military identification.

88 (b) Penalties. Notwithstanding Section 24-9(l), the monetary penalty for a
89 violation of this Section is \$0.00.

Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH**

Lead Sponsors: Councilmembers Hucker and Alborno
Co-sponsors: Councilmember Rice, Council Vice President Katz,
Councilmembers Riemer, Glass, and Jawando, and Council President Navarro

SUBJECT: Resolution to adopt Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession as a Board of Health Regulation.

Background

1. County Code §2-65, as amended, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202 authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. On November 5, 2020, the Council held a public hearing on this regulation. As required by law, each municipality in the County and the public were properly notified of this hearing.
4. On {DATE}, the County Council enacted Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession. Bill 31-19 prohibits the distribution of electronic cigarettes to individuals under 21 except under certain circumstances and prohibits individuals under 21 from using or possessing tobacco products or electronic cigarettes except under certain circumstances.
5. The County Council, sitting as the Board of Health, finds after reviewing the evidence in the record that prohibiting the distribution of electronic cigarettes to individuals under 21 except under certain circumstances and prohibiting individuals under 21 from using or possessing tobacco products or electronic cigarettes except under certain circumstances as specified by this Regulation is necessary to protect the health of County residents.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, approves the following resolution:

1. The provisions of Section 24-9, 24-11, and 24-13 of the Montgomery County Code, as amended by Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession, are adopted as a Board of Health regulation. A copy of Bill 31-19 is attached to this resolution.
2. This resolution takes effect 90 days after adoption.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council

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.

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OFFICE OF MANAGEMENT AND BUDGET

Marc Elrich
County Executive

Richard S. Madaleno
Director

MEMORANDUM

November 1, 2019

TO: Nancy Navarro, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*
Michael Coveyou, Acting Director, Department of Finance *mc*

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

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

c: Andrew Kleine, Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Officer
Debbie Spielberg, Special Assistant to the County Executive
Dale Tibbitts, Special Assistant to the County Executive
Lisa Austin, Office of the County Executive
Barry Hudson, Director, Public Information Office
Raymond Crowel, Director, Department of Health and Human Services
David Platt, Department of Finance
Dennis Hetman, Department of Finance
Monika Coble, Office of Management and Budget
Estela Gomes, Office of Management and Budget
Lindsay Lucas, Office of Management and Budget
Chrissy Mireles, Office of Management and Budget

Office of the Director

101 Monroe Street, 14th Floor • Rockville, Maryland 20850 • 240-777-2800
www.montgomerycountymd.gov/omb

Fiscal Impact Statement
Bill 31-19, Health and Sanitation - Electronic Cigarettes – Distribution, Use, and Possession

1. Legislative Summary

Bill 31-19 would prohibit the distribution of any tobacco products, coupon redeemable for a tobacco product, cigarette rolling paper, or electronic cigarettes 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.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

There will be no changes in Alcohol Beverage Services' (ABS) revenues and expenditures as ABS currently monitors the retail selling of tobacco products to minors. Future monitoring of the retail selling of tobacco and flavored electronic cigarettes to purchasers under the age of 21 will replace the current tobacco monitoring program with no anticipated need of additional staff or other expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Not applicable.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's Information Technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

No additional expenditures related to the County's IT systems are expected.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable.

7. An estimate of the staff time needed to implement the bill.

No additional staff time is needed to implement the bill's provisions.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Future monitoring of the retail selling of tobacco and flavored electronic cigarettes to purchasers under the age of 21 will replace the current tobacco monitoring program with no anticipated need of additional staff or other expenditures.

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

There will be no fiscal impact as there will be no changes in ABS' revenues or expenditures. ABS currently monitors the retail selling of tobacco products to minors. Future monitoring of the retail selling of tobacco products and flavored electronic cigarettes to purchasers under the age of 21 will replace the current tobacco monitoring program with no anticipated need of additional staff or other expenditures.

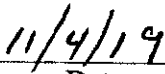
13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

John Martin Utermohle, Chief of Administrative Services, Alcohol Beverage Services
Estela Gomes, Fiscal and Policy Analyst, Office of Management and Budget
Lindsay Lucas, Fiscal and Policy Analyst, Office of Management and Budget


Richard S. Madaleno, Director
Office of Management and Budget


Date

Economic Impact Statement
Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession

Background:

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 if a person is active duty military with a military ID).

