

TITLE 12. - DISTRIBUTION OF TOBACCO PRODUCTS AND ELECTRONIC SMOKING DEVICES TO PERSONS UNDER 21

§ 13-12-101. - DEFINITIONS.

- (a) *In general.* In this title, the following words have the meanings indicated.
- (b) *Distribute.* "Distribute" means to:
 - (1) Give, sell, deliver, dispense, or issue; or
 - (2) Offer to give, sell, deliver, dispense, or issue; or
 - (3) Cause or hire any person to give, sell, deliver, dispense, or issue or offer to give, sell, deliver, dispense, or issue.
- (c) *Health Officer.* "Health Officer" includes the Health Officer's designee.
- (d) *Owner.* "Owner" means a person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes.
- (e) *Tobacco paraphernalia.* "Tobacco paraphernalia" has the meaning stated in § 10-101 of the Criminal Law Article of the Annotated Code of Maryland.
- (f) *Tobacco product.* "Tobacco product" has the meaning stated in § 10-101 of the Criminal Law Article of the Annotated Code of Maryland.

(Bill No. 79-07, § 1, 1-10-2008; Bill No. 92-09, § 1, 2-13-2010; Bill No. 42-19, § 1, 10-15-2019)

§ 13-12-102. - SCOPE.

- (a) *Coupons.* This title 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) *Minor as an agent.* This title does not apply to the distribution of a tobacco product or tobacco paraphernalia to:
 - (1) A person under the age of 21 who is acting solely as the agent of the person's employer if the employer distributes tobacco products or tobacco paraphernalia for commercial purposes; or
 - (2) A purchaser or recipient who:
 - (i) Is at least 18 years of age;
 - (ii) Is an active duty member of the military; and
 - (iii) Presents a valid military identification.
- (c) *Vending machines.* This title does not apply to the sale of any tobacco product from a vending machine that complies with all requirements of state law.

(Bill No. 79-07, § 1, 1-10-2008; Bill No. 42-19, § 1, 10-15-2019)

§ 13-12-103. - DISTRIBUTION TO PERSONS UNDER THE AGE OF 21.

- (a) *Owner.* An owner may not distribute to a person under the age of 21:

- (1) Any tobacco product;
 - (2) Tobacco paraphernalia; or
 - (3) A coupon redeemable for a tobacco product.
- (b) *Other person.* A person other than an owner may not:
- (1) Buy for or sell any tobacco product to a person under the age of 21; or
 - (2) Distribute tobacco paraphernalia to a person under the age of 21.
- (c) *No violation.* A violation of this section has not occurred if the owner or other distributor:
- (1) Examined the purchaser's or recipient's driver's license or another valid identification issued by a government entity; and
 - (2) That license or other identification positively identified the purchaser or recipient of a tobacco product as at least 21 years of age or as at least 18 years of age and an active duty member of the military.

(Bill No. 79-07, § 1, 1-10-2008; Bill No. 42-19 , § 1, 10-15-2019)

§ 13-12-103.1. - VERIFICATION OF AGE.

- (a) *Photographic identification.* Each owner or other distributor shall verify by means of government issued identification containing the bearer's date of birth that each person purchasing a tobacco product or tobacco paraphernalia [is]:
- (1) At least 21 years of age; or
 - (2) At least 18 years of age and an active duty member of the military.
- (b) *Not required for persons over 27.* No such verification is required for any person over the age of 27.
- (c) *Proof of age as defense.* Proof that the owner or other distributor demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought under this section.

(Bill No. 92-09, § 1, 2-13-2010; Bill No. 42-19 , § 1, 10-15-2019)

§ 13-12-104. - PLACEMENT OF TOBACCO PRODUCTS.

- (a) *Accessibility.* Any person who owns or operates a business that engages in the retail sale of a tobacco product may not store or display tobacco products unless such products:
- (1) Are not immediately accessible to customers; and
 - (2) Are accessible only to the owner or operator of the business or an agent or employee of the owner or operator.
- (b) *Exception.* This section does not apply to a tobacconist establishment that engages primarily in the sale of tobacco products other than cigarettes, as defined in § 16-101 of the Business Regulation Article of the Maryland Annotated Code, which posts a sign at each entrance stating that the establishment is adults only.

(Bill No. 79-07, § 1, 1-10-2008)

§ 13-12-105. - PENALTIES AND ENFORCEMENT.

