



## Maryland Tobacco Retail Modernization Act Provisions Related to Tobacco Product Placement and Age Verification

In 2024, Maryland Governor Wes Moore signed into law Senate Bill 1056 titled, “Cigarettes, Other Tobacco Products, and Electronic Smoking Devices Revisions (Tobacco Retail Modernization Act of 2024) (TRL). The law became effective on October 1, 2024 and includes various provisions related to requirements for retail tobacco product sales, violations, and fees, license checks, and reporting. This factsheet details two changes that TRL made to Maryland law: product placement and age verification.

### Product Placement

Tobacco product placement restrictions help control the visibility and accessibility of tobacco products at the point of sale – this in turn reduces perceived availability and accessibility of tobacco products, reduces brand recognition, and discourages impulse purchases that can undermine quit attempts.<sup>1</sup> The Family Smoking Prevention and Tobacco Control Act (TCA) of 2009 prohibit the sale of cigarettes, smokeless tobacco, and roll-your-own tobacco products through self-service displays in establishments where individuals under age 21 may enter. This federal provision does not apply to cigars, hookah, pipe tobacco, ENDS, ENDS products, nicotine gels, or dissolvables.

The tobacco product placement provisions under Maryland law are more restrictive than federal law. Before the implementation of TRL, only Baltimore, Charles, Howard, Kent, Montgomery, Prince George’s, and Wicomico counties<sup>2</sup> had relevant product placement laws. Effective October 1, 2024, Maryland law now requires ***all tobacco products, but for premium cigars, be kept behind a counter in areas only accessible to employees. This provision applies to all retailers but for licensed tobacconists, regardless of what product they sell.*** Specific restrictions on different types of tobacco products and retailers are as follows:

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<sup>1</sup> Restricting Product Placement <https://countertobacco.org/policy/restricting-product-placement/>

<sup>2</sup> Baltimore County Code, Title 12 § 13-12-104, Charles County Code, § 127-3, Howard County Code Sec. 12.1201, Kent County Code § 156-3, Montgomery County Code § 24-12, Prince George’s County Sec. 12-203, Wicomico County Code § 135-10

- **Cigarettes** (Business Regulation 16-209.1(a); Health-General 24-307(b)(1)(ii)) – Cigarettes must be located behind a counter in an area accessible only to the licensed retailer and employees of the licensed retailer.
- **Other Tobacco Products** (Business Regulation 16.5–214.2(a); Health-General 24-307(b)(1)(ii)) – Other tobacco products (OTP) must be located behind a counter in an area accessible only to the licensed retailer and employees of the licensed retailer. This section does not apply to premium cigars or licensed tobacconists.
- **Electronic Smoking Devices** (Business Regulation 16.7–204.1 & 204.2; Health-General 24-305(b)(1)(ii)) – Electronic smoking devices (ESDs) must be located behind a counter in an area accessible only to the licensed retailer or vape shop vendor and employees of the licensed retailer or vape shop vendor.

***Maryland law and federal law are now different and retailers must comply with the more stringent provisions:***

- Licensed tobacconists operating as facilities in which only those over age 21 may enter, are permitted to operate self-service displays for smokeless tobacco, cigarettes, and roll-your-own tobacco. They are not required to keep these products behind the counter in an area only accessible to employees. Any violation should be reported to the [FDA](#) because this is a violation of federal law only.
- Licensed tobacconists who do permit those under age 21 to enter, may not allow self-service displays for smokeless tobacco, cigarettes, and roll-your-own tobacco. No products are required behind the counter in an area only accessible to employees because Maryland law exempts licensed tobacconists from the state requirements. Any violation should be reported to the [FDA](#) because this is a violation of federal law only.
- Any other licensed retailer, other than a licensed tobacconist, must keep ***all tobacco products*** except for premium cigars, behind the counter in an area only accessible to employees. All violations should be reported to the [ATCC](#). ***However, local health departments may also issue citations to retailers for violating this provision.***
- Premium cigars are not subject to the product placement requirement at the state or federal level.

The Legal Resource Center (LRC) is working with the Maryland Alcohol, Tobacco, and Cannabis Commission (ATCC) to determine whether violating product placement restrictions will serve as a basis for tobacco retail license suspension or revocation, either alone or coupled with a violation for underage tobacco sales.

## Age Verification

Beginning September 30, 2024, federal law requires retailers to verify the government-issued photo identification in a direct face-to-face exchange without the assistance of any electronic or mechanical device the age of anyone [under the age of 30](#) who is trying to purchase tobacco products. Previously, this requirement applied to anyone under age 27. As of October 1, 2024, Maryland law now conforms with federal law and requires all retailers to verify the age of anyone under 30 with a valid photo ID in a direct face-to-face exchange without the assistance of any electronic or mechanical device ( such as a vending machine). Previously, Maryland had no statewide law related to age verification and only Baltimore County had a relevant local law.<sup>3</sup> **Local health departments may also issue citations to retailers for violating this provision.** This requirement does not mean that a retailer cannot use an ID scanner, rather the person selling the tobacco product must still visually inspect the ID to confirm the picture matches the customer in addition to using the ID scanner to confirm age. All violations should be reported to the