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) and includes sales of all electronic smoking devices - e-cigarettes, vapes, pod devices such as Juul, e-liquids, and component parts and accessories. The State law repeals provisions related to the use and possession of tobacco products. The goal of Bill 31-19 is to update County law to reflect state law changes.

1. The sources of information, assumptions, and methodologies used.

- September 2019 (FY20) Selected Operations Summaries, Montgomery County Division of Treasury
- Bloomberg Businessweek, “Juul’s Wildly Successful, Very Silicon Valley Business has a Serious Bug”, Lauren Etter, Ben Elgin, and Ellen Huet; 10/14/2019

According to a study published this month in the New England Journal of Medicine, one in nine U.S. high school seniors say they now vape almost daily¹. The 2018 National Youth Tobacco Survey showed that an estimated 3.6 million middle and high school students used e-cigarettes, an increase of more than 70% from the previous year. Recently there has been heightened anxiety about the unknown long-term health risks associated with vaping, particularly among youth. Locally, Maryland Comptroller Peter Franchot recently announced the launch of a task force to examine the effects of vaping and e-cigarettes, as more people across the country are becoming affected.

2. A description of any variable that could affect the economic impact estimates.

The prevalence of non-military smokers under the age of 21 and over the age of 18 would alter economic impact estimates. According to the CDC smoking remains a leading cause of preventable death and disease worldwide, and its effects kill about 480,000 Americans a year however data does not exist that quantifies the number of age 18 to 21 smokers in the County.

3. The Bill’s positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

The Bill is not anticipated to have a discernable effect on employment, savings, investment, incomes, and property values in the County but is projected to considerably alter the current trajectory of exponential growth in the e-cigarette tax which is estimated to grow 88% this year over 2018. Total collections in 2019 are estimated to be approximately \$1.3 million or .02% of the County’s \$5.8 billion FY20 approved operating budget.

¹ Miech, Richard. (2019) “Trends in Adolescent Vaping, 2017-2019” NEJM.org

Economic Impact Statement
Bill 31-19, Health and Sanitation – Electronic Cigarettes – Distribution, Use, and Possession

	2016 Actual	2017 Actual	2018 Actual	2019 Prelim. Final
E-Cigarettes	\$372,931	\$483,415	\$698,169	\$1,317,692
annual growth rate:		29.6%	44.4%	88.7%

While there is a potential health impact from e-cigarettes and nicotine addiction there is also a lack of data on the potential economic impacts including the effects on income and health care. The legislation's potential impact on income and health care costs cannot be accurately quantified given a lack of specific data enumerating non-military smokers over the age of 18 and under the age of 21 in the County. The largest anticipated economic effect from the legislation will be on the revised revenue and earnings estimates of cigarette companies, e-cigarette makers, and distributors in the County. In a similar fashion to what the cigarette industry experienced decades ago, the e-cigarette industry is expected to undergo significant structural changes in the future. The economic impact of this shift to the County is expected to be minimal with declines expected in the e-cigarette tax that currently comprise less than .03% of the FY20 operating budget.

4. If a Bill is likely to have no economic impact, why is that the case?

See number 2.

5. The following contributed to or concurred with this analysis:

David Platt, Dennis Hetman, and Robert Hagedoorn, Finance.


 Michael Coveyou, Acting Director
 Department of Finance

10/31/19 Date

Md. CRIMINAL LAW Code Ann. Section 10-101

Including all Acts of the 2019 Regular Session of the General Assembly

MD - Annotated Code of Maryland > CRIMINAL LAW > TITLE 10. CRIMES AGAINST PUBLIC HEALTH, CONDUCT, AND SENSIBILITIES > SUBTITLE 1. CRIMES AGAINST PUBLIC HEALTH AND SAFETY > PART I. GENERAL PROVISIONS

Section 10-101. Definitions

(a) **In general.** --In this part the following words have the meanings indicated.

**** SPECIAL REVISOR'S NOTE**

As enacted by Ch. 26, Acts of 2002, this subsection formerly was Art. 27, Section 404(a)(1). However, Chs. 108 and 109, and Ch. 213, Section 6, Acts of 2002, each added a new part "Part I. General Provisions" before this subsection, and substituted the reference to this "part" for the reference to this "subtitle" enacted by Ch. 26. Also, Chs. 108 and 109 each added Sections 10-113 through 10-117 under a new part "Part II. Alcoholic Beverage Consumption or Possession of Open Container in Passenger Area of Motor Vehicle". Also, Ch. 213, Section 1, transferred Article 2B, Sections 22-101 through 22-108, as enacted by Ch. 26, Section 4, to be Sections 10-113 through 10-120, under the new part "Part II. Alcoholic Beverages Violations". Precedence in numbering has been given to Ch. 213 as the later enactment. See Art. 1, Section 17. Accordingly, the sections transferred by Ch. 213, Section 1, appear as Sections 10-113 through 10-120 under Part II, and the sections enacted by Chs. 108 and 109 appear as Sections 10-123 through 10-127 under Part III.