- (a) *Penalty for owners.*

- (1) An owner who violates the distribution provisions of § 13-12-103 of this title in any calendar year is subject to a civil penalty as follows:
 - (i) \$500 for a first violation;
 - (ii) \$1,000 for a second violation; and
 - (iii) \$1,500 or suspension of all tobacco sales for one month or both for a third or subsequent violation.
- (2) An owner who violates the product placement provisions of § 13-12-104 of this title in any calendar year is subject to a correction notice for a first violation and thereafter a civil penalty as follows:
 - (i) \$500 for a second violation;
 - (ii) \$1,000 for third violation; and
 - (iii) \$1,500 for a fourth or subsequent violation.
- (3) An owner who violates the identification check provisions of § 13-12-103.1 of this title in any calendar year is subject to a correction notice for a first violation and thereafter a civil penalty as follows:
 - (i) \$100 for a second violation; and
 - (ii) \$250 for a third or subsequent violation.
- (4) An owner is liable for violation of this title committed by an employee or agent of the owner.
- (b) *Penalty for others.* Any other person who violates any provision of this article is subject to a civil penalty of \$50 for the first violation and \$100 for any subsequent violations.
- (c) *Separate offenses.* For purposes of this section, each separate incident at a different time and occasion is a violation.
- (d) *Enforcement.* The Baltimore County Department of Health may adopt reasonable regulations, in accordance with the provisions of Article 3, Title 7 of the Code, to carry out the purposes of this title.
- (e) *Enforcement by Health Officer.*
 - (1) As provided in this subsection and in addition to any other remedy authorized by law, the Health Officer may enforce the provisions of this title in accordance with Article 3, Title 6 of the Code.
 - (2)
 - (i) Except as provided in paragraph (4) of this subsection, if an owner or an employee or agent of the owner violates § 13-12-103.1 or § 13-12-104 of this title, the Health Officer shall issue a correction notice to the owner.
 - (ii) If the correction notice is for a violation of the product placement provisions of § 13-12-104 of this title, the correction notice shall instruct the owner to comply with those provisions within an amount of time required by the Health Officer.
 - (iii) If the correction notice is for a violation of identification check provisions of § 13-12-103.1 of this title, the correction notice shall instruct the owner to:
 1. Cease and desist from such violations; and
 2. Ensure that the owner's employees and agents cease and desist from such violations.
 - (iv) The Health Officer shall post the correction notice on the property, send the correction notice by first class mail, or hand deliver the correction notice to the owner.
 - (v) An owner may not appeal the issuance of a correction notice.
 - (3)
 - (i) The Health Officer shall issue a citation to an owner:

1. If the owner fails to correct the product placement violation within the time required by the correction notice;
 2. If there is a subsequent violation of the identification check provisions at the location for which a correction notice was issued; or
 3. For a violation of the distribution to minors prohibition under § 13-12-103 of this title.
- (ii) The citation shall:
1. Be in writing and describe with particularity the nature of the violation, including a reference to the county code provision the owner or the owner's employee or agent has allegedly violated;
 2. Include any civil penalty proposed to be assessed; and
 3. Advise the owner that the owner may contest the citation or proposed civil penalty by filing with the Health Officer, within 15 days after receipt of the citation, a written request for a code enforcement hearing.
- (iii) The Health Officer shall serve the citation on the owner by posting the citation on the property, sending the citation by first class mail, or hand delivering the citation to the owner on a form prescribed by the Health Officer.
- (iv) A citation may require the owner to comply with the correction notice.
- (v) If the owner does not request a code enforcement hearing within the 15 days required under this subsection, the citation and any civil penalty are deemed a non-appealable final order of the Health Officer.
- (4) The Health Officer is not required to issue a correction notice to the owner before issuing a citation if the Health Officer has already issued a previous citation for the same violation in the same location.
- (5) (i) If any person other than the owner commits a violation of this title, the Health Officer may issue a correction notice and citation as provided in this subsection.
- (ii) The Health Officer is not required to issue a correction notice to the person before issuing a citation if the Health Officer has already issued a previous citation to the person for the same violation.
- (6) (i) Except as provided in this paragraph, the code enforcement proceedings shall continue as provided in §§ 3-6-206 and 3-6-207 of the Code and Article 3, Title 6, Subtitles 3 and 4 of the Code.
- (ii) For purposes of this subsection:
1. All references to the "Code Official" shall be deemed to refer to the Health Officer;
 2. All references to the "violation" shall be deemed to refer to the owner or person who has received a correction notice or citation under this title; and
 3. All references to the "Hearing Officer" shall be deemed to refer to the individual designated by the Health Officer to conduct code enforcement hearings under this title.
- (iii) Section 3-6-206(c), (d), and (e) of the Code does not apply to a citation issued under this title.

(Bill No. 79-07, § 1, 1-10-2008; Bill No. 92-09, § 2, 2-13-2010; Bill No. 13-15, § 1, 4-26-2015; Bill No. 52-15, § 1, 8-5-2015 ; Bill No. 42-19 , § 1, 10-15-2019)