### Maryland Tobacco Product Placement and Age Verification Laws

*Note: Licensed Tobacconists are not required to comply with state product placement requirements. Premium cigars, regardless of whether they are sold by licensed tobacconists or other retailers, are not subject to the state's product placement requirements either.*

|                    | Cigarettes   | Other Tobacco Products <sup>4</sup>   | Electronic Smoking Devices <sup>5</sup>  |
|--------------------|--|---|--|
| Placement          | Cigarettes must be located behind a counter in an area accessible only to the licensed retailer and employees of the licensed retailer. <sup>4</sup> | OTP, except for premium cigars, must be located behind a counter in an area accessible only to the licensed retailer and employees of the licensed retailer. <sup>5</sup> | ESDs must be located behind a counter in an area accessible only to the licensed retailer or vape shop vendor and employees of the licensed retailer or vape shop vendor. <sup>6</sup> |
| When to verify age | Retailer must confirm the customer is at least 21 years old before making the sale. <sup>7</sup>   | Retailer must confirm the customer is at least 21 years old before making the sale. <sup>9</sup>  | Retailer or vape shop vendor must confirm the customer is at   |

<sup>3</sup> Baltimore County Code, Title 12 § 13-12-103.1

<sup>4</sup> Business Regulation 16-209.1(a); Health-General 24-307(b)(1)(ii)

<sup>5</sup> Business Regulation 16.5–214.2(a)(2); Health-General 24-307(b)(1)(ii)

<sup>6</sup> Business Regulation 16.7–204.2; Health-General 24-305(b)(1)(ii)

<sup>7</sup> Business Regulation 16-209.1(b)(1); Health-General 24-307(b)(1)(iii)

<sup>9</sup> Business Regulation 16.5–214.2(b)(1); Health-General 24-307(b)(1)(iii)

|                          |  |  |  |
|--------------------------|--|--|--|
|                          | Not required to verify the age of an individual at least 30 years old. <sup>8</sup>  | Not required to verify the age of an individual at least 30 years old. <sup>10</sup>   | least 21 years old before making the sale. <sup>11</sup><br><br>Not required to verify the age of an individual at least 30 years old. <sup>12</sup>   |
| <b>How to verify age</b> | Government-issued photo identification containing the individual's date of birth and direct face-to-face exchange without the assistance of any electronic or mechanical device. <sup>13</sup>   | Government-issued photo identification containing the individual's date of birth and direct face-to-face exchange without the assistance of any electronic or mechanical device. <sup>14</sup>   | Government-issued photo identification containing the individual's date of birth and direct face-to-face exchange without the assistance of any electronic or mechanical device. <sup>15</sup>   |
| <b>Who can enforce</b>   | MDH Secretary or designee, sworn law enforcement officer, county health officer or designee.<br><br>The local health departments shall report violations to the Executive Director of the Alcohol, Tobacco, and Cannabis Commission. <sup>16</sup> | MDH Secretary or designee, sworn law enforcement officer, county health officer or designee.<br><br>The local health departments shall report violations to the Executive Director of the Alcohol, Tobacco, and Cannabis Commission. <sup>xv</sup> | MDH Secretary or designee, sworn law enforcement officer, county health officer or designee.<br><br>The local health departments shall report violations to the Executive Director of the Alcohol, Tobacco, and Cannabis Commission. <sup>17</sup> |
| <b>Penalties</b>         | \$300 for a first offense  | \$300 for a first offense  | \$300 for a first offense  |

<sup>8</sup> Business Regulation 16-209.1(b)(3); Health-General 24-307(b)(3)

<sup>10</sup> Business Regulation 16.5-214.2(b)(3); Health-General 24-307(b)(3)

<sup>11</sup> Business Regulation 16.7-204.1(b)(1); Health-General 24-305(b)(1)(iii)

<sup>12</sup> Business Regulation 16.7-204.1(b)(3); Health-General 24-305(b)(4)

<sup>13</sup> Business Regulation 16-209.1(b)(2); Health-General 24-307(b)(2)

<sup>14</sup> Business Regulation 16.5-214.2(b)(2); Health-General 24-307(b)(2)

<sup>15</sup> Business Regulation 16.7-204.1(b)(2); Health-General 24-305(b)(3)

<sup>16</sup> Health-General 24-307

<sup>17</sup> Health-General 24-305

|  |   |   |  |
|--|---|---|--|
|  | \$1,000 for a 2nd offense within 24 months of the first                                     | \$1,000 for a 2nd offense within 24 months of the first                                     | \$1,000 for a 2nd offense within 24 months of the first                                      |
|  | \$3,000 for each subsequent offense within 24 months of the preceding offense <sup>xv</sup> | \$3,000 for each subsequent offense within 24 months of the preceding offense <sup>xv</sup> | \$3,000 for each subsequent offense within 24 months of the preceding offense <sup>xvi</sup> |

### More on Photo Identification

Maryland law requires tobacco product retailers to check the ID of people under the age of 30 in a direct face-to-face exchange before selling them tobacco products. Only government-issued photo ID is acceptable. To be valid, the ID must not be expired. Examples of approved IDs include state-issued driver’s license or ID card, passport, immigration card, military ID, and Maryland Mobile ID.

