

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2015 Legislative Session

Bill No. CB-34-2015

Chapter No. 67

Proposed and Presented by Council Members Turner, Glaros, Harrison, Lehman,
Taveras and Toles

Introduced by Council Members Turner, Glaros, Harrison, Lehman, Taveras and Toles

Co-Sponsors _____

Date of Introduction October 20, 2015

BILL

1 AN ACT concerning

2 Electronic Cigarette Regulation

3 For the purpose of defining electronic cigarettes, regulating distribution, placement and
4 packaging of electronic cigarettes, and restricting smoking of electronic cigarettes inside of
5 public housing, senior citizen housing, and eating and drinking establishments.

6 BY repealing and reenacting with amendments:

7 SUBTITLE 12. HEALTH.

8 Sections 12-201, 12-202, 12-203

9 The Prince George's County Code

10 (2011 Edition; 2014 Supplement).

11 BY adding:

12 SUBTITLE 12. HEALTH.

13 Section 12-204.01

14 The Prince George's County Code

15 (2011 Edition; 2014 Supplement).

16 BY repealing and reenacting with amendments:

17 SUBTITLE 19. POLLUTION.

18 Sections 19-130, 19-131, 19-135, 19-136

19 The Prince George's County Code

20 (2011 Edition; 2014 Supplement).

1 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
2 Maryland, that Sections 12-201, 12-202 and 12-203 of the Prince George's County Code be and
3 the same are hereby repealed and reenacted with the following amendments:

4 **SUBTITLE 12. HEALTH.**

5 **DIVISION 9. ENVIRONMENTAL HEALTH**

6 **Sec. 12-201. Definitions.**

7 (a) In this Division the following words have the meanings indicated.

8 * * * * *

9 (2) **Electronic cigarette** means any electronic device that can be used to deliver
10 nicotine or other substance to the person inhaling from the device, including, but not limited to,
11 an electronic cigarette, cigar, cigarillo, or pipe, or any cartridge or other component of the device
12 or related product. Electronic cigarette does not include any product approved by the Food and
13 Drug Administration for sale as a drug delivery or medical device.

14 (3)[(2)]**Employee** means an individual employed by an owner.

15 (4)[(3)]**Minor** means an individual under the age of eighteen (18).

16 (5)[(4)]**Owner** means a person engaged in the business of selling or otherwise
17 distributing tobacco products or electronic cigarettes for commercial purposes.

18 (6)[(5)]**Tobacco product** means any substance containing tobacco, including
19 cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.

20 (7)[(6)]**Unpackaged cigarettes** means any cigarette not contained within a sealed
21 original package of at least twenty (20) cigarettes that are designed and intended to be sold or
22 distributed as a unit.

23 **SUBTITLE 12. HEALTH.**

24 **DIVISION 9. ENVIRONMENTAL HEALTH**

25 **Sec. 12-202. Unlawful distribution.**

26 (a) An owner or an employee shall not:

27 (1) Distribute any tobacco product or electronic cigarette to a minor, unless the minor
28 is acting solely as the agent of the minor's employer who is engaged in the business of
29 distributing tobacco products or electronic cigarette;

30 (2) Distribute cigarette rolling papers to a minor; or

31 (3) Distribute to a minor a coupon redeemable for tobacco products or electronic

1 cigarette.

2 (b) A person, who is not an owner, shall not:

3 (1) Buy for or sell to a minor any tobacco product or electronic cigarette; or

4 (2) Buy for or sell to a minor cigarette rolling papers.

5 (c) This Section does not apply to the distribution of a coupon which is redeemable for any
6 tobacco product or electronic cigarette when the coupon is contained in a newspaper, a
7 magazine, or any other type of publication in which the coupon is incidental to the primary
8 purpose of the publication, or sent through the mail.

9 (d) A person has not violated this Section if:

10 (1) The person examined a driver's license or another valid identification issued by an
11 employer, a governmental entity, or an institution of higher education; and

12 (2) The license or other identification identified the buyer or recipient of a tobacco
13 product or electronic cigarette as being at least 18 years old.

14 (e) If a minor bought a tobacco product from a vending machine, this Section does not
15 apply to the owner of the vending machine or any other person with control over the vending
16 machine.

17 **SUBTITLE 12. HEALTH.**

18 **DIVISION 9. ENVIRONMENTAL HEALTH**

19 **Sec. 12-203. Placement of tobacco products and electronic cigarettes.**

20 (a) An owner shall display or store the tobacco product or electronic cigarette in a manner
21 which by the design demonstrates the owner's intent that the tobacco product or electronic
22 cigarette is inaccessible to the buyer without the intervention of the owner or the owner's agent.
23 Designs that demonstrate an intent that the tobacco product or electronic cigarette is inaccessible
24 to the buyer without the intervention of the owner or the owner's agent shall include storing or
25 displaying the tobacco product or electronic cigarette as follows:

26 (1) Behind the sales counter in a manner which places the tobacco product or
27 electronic cigarette beyond the physical reach of the buyer in the absence of extraordinary
28 extension beyond the sales counter; or

29 (2) In a display case which requires seller assistance to gain access to the tobacco
30 product or electronic cigarette contained therein; or

1 (3) In an overhead merchandising rack that is mounted more than six feet above the
2 floor at the lowest point and from which access to the tobacco product or electronic cigarette is
3 provided only on the side facing away from the buyer; or

4 (4) In any place that is inaccessible to buyers of the tobacco product or electronic
5 cigarette without the intervention of the owner or the owner’s agent.