**** SPECIAL REVISOR'S NOTE**

In this subsection, the reference to this "subtitle" was substituted by Ch. 26 for the former reference to this "subheading" to reflect the organization of material derived from the former subheading on the sale of cigars and tobacco products to minors. Its application in Ch. 26 to the material derived from the former subheading on venereal disease remedies was not a substantive change. The defined term "tobacco product" was not used by Ch. 26 in the sections in this subtitle that dealt with venereal diseases. The word "distributed" was used in Section 10-102(a)(3) of this subtitle, but the definition of "distribute" in subsection (b) of this section did not materially change the meaning of the term as used by Ch. 26 in Section 10-102(a)(3) of this subtitle.

**** SPECIAL REVISOR'S NOTE**

No other changes were made by Ch. 26.

(b) **Distribute.** --"Distribute" means to:

- (1) give, sell, deliver, dispense, issue, or offer to give, sell, deliver, dispense, or issue; or
- (2) cause or hire a person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense, or issue.

**** REVISOR'S NOTE**

This subsection is new language derived without substantive change from former Art. 27, Section 404(a)(3).

**** DEFINED TERM:**

"Person"

Section 1-101

**

(c) Tobacco paraphernalia. --**

(1)"Tobacco paraphernalia" means any object used, intended for use, or designed for use in inhaling or otherwise introducing tobacco products into the human body. **

(2)"Tobacco paraphernalia" includes: **

(i)a cigarette rolling paper; **

(ii)a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without screen, permanent screen, or punctured metal bowl; **

(iii)a water pipe; **

(iv)a carburetion tube or device; **

(v)a smoking or carburetion mask; **

(vi)an object known as a roach clip used to hold burning material, such as a cigarette that has become too small or too short to be held in the hand; **

(vii)a chamber pipe; **

(viii)a carburetor pipe; **

(ix)an electric pipe; **

(x)an air-driven pipe; **

(xi)a chillum; **

(xii)a bong; and **

(xiii)an ice pipe or chiller. **

(d) Tobacco product. --**

(1)"Tobacco product" means a product that is: **

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

1.tobacco; or **

2.nicotine; or **

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

(2)"Tobacco product" includes: **

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

(ii)electronic smoking devices; and **

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

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

(e) Venereal disease. --"Venereal disease" includes gonorrhea, syphilis, chancroid, and any diseased condition of the human genitalia caused by, related to, or resulting from a venereal disease.

REVISOR'S NOTE

This subsection is new language derived without substantive change from the first sentences of former Art. 27, Sections 322 and 323 as they related to a description of the covered diseases.

REVISOR'S NOTE

Md. CRIMINAL LAW Code Ann. Section 10-101

The former references to "any other venereal disease" are deleted in light of the reference to "includes" which indicates that the three named types of the disease are named by way of illustration and not by way of limitation. See Art. 1, Section 30.

History

An. Code 1957, art. 27, Sections 322, 323, 404(a); 2002, ch. 26, Section 2; ch. 108, Section 1; ch. 109, Section 1; ch. 213, Section 6; 2003, ch. 115; 2007, ch. 218; 2019, ch. 396.

Annotated Code of Maryland

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End of Document

Md. CRIMINAL LAW Code Ann. Section 10-107

Including all Acts of the 2019 Regular Session of the General Assembly

MD - Annotated Code of Maryland > CRIMINAL LAW > TITLE 10. CRIMES AGAINST PUBLIC HEALTH, CONDUCT, AND SENSIBILITIES > SUBTITLE 1. CRIMES AGAINST PUBLIC HEALTH AND SAFETY > PART I. GENERAL PROVISIONS

Section 10-107. Distribution of tobacco product or paraphernalia to minor.

(a) Scope of section. --This section does not apply to the distribution of a coupon that is redeemable for a tobacco product, if the coupon is:

- (1) contained in a newspaper, magazine, or other type of publication in which the coupon is incidental to the primary purpose of the publication; or
- (2) sent through the mail.

