

Article - Health - General

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§24–307.

(a) (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) 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) (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 § 10-107 of the Criminal Law Article arising out of the same violation.

(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) 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) (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 §§ 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.

(f) (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 §§ 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 § 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 § 10–107 of the Criminal Law Article.

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