State-Issued Driver’s License



State-Issued ID Card



Immigration Card

Military ID



## Maryland Mobile ID

Maryland Mobile ID, is a voluntary program of the Maryland Motor Vehicle Administration in which a participant can add a secure, digitized version of their Maryland driver's license or identification card to their mobile wallet. For more information on the Maryland Mobile ID program and how to verify age with a Maryland Mobile ID, please visit the [MVA's website](#) on the program.



## Enforcement

Checking for appropriate product placement and age verification should be part of routine enforcement checks and civil citations should be issued for violations. The citation can be issued in accordance with Health-General § 24-305 (ESDs) or § 24-307 (cigarettes, OTP, or ESDs).

The licensee may be cited regardless of whether the sale was made by the licensee directly or by a clerk. Regardless of who made the sale, the licensee is responsible for the civil penalty; even if the clerk is cited, the licensee is responsible for the fine. Because the licensee is responsible for the fine even for a clerk's sale, it is more efficient and effective to cite the licensee. This is because the licensee will be served the citation and notice to appear in court. Citing the licensee also allows for more accurate data collection on repeat violations from the same licensed location, expediting referral to the ATCC for license suspension or revocation.

Violations of these provisions should be reported to the [ATCC](#). Maryland Code, Business Regulation Article §§ 16-210, 16.5-210, and 16.7-209 give the Executive Director of the ATCC the authority to deny a license to an applicant, reprimand a licensee, suspend a license, or revoke a license for violations of the Business Regulation Article and other laws. TRL does not mandate license suspension or revocation for product placement or identification check violations explicitly but existing law permits such action. of these violations. The LRC will update this document if the ATCC issues any information about referrals for product placement or identification check violations.

## Definitions

“Accessory” means any product that is intended or reasonably expected to be used with or for the human consumption of a tobacco product; does not contain tobacco and is not made or derived from tobacco; and meets either of the following: (1) Is not intended or reasonably expected to affect or alter the performance, composition, constituents, or characteristics of a tobacco product; or (2) Is intended or reasonably expected to affect or maintain the performance, composition, constituents, or characteristics of a tobacco product, but: (i) Solely controls moisture and/or temperature of a stored tobacco product; or (ii) Solely provides an external heat source to initiate but not maintain combustion of a tobacco product.<sup>18</sup>

“Cigarette” means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.<sup>19</sup>

“Component or part” means any software or assembly of materials intended or reasonably expected: (1) To alter or affect the tobacco product's performance, composition, constituents, or characteristics; or (2) To be used with or for the human consumption of a tobacco product. Component or part excludes anything that is an accessory of a tobacco product.<sup>xix</sup>

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<sup>18</sup> 21 CFR § 1114.3

<sup>19</sup> Md. Code Ann., Bus. Reg. § 16-101(b)

“Electronic smoking device means” a device that can be used to deliver aerosolized or vaporized nicotine to an individual inhaling from the device [including] 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.<sup>20</sup>

“Other tobacco products” means a product that is: (i) intended for human consumption or likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested in another manner, and that is made or derived from, or that contains: (1) tobacco; or (2) nicotine; or (ii) a component or part used in a consumable product described under item (i) of this paragraph. “Other tobacco products” includes: (i) cigars, premium cigars, pipe tobacco, chewing tobacco, snuff, and snus; and (ii) filters, rolling papers, pipes, and hookahs. “Other tobacco products” does not include (i) cigarettes; (ii) electronic smoking devices; (iii) drugs, devices, or combination products authorized for sale by the FDA; or (iv) tobacco pipes as defined under § 11-104 of the Tax-General Article.<sup>21</sup>

“Premium cigars” means cigars that: (1) have hand-rolled wrappers made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco, and may include adhesives or other materials used to maintain size, texture, or flavor; or (2) are designated as premium cigars by the Executive Director of the Alcohol, Tobacco, and Cannabis Commission by regulation.<sup>xxii</sup>

“Tobacconist” means an other tobacco products business that derives at least 70% of its revenues, measured by average daily receipts, from the sale of other tobacco products and tobacco-related accessories.

“Tobacco product” means any product that is: (i) intended for human inhalation, absorption, ingestion, smoking, heating, chewing, dissolving, or any other manner of consumption that is made of, derived from, or contains : (1) tobacco; or (2) nicotine; or (ii) an accessory or a component used in any manner of consumption of a product described in item (i) of this paragraph [and includes] electronic smoking devices.<sup>22</sup>

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<sup>20</sup> Md. Code Ann., Bus. Reg. § 16.7-101(c) (2024)

<sup>21</sup> Md. Code Ann., Bus. Reg. § 16.5-101

<sup>22</sup> Md. Code Ann., Bus. Reg. § 16-3A-01(c); Md. Code Ann., Crim. Law. § 10-101(d); Md. Code Ann., Health Gen. § 13-1001(u); Md. Code Ann., Local Gov’t § 1-1201(c)