(b) Prohibited -- By distributor of tobacco. --

(1) This subsection does not apply to the distribution of a tobacco product or tobacco paraphernalia to:

- (i) an individual under the age of 21 years who is acting solely as the agent of the individual's employer if the employer distributes tobacco products or tobacco paraphernalia for commercial purposes; or
- (ii) a purchaser or recipient who:
 - 1. is at least 18 years of age;
 - 2. is an active duty member of the military; and
 - 3. presents a valid military identification.

(2) A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16 of the Business Regulation Article, may not distribute to an individual under the age of 21 years:

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

(c) Prohibited -- By other person. --A person not described in subsection (b)(2) of this section may not:

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

- (i) is at least 18 years of age;
- (ii) is an active duty member of the military; and
- (iii) presents a valid military identification; or

(2) distribute tobacco paraphernalia to an individual under the age of 21 years, unless the individual:

- (i) is at least 18 years of age;
- (ii) is an active duty member of the military; and

Md. CRIMINAL LAW Code Ann. Section 10-107

(iii) presents a valid military identification.

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

(e) **Penalty.** --

(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

(i) \$ 300 for a first violation;

(ii) \$ 1,000 for a second violation occurring within 2 years after the first violation; and

(iii) \$ 3,000 for each subsequent violation occurring within 2 years after the preceding violation.

(2) Issuance of a civil citation for the sale of a tobacco product to an individual under the age of 21 years precludes a prosecution for a violation of Section 24-307 of the Health - General Article arising out of the same violation.

(f) **Separate incident a violation.** --For purposes of this section, each separate incident at a different time and occasion is a violation.

History

An. Code 1957, art. 27, Sections 404(b)-(d), 405; 2002, ch. 26, Section 2; 2003, ch. 115; 2007, ch. 218; 2017, ch. 62, Section 6; ch. 773; 2018, ch. 12, Section 1; ch. 785; 2019, ch. 396.

Annotated Code of Maryland

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Md. CRIMINAL LAW Code Ann. Section 10-108

Including all Acts of the 2019 Regular Session of the General Assembly

MD - Annotated Code of Maryland > CRIMINAL LAW > TITLE 10. CRIMES AGAINST PUBLIC HEALTH, CONDUCT, AND SENSIBILITIES > SUBTITLE 1. CRIMES AGAINST PUBLIC HEALTH AND SAFETY > PART I. GENERAL PROVISIONS

Section 10-108. Possession of tobacco product by minor; use of false identification

Repealed by Acts 2019, ch. 396, Section 1, effective October 1, 2019.

Annotated Code of Maryland

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Md. HEALTH-GENERAL Code Ann. Section 24-305

Including all Acts of the 2019 Regular Session of the General Assembly

MD - Annotated Code of Maryland > HEALTH - GENERAL > TITLE 24. MISCELLANEOUS PROVISIONS > SUBTITLE 3. LIMITATIONS ON MANUFACTURE OR SALE

Section 24-305. Distribution of electronic cigarettes to minors prohibited

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

(b) In general. --

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

(2) This subsection does not apply to:

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

(ii) A purchaser or recipient who:

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

(c) Penalty. --

(1) A person that violates this section is subject to a civil penalty not exceeding:

(i) \$ 300 for a first violation;

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

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

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

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

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

(e) Enforcement procedures. --

(1) In this subsection, "designee" means a retired sworn law enforcement officer employed by a county health officer or an employee of a local health department trained in civil enforcement.

(2) A sworn law enforcement officer, a county health officer, or a designee of a county health officer may issue a civil citation for a violation of this section.

