

Article - Health - General

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§24–305.

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

(b) (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 § 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) (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 § 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) 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) (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.

(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 subsubparagraph 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 §§ 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.

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