



## ELECTRONIC CIGARETTES Fact Sheet

### Sales to Minors: Electronic Cigarettes

In 2015, the Maryland General Assembly enacted House Bill 489, which amends the State's prohibition against selling electronic cigarettes to a minor. The law, effective beginning October 1, 2015, continues to ban the sale of electronic cigarettes to a minor, while making the following improvements: (1) expanding the scope of the ban to include refillable containers of liquid nicotine and other component parts; (2) authorizing the County Health Officer or their designee to cite violators; (3) enabling violators to pay a fine in lieu of electing to stand trial; and, (4) exempting products sold as FDA approved tobacco cessation devices. This fact sheet reviews the amended statute and provides insight on the law for enforcement officers, health officials and retailers.

#### Existing law:

- **Prohibits:** Sale, distribution, and offer for sale of an electronic cigarette to a minor
- **Violator:** Clerk or owner (or both)
- **Penalty:** Criminal misdemeanor and fine of up to \$1,000 for each violation
- **Defense:** Proof of valid ID check by retailer

#### Beginning on October 1, 2015:

- **Prohibits:** Sale, distribution, and offer for sale of:
  - Electronic cigarettes;
  - Component parts; **OR**
  - Products used to refill or resupply an electronic cigarette (e.g., liquid nicotine containers)
- **Exemption:** Devices approved by the FDA for sale as tobacco cessation products; device must be marketed and sold only for tobacco cessation in order for this exemption to apply
- **Penalty:** Violators subject to a civil penalty of \$300 for a first offense; \$500 for any subsequent offense occurring within 24 months of the previous offense

- **Issuer:** Law enforcement officer, County Health Officer, or a designee (a retired law enforcement officer employed by a county health officer, or an employee of a local health department trained in civil enforcement) may issue civil citation to violators
- **Citation must include:** 1) charged person's name and address, 2) nature of violation, 3) location and time of violation, 4) amount of penalty, 5) manner, location, and time in which the penalty may be paid, 6) notice of the charged person's right to stand trial for the violation, **AND** 7) warning that failure to pay the penalty or timely challenge liability is an admission of liability and may result in a default judgment including the amount of penalty, court costs, and administrative expenses
- **Pay Fine or Elect to Stand Trial:** Any violator may pay the fine in lieu or electing to stand trial, or file a notice of intention to stand trial at least 5 days before the deadline in the citation to pay the penalty; notice must be filed with the County Health Officer or designee
- **Violator:** Clerk or owner (or both)
- **Defense:** Proof of valid ID check by retailer

### Tobacco Products versus E-Cigarettes

ISSUE	TOBACCO PRODUCTS	ELECTRONIC CIGARETTES
<b>STATUTORY AUTHORITY</b>	Md. Ann. Code Criminal Law §10-107	Md. Ann. Code Health-Gen. §24-305
<b>PENALTY</b>	Fine up to: (1) \$300 (1st violation) (2) \$1,000 (2nd violation within 24 months) (3) \$3,000 (3rd violation within 24 months)	Fine up to: (1) \$300 (1 <sup>st</sup> Violation) (2) \$500 (2 <sup>nd</sup> violation)
<b>CRIMINAL OR CIVIL PENALTY?</b>	Criminal or Civil*	Civil
<b>WHO MAY ENFORCE?</b>	Law Enforcement or Health Officer or designee (in civil citation jurisdictions)	Law Enforcement, Health Officer or Designee
<b>YOUTH POSSESSION</b>	Civil offense for minor to use or possess tobacco products	Not Illegal

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