Md. HEALTH-GENERAL Code Ann. Section 24-305

- (3) A citation issued under this section shall include:
- (i) The name and address of the person charged;
 - (ii) The nature of the violation;
 - (iii) The location and time of the violation;
 - (iv) The amount of the civil penalty;
 - (v) The manner, location, and time in which the civil penalty may be paid;
 - (vi) A notice stating the person's right to elect to stand trial for the violation; and
 - (vii) A warning that failure to pay the civil penalty or to contest liability in a timely manner in accordance with the citation:
 - 1. Is an admission of liability; and
 - 2. May result in entry of a default judgment that may include the civil penalty, court costs, and administrative expenses.
- (4) The sworn law enforcement officer, county health officer, or designee shall retain a copy of the citation issued under this section.
- (5)(i) 1. A person who receives a citation from a county health officer or designee under this section may elect to stand trial for the violation by filing a notice of intention to stand trial with the county health officer or designee at least 5 days before the date set in the citation for the payment of the civil penalty.
2. After receiving a notice of intention to stand trial under subparagraph 1 of this subparagraph, the county health officer or designee shall forward the notice and a copy of the citation to the District Court.
- (ii) A person who receives a citation from a sworn law enforcement officer under this section may elect to stand trial for the violation by filing a notice of intention to stand trial and a copy of the citation with the District Court at least 5 days before the date set in the citation for payment of the civil penalty.
- (6)
- (i) After receiving a citation and notice under this section, the District Court shall schedule the case for trial and notify the defendant of the trial date.
 - (ii) In a proceeding before the District Court, a violation of this section shall be prosecuted in the same manner and to the same extent as a municipal infraction under Sections 6-108 through 6-115 of the Local Government Article.
- (7) The District Court shall remit any penalties collected for a violation of this section to the county in which the violation occurred.
- (8) Adjudication of a violation of this section is not a criminal conviction for any purpose.

History

2012, ch. 714; 2015, ch. 425; 2017, ch. 814; 2018, ch. 785; 2019, ch. 396.

Md. HEALTH-GENERAL Code Ann. Section 24-307

Including all Acts of the 2019 Regular Session of the General Assembly

MD - Annotated Code of Maryland > HEALTH - GENERAL > TITLE 24. MISCELLANEOUS PROVISIONS > SUBTITLE 3. LIMITATIONS ON MANUFACTURE OR SALE

Section 24-307. Distribution of tobacco products, paraphernalia, or coupons to minors prohibited.

(a) Applicability. --

(1) This section does not apply to the distribution of a coupon that is redeemable for a tobacco product if the coupon is:

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

(ii) Sent through the mail.

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

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

(ii) A purchaser or recipient who:

1. Is at least 18 years of age;

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

3. Presents a valid military identification.

(b) Distribution prohibited. --A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16 of the Business Regulation Article, may not distribute to an individual under the age of 21 years:

(1) A tobacco product;

(2) Tobacco paraphernalia; or

(3) A coupon redeemable for a tobacco product.

(c) Penalty. --

(1) A person who violates subsection (b) of this section is subject to a civil penalty not exceeding:

(i) \$ 300 for a first violation;

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

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

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

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

Md. HEALTH-GENERAL Code Ann. Section 24-307

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

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

(e) Issuance of civil citation; procedure. --

(1) In this subsection, "designee" means a retired sworn law enforcement officer employed by a county health officer or an employee of a local health department trained in civil enforcement.

(2) A sworn law enforcement officer, a county health officer, or a designee of a county health officer may issue a civil citation for a violation of subsection (b) of this section.

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

- (i) The name and address of the person charged;
- (ii) The nature of the violation;
- (iii) The location and time of the violation;
- (iv) The amount of the civil penalty;
- (v) The manner, location, and time in which the civil penalty may be paid;
- (vi) A notice stating the person's right to elect to stand trial for the violation; and
- (vii) A warning that failure to pay the civil penalty or to contest liability in a timely manner in accordance with the citation:
 - 1. Is an admission of liability; and
 - 2. May result in entry of a default judgment that may include the civil penalty, court costs, and administrative expenses.

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

(5)

(i) A person who receives a citation from a county health officer or designee under this subsection may elect to stand trial for the violation by filing a notice of intention to stand trial with the county health officer or designee at least 5 days before the date set in the citation for the payment of the civil penalty.

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

(6)

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

(ii) In a proceeding before the District Court, a violation of subsection (b) of this section shall be handled in the same manner as a municipal infraction under Sections 6-108 through 6-115 of the Local Government Article.

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

(8) Adjudication of a violation of subsection (b) of this section is not a criminal conviction for any purpose.

Md. HEALTH-GENERAL Code Ann. Section 24-307

(f) Development of strategies for enforcement of law prohibiting distributions to or possession by minors; reports. --

(1) The Maryland Department of Health, in collaboration and consultation with the Office of the Comptroller, local health departments, and local law enforcement agencies, shall develop ongoing strategies for enforcement of Sections 10-107 and 10-108 of the Criminal Law Article.

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

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

(ii) Training and assistance to tobacco retailers to improve compliance with Section 10-107 of the Criminal Law Article.

History

2017, ch. 214, Section 7; ch. 773; 2018, ch. 12, Section 1; ch. 785; 2019, ch. 396; ch. 510, Section 4; ch. 511, Section 4.