6 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,
7 Maryland, that Section 12-204.01 of the Prince George's County Code be and the same is hereby
8 added:

9 **SUBTITLE 12. HEALTH.**

10 **DIVISION 9. ENVIRONMENTAL HEALTH**

11 **Sec. 12-204.01. Child Resistant Packaging of Liquid Nicotine Container Required.**

12 (a) Definitions. In this Section the following words have the meanings indicated:

13 (1) Child resistant packaging means packaging that is designed or constructed
14 to meet the child-resistant effectiveness standards set forth in 16 C.F.R. § 1700.15(b)(1)
15 when tested in accordance with the protocols described in 16 C.F.R. § 1700.20 as in
16 effect on the date of enactment.

17 (2) Liquid nicotine container means a container that is used to hold liquid
18 containing nicotine in any concentration.

19 (b) Child resistant packaging required. No person shall sell, resell, distribute,
20 dispense or give away:

21 (1) any liquid or gel substance containing nicotine unless the substance is in
22 child resistant packaging; or

23 (2) any nicotine liquid container unless the container constitutes child
24 resistant packaging.

25 (c) Exceptions. This section does not apply to a liquid nicotine container that is
26 sold, marketed, or intended for use in an electronic cigarette if the container is prefilled
27 and sealed by the manufacturer and not intended to be opened by the consumer.

28 SECTION 3. BE IT ENACTED by the County Council of Prince George's County,
29 Maryland, that Sections 19-130, 19-131, 19-135 and 19-136 of the Prince George's County Code
30 be and the same are hereby repealed and reenacted with the following amendments:

31 **SUBTITLE 19. POLLUTION.**

DIVISION 3. SMOKING IN EATING AND DRINKING ESTABLISHMENTS.

Sec. 19-130. Definitions.

(a) Eating and drinking establishment shall mean any business for which a use and occupancy permit is required or has been obtained for a food or drinking establishment pursuant to Subtitles 4 and 27.

(b) Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

(c) Smoking or to smoke shall mean the act of smoking or carrying a lighted or smoldering cigar, cigarette, cigarillo, or pipe or lighting a cigar, cigarette, cigarillo, or pipe of any kind.

(d) Electronic cigarette shall mean any electronic device that can be used to deliver nicotine or other substance to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe, or any cartridge or other component of the device or related product.

SUBTITLE 19. POLLUTION.

DIVISION 3. SMOKING IN EATING AND DRINKING ESTABLISHMENTS.

Sec. 19-131. Smoking prohibited.

(a) It shall be unlawful for any person to smoke or use an electronic cigarette in any eating and drinking establishment open to the public except as provided in (b) below.

(b) Smoking is not prohibited by this Section in the bar and dining area of an eating and drinking establishment that:

(1) (A) Is a club as defined in the State alcoholic beverages law;

(B) Has an alcoholic beverages license issued to private clubs under the State alcoholic beverages law; and

(C) Allows consumption of alcoholic beverages on its premises; or

(2) Is licensed pursuant to Section 6-201(r)(13) of the State alcoholic beverages law.

(c) Use of an electronic cigarette is not prohibited by this section in a facility that has been awarded a video lottery operation license by the Maryland Video Lottery Location Commission under State Government Article, Title 9, Subtitle 1A.

SUBTITLE 19. POLLUTION.

DIVISION 4. SMOKING IN PUBLIC HOUSING AND SENIOR CITIZEN HOUSING.

Sec. 19-135. Definitions.

(a) Public Housing shall mean any housing in Prince George’s County that is:

(1) under the jurisdiction of the Housing Authority of Prince George’s County as a public housing authority as designated by HUD.

(b) Senior Citizen Housing shall mean any congregate housing that:

(1) provides housing under a landlord-tenant arrangement; and

(2) is specifically designed to meet the physical or social needs of elderly individuals;

and;

(3) is under the jurisdiction of the Housing Authority of Prince George’s County as a

public housing authority as designated by HUD.

(c) Smoking or to smoke shall mean the act of smoking or carrying a lighted or smoldering cigar, cigarette, cigarillo, or pipe or lighting a cigar, cigarette, cigarillo, or pipe of any kind.

(d) Electronic cigarette shall mean any electronic device that can be used to deliver nicotine or other substance to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe, or any cartridge or other component of the device or related product.

SUBTITLE 19. POLLUTION.

DIVISION 4. SMOKING IN PUBLIC HOUSING AND SENIOR CITIZEN HOUSING.

Sec. 19-136. Smoking prohibited.

(a) It shall be unlawful for any person to smoke or use an electronic cigarette on the inside of any public housing or senior citizen housing.

(b) Smoking is not prohibited by this Section in a private home or apartment whose inhabitants:

(1) Participate in the Prince George’s County Department of Housing and Community Development HOME Investment Partnerships Program (“HOME Program”); or

(2) Participate in the Section 8 Housing Choice Voucher program.

* * * * *

SECTION 4. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such

1 | invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

2 | SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)

3 | calendar days after it becomes law.

Adopted this 17th day of November, 2015.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.