



TOBACCO 21 Fact Sheet

What is Tobacco 21?

“Tobacco 21” refers to the growing trend in which local and state governments pass laws prohibiting the sale of tobacco products, including electronic smoking devices (ESDs), to those under age 21, increasing that from age 18. As of August 2019, 50% of the U.S. population is covered by a Tobacco 21 policy as the law has been passed in 18 states and D.C. Maryland joined this public health effort in 2019 when the General Assembly passed HB1169, prohibiting the sale of tobacco products to those under the age 21. The law becomes effective on October 1, 2019.

Changes to Current Law

- Maryland’s Tobacco 21 law increases the legal sales age of tobacco products to 21 years, but exempts active duty members of the military who are at least 18 years old and who provide valid military ID upon purchase.
- For purposes of the Business Regulation, Criminal Law, and Health-General Articles, the new law alters the term “Electronic Nicotine Delivery Systems” to “Electronic Smoking Devices.” Although there is change in terminology and definition, there is no significant change. The new definition is:
 - “A device that can be used to deliver aerosolized or vaporized nicotine to an individual inhaling from the device. It includes an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, and vaping liquid AND any component, part, or accessory of such a device regardless of whether or not it is sold separately, including any substance intended to be aerosolized or vaporized during use of the device.”
- For purposes of the Business Regulation, Criminal Law, and Health-General Articles, “Electronic Smoking Devices” are now encompassed in the term “tobacco product.”
- Criminal Law, §10-108 was repealed; those under the legal age of sale can no longer be cited for their purchase, use, or possession of these products.
- When issuing a citation pursuant to Health-General, §24-305 or §24-307, the store owner/licensee is now responsible for the civil penalty, whether or not they personally made the illegal sale. The clerk will

no longer be responsible for the fine. As a result, citations under these sections should only be issued to the business owner, not the clerk.

Military Exemption

Members of active duty military who are at least 18 years of age may continue to purchase tobacco products so long as they present valid military identification. The only acceptable valid military identification for this purpose is the common access card, specifically the “Armed forces of the United States Geneva Conventions Identification Card.” <https://www.cac.mil/Common-Access-Card/>.

Youth Intervention

There is no longer a penalty for the purchase, use, or possession of tobacco products by those under age 18, nor is there a penalty for those under age 21 who purchase, use, or possess these products.

In the school setting, if a student is caught using or possessing these products, they may be disciplined in accordance with school policy for violating a rule on campus. Many local health departments host education and cessation courses and frequently partner with schools and provide these services to students upon referral.

Enforcement

The statutes used for issuing citations remain unchanged.

- Health-General, §24-305 should be used to enforce civil citations for illegal sales of ESDs. Law enforcement, county health officers, or designees of county health officers may issue the citation. Only the store owner/licensee is responsible for payment of the fine.
- Health-General, §24-307 should be used to enforce civil citations for illegal sales of tobacco products other than ESDs. Law enforcement, county health officers, or designees of county health officers may issue the citation. Only the store owner/licensee is responsible for payment of the fine.
- Criminal Law, §10-107 should be used to enforce criminal citations for illegal sales of tobacco products (including ESDs) to minors. Only sworn law enforcement may issue the criminal citation. The clerk, store owner/licensee, or both, may be cited and the party cited is responsible for the cost of the penalty. This section also permits law enforcement to issue a citation to any individual who sells or gives a tobacco product to a person under age 21. For example, a citation may be issued to a high school student who sells a vape device or liquid to another student.

The fees imposed also remain unchanged. If cited under any of the 3 statutes the fee schedule is as follows:

- \$300 for a first violation;
- \$1000 for a second violation within 24 months of the first violation; and
- \$3000 for each subsequent violation occurring within 24 months after the preceding violation.

Local Authority

- Local governments with ordinances prohibiting the sale of tobacco products to those under age 18 years may continue to enforce these laws. You are not required to enforce the state law. However, if you wish to pursue amending your local law to reflect the provisions in the statewide Tobacco 21 law, the Legal Resource Center can offer assistance.

- For counties who enforce the Local-Government Article, §1-1203- 1-1204 (St. Mary's, Cecil, Carroll, and Garrett Counties) please note that this law was amended with the statewide Tobacco 21 bill. Thus, if enforcing this law, the legal age of sale is now 21 years.

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