Annotated Code of Maryland

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October 11, 2019

The Honorable Gabe Albornoz, Chairman and
Members of the Health and Human Services Committee (HHS)
Montgomery County Council
Council Office Building
100 Maryland Ave, 6th Floor
Rockville, MD 20850

Dear Chairman Albornoz and Members of the Health and Human Services Committee (HHS),

We, the below signed organizations, deeply appreciate your commitment to the county's health and your resolve to address the growing epidemic of e-cigarette use among our youth. We agree that this epidemic demands strong and immediate action, which the Council has already taken.

We do, however, have some concerns regarding the proposed e-cigarette legislative package. Some legislation we would support with amendments. Because the county is preempted from taking the strongest possible action, and because proposed statewide legislation would accomplish the same goals and has a good chance of passage in 2020, we would recommend holding off on some of the legislation in the package.

Of the bills proposed, we can support **Bill No. 29-19 Health and Sanitation—Electronic Cigarettes—Distribution** if amended to include all tobacco retailers, not just e-cigarette retailers. All forms of tobacco are dangerous and protect kids from this addiction in all its forms is essential. All tobacco products and all tobacco retailers should be regulated in the same strict manner.

Since the Council intends to limit e-cigarette distribution near schools, the best practice would be to limit the total number of tobacco retailers and where those tobacco retailers can be located.

We also support **Bill No. 31-19 Health and Sanitation—Electronic Cigarettes—Distributions, Use, and Possession**, with amendments. The legislation does not currently mirror the State provisions that went into effect on October 1st, 2019. Specifically, the tobacco product definition should be updated, impose fines on the retailer not the clerk, and remove the purchase, use, and possession provisions on youth.

Compliance with the law should be the responsibility of the retailer, and penalties for violations should not fall on the youth attempting to purchase tobacco.

The evidence shows penalizing youth for the purchase, use, and possession of tobacco products is not effective at reducing tobacco use. Penalties for youth for purchase, use, and possession



may divert attention from more effective tobacco control strategies and relieve the tobacco industry of responsibility for its marketing practices and retailer's irresponsible sale to underage persons. For those adolescents who do smoke, what they need most is access to evidence-based cessation resources, not fines. What has been proven effective is a dedicated enforcement entity conducting active enforcement, including graduated fines for retailers when in violation with potential for license suspension and revocation, licensing of all retailers, unannounced compliance checks on retailers, and signage.

We recommend you hold off on moving forward with **Bill No. 32-19 Health and Sanitation—Flavored Electronic Cigarettes**, as the county is not able expand the proposal to restrict the sale of **all flavored tobacco products, including but not limited to menthol cigarettes and flavored cigars due to preemption.** Without a comprehensive prohibition, we do not believe this legislation will be as effective as intended and will not end the epidemic.

95% of smokers begin before the age of 21. Right here in Maryland, while 14.4% of adults across the city still smoke, 13.9% of MD high school students use e-cigarettes. We know that most current smokers were enticed to begin this deadly addiction as youth, and most report beginning with a flavor.

As a result of targeted marketing, while the use of traditional cigarettes has declined, the sale of menthol cigarettes has steadily increased, especially among young people and new smokers. Menthol makes it easier to start smoking by masking the harshness of tobacco smoke. As a result, over half of youth smokers use menthol cigarettes; among African American youth smokers, seven out of ten use menthol cigarettes. In addition, there are now over 250 different cigar flavors, and cigars surpass cigarettes in popularity among high school boys nationwide.

In addition to youth, African Americans have been heavily targeted with menthol cigarette marketing. Quitting menthol cigarettes is particularly difficult, so those who initiate with menthol are more likely to become addicted and less likely to quit. Leaving menthol cigarettes in our community is a matter of social justice and leaves those already most impacted by health disparities vulnerable to the aggressive marketing of the tobacco industry.

Cities across the country have already acted to prohibit the sale of all flavored tobacco products. Over 50 communities in California, Colorado, Minnesota, Massachusetts and New York have done so.

Unfortunately, the Council is preempted from adding menthol cigarettes and flavored cigars to the legislation, so we ask that the Council hold off on introducing legislation and instead support a statewide bill being introduced in 2020 led by Del. Dereck E. Davis (D-25) and Attorney General Brian Frosh. The statewide bill, which is supported by our national public health organizations and a vast coalition of state-based groups, will restrict the sale of **all flavored tobacco products, including but not limited to e-cigarettes, menthol cigarettes, and flavored cigars.**



While we share in your fight against the growing epidemic and commend your intentions, we would support some of the proposed legislation with amendments, but recommend the Council hold off on other bills due to pending 2020 Statewide efforts, and as a result of limitations on the county due to preemption.

We look forward to continuing to work with the County Council on proven tobacco control interventions and to improve the health of all residents.

Sincerely,

American Cancer Society Cancer Action Network (ACS CAN)

American Heart Association (AHA)

American Lung Association (ALA)

CC: *Members of the Montgomery County Council*

Montgomery County Delegation (MD General Assembly)

Testimony to Montgomery County Council November 5, 2019 Hearing on Bills 29-19, 31-19, and 32-19

Good Evening, President Navarro, Vice President Katz, and County Council Members,

My name is Patty Winters. I am the proud team leader of that rockin' group of volunteers, Phoenix Rising: Maryland Recovery School Advocates and I am here tonight as activist for our youth to make alcohol-and-other drug-free choices since 2008.

I commend your work on Bills 29-19, 31-19, and 32-19. I think we all know there is no easy fix to the youth vaping epidemic, and efforts to resolve it will take time, with some trial and error. I have seen uninformed troll and other nay-sayer comments on social media, but these bills are among effective strategies that, to use Councilmember Reimer's phrase, are within our reach.

Probably our biggest obstacle to impacting this epidemic is when adolescents do not know or appreciate the multi-layered and long-term risks inherent in using electronic nicotine delivery systems (ENDS)..

If you are not already applying these resources as part of your ongoing work on this epidemic, I would like to offer the following strategies to empower our youth to avoid these products, and two bill revision suggestions.

Strategies to Reduce Youth Use of Electronic Nicotine Delivery Systems

1. Invest in approaches to solicit a diverse cross-section of middle and high school student input on effective methods to educate our youth and help them develop strong resilience skills – so they are confident enough and respect themselves enough to walk away from negative influences and not worry what others think.
 - a. Host a Youth Town Hall – or two – specifically focused on vaping and other high risk behaviors; perhaps designate some time to these topics at your November 13 Town Hall.
 - b. At county recreation centers, pools, and libraries, offer surveys or sit with an on-site Council or HHS representative to identify these strategies.
 - i. Collaborate with MCPS to make these SSL-hour activities.
2. Expand alternative peer group (APG) efforts.² Although created for the recovery community, APGs are a powerful preventive strategy as well. The nonprofits Project Change (<https://www.projectchange-md.org/>) and Identity (<https://identity-youth.org/>) are excellent APG models.
3. Collaborate with MCPS to address youth vaping and other substance abuse as a Parent Academies event.
4. Provide Motivational Interview¹ training to county staff who work with our youth.

Suggested Revisions to Related Documents

Bill 31-19: Delete "(or 18 with military ID)."

Research by the National Institute on Alcohol Abuse and Alcoholism showed "people who begin drinking before age 14 are about three times more likely than those who begin drinking at or after age 21 to be injured while drinking..." This analysis shows that for each year under age 21 that drinking onset is delayed, risk for later life injury diminishes."³

Underage drinking and youth ENDS use share enough common denominators (for example, becoming addicted to the ingested drug and unhealthy risky behavior patterns) that I believe this research can easily be applied to youth ENDS use.

Should we not empower our youth in the military with the same knowledge and advantage of delaying their first ingestion of drugs with legal age limits to age twenty-one years? Why enable these brave, sacrificing youth in the military with the opportunity to become (or remain) addicted to nicotine, or possibly ingest tainted ENDS, when we could help them avoid or stop this addiction and all it is fraught with?

Zoning Text Amendment (ZTA) No. 19-06, first paragraph: "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."

Does "certain circumstances" refer to under-21s in the military or is there another intended reference? Please consider rewording this paragraph to be more clear.

Thank you for your committed service to help our youth avoid risky behaviors.

Patty Winters

Team Leader, Phoenix Rising: Maryland Recovery School Advocates

November 5, 2019

Footnotes

¹Enhancing Motivation for Change in Substance Abuse Treatment, Chapter 3—Motivational Interviewing as a Counseling Style. Center for Substance Abuse Treatment. Enhancing Motivation for Change in Substance Abuse Treatment. Rockville (MD): Substance Abuse and Mental Health Services Administration (US); 1999. (Treatment Improvement Protocol (TIP) Series, No. 35.) Chapter 3—

Motivational Interviewing as a Counseling Style. Available from:
<https://www.ncbi.nlm.nih.gov/books/NBK64964/>.

²Crystal Morrison Caitlin Bailey, "The Alternative Peer Group: A Recovery Model for Teens and Young Adults": <http://www.drug-addiction-help-now.org/blog/2012/03/alternative-peer-groups-successful-recovery-model/>.

³Early Drinking Onset Increases Lifetime Injury Risk, September 29, 2000:
<https://www.niaaa.nih.gov/news-events/news-releases/early-drinking-onset-increases-lifetime-injury-risk>.

Addenda

Sites describing strategies to engage adolescents

Trust for America's Health, "Addressing a Crisis: Cross-Sector Strategies to Prevent Adolescent Substance Use and Suicide." October 29, 2019 : <https://www.tfah.org/report-details/adsandadolescents/>

Brett Dahlberg, "As e-cigarette use rises in teens, one school district tries a new approach." Oct 7, 2019 https://www.wxixnews.org/post/e-cigarette-use-rises-teens-one-school-district-tries-new-approach?fbclid=IwAR26ZhMYIWAuErHbL2OFahoSeJDLYGZdJS6dRFCCs_v6qWEsB1guGNI7uhk

James Poulos, "Iceland asked its teens why they binge drink. Their responses changed everything." October 21, 2019: <https://megaphone.upworthy.com/p/iceland-substance-abuse?fbclid=IwAR0y51gcnN5t3qKnRKuAYqNpMqzVgfGSVVIHaB3hIVOIkA-4WQKX1Z1so2o>

National Institute on Alcohol Abuse and Alcoholism, *Make a Difference: Talk to Your Child About Alcohol*, NIH Publication No. 16-4314, Published: 2003, Revised 2009.

<https://www.niaaa.nih.gov/publications/brochures-and-fact-sheets/make-a-difference-child-alcohol#TakingAction> and <https://www.niaaa.nih.gov/publications/brochures-and-fact-sheets/make-a-difference-child-alcohol#DrinkingProblem>.

National Cancer Institute "Become a Smoke-free Teen" site: <https://teen.smokefree.gov/>.

Recent Related Reports

Jeff Morris, "Two high school students overdose on heroin-laced vape pens, Morgantown police say." November 1st 2019: <https://wchstv.com/news/local/two-high-school-students-overdose-on-heroin-laced-vape-pens-morgantown-police-say?fbclid=IwAR0P-t8zLrZAX4VXk33D-TCVSxIE5RAqRJ0LXnyT-L-NcIJISgzVFjsuALY>

Taylor Telford, The Washington Post, "Juul put 1 million tainted pods into the market, former executive alleges in lawsuit." October 30, 2019:

<https://www.washingtonpost.com/business/2019/10/30/juul-put-million-tainted-pods-into-market-former-executive-alleges-lawsuit/?fbclid=IwAR2iapf-ww100cg1HhFsectjWmADkhHsWEX7Ye6tzM9MpdbJm2-EqYRQ-ds>

Angelica LaVito, CNBC report, "E-cigarette giant Juul suspends sales of all fruity flavors ahead of looming US ban." October 17, 2019: <https://www.cnbc.com/2019/10/17/e-cigarette-giant-juul-suspends-sales-of-fruity-flavors-ahead-of-looming-ban.html?fbclid=IwAR3zTUa9wvw8oBK0faqg26RsDkKiwcLL9BEHpmgvRaWITCX0OcCdsabWHQI>

November 14, 2019 Local Event:



*Extra
Testimony*

To: Montgomery County Council
From: Ellen Valentino
Date: November 5, 2019
Re: 29-19 and 32-19 Retailer Prohibition Vape

The number of young people who are vaping has increased dramatically and MAPDA shares the concern of the Montgomery County Council on this issue. Understandably, the Montgomery County Council wants to take a stand to prevent underage vaping.

This legislation will not achieve the goal you want to accomplish and misses an opportunity for real change. At best, driving consumers to other retail establishments not affected by the ban only serves to pick winners and losers among the retail community.

At worst, this ban will foster a black market for vaping devices and supplies. As retailers, we have a responsibility to check ID; failure to do so comes with a significant penalty and threat of loss of license. Criminals selling on the street and distributing to underage individuals are operating unchecked. This legislation will most definitely exacerbate that practice and make it even more lucrative.

Instead of a ban that hurts legitimate consumers and retail businesses, we urge you to consider legislation that includes strong penalties for use and possession of vape products by individuals under the age of 21. We believe that policy will move the needle on prevention.

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