



**ELECTRONIC SMOKING DEVICE (ESD)
MANUFACTURER/WHOLESALE LICENSES
(House Bill 523)
Effective October 1, 2017**

FREQUENTLY ASKED QUESTIONS

1. *Do I need a license to manufacture or wholesale Electronic Smoking Devices, IF I already have a license to manufacture or wholesale Cigarettes and OTP products?*

If you already have a Cigarette or OTP retail license, you “may not be required to obtain an additional license” to manufacture or wholesale Electronic Smoking Devices (ESDs) under MD BUS REG § 16.7-102.

2. *What is an Electronic Smoking Device or “ESD”?*

Pursuant to MD BUS REG § 16.7-101, an “Electronic smoking device” is "a device that can be used to deliver aerosolized or vaporized nicotine to an individual inhaling from the device." An “Electronic smoking device” includes: "(i) an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, and vaping liquid; and (ii) 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." §16.7-101. An “Electronic smoking device” does not include a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act. MD BUS REG § 16.7-101.

3. *What is "vaping liquid"?*

“Vaping liquid” means a liquid that: "(1) consists of propylene glycol, vegetable glycerin, or other similar substance; (2) may or may not contain natural or artificial flavors; (3) may or may not contain nicotine; and (4) converts to vapor intended for inhalation when heated in an electronic device." MD BUS REG § 16.7-101.

4. *How do I know if I need a license to manufacture or wholesale Electronic Smoking Devices?*

If you do not have a Cigarette or OTP manufacturer or wholesaler license and you manufacture or wholesale Electronic Smoking Devices, a component for an electronic device, or a product used to refill or resupply an electronic device - including the "e-liquids" themselves - that can be used to deliver nicotine and/or vaping liquid to an individual inhaling from the device, then you are required to get a license.

5. *How many Electronic Smoking Device wholesaler licenses are there?*

Two, the wholesaler distributor license and the wholesaler importer license.

6. *How do I know if I am an ESD wholesaler distributor or ESD wholesaler importer?*

a. You are an **ESD wholesaler distributor** if you obtain at least 70% of your Electronic Smoking Devices from a holder of an Electronic Smoking Device Manufacturer license under this subtitle or a business entity located in the United States.

b. You are an **ESD wholesaler importer** if you obtain at least 70% of your Electronic Smoking Devices from a business entity located in a foreign country.

7. *Who determines whether at least 70% of my ESDs are obtained from a holder of an Electronic Smoking Device manufacturer license under this subtitle/a business entity located in the United States or obtained from a business entity located in a foreign country?*

The applicant for the ESD wholesaler license must make that determination based on supply and financial records. Your accountant could advise you. Once you obtain an ESD wholesaler license, the Comptroller may inspect your records to confirm the supply percentage.

8. *If I am an ESD manufacturer, can I sell ESD products directly to the consumer?*

Yes, however you are only authorized to ship, sell, or cause to be shipped to a consumer who purchases or orders an Electronic Smoking Device through the mail, a computer network, a telephonic network, or another electronic network.

9. *If I am a wholesaler distributor or wholesaler importer, can I sell ESD products directly to an ESD retailer and/or a Vape Shop Vendor?*

Yes, a wholesaler distributor and a wholesaler importer may sell ESD products directly to an ESD retailer and/or a Vape Shop Vendor.

10. *If I am a wholesaler distributor or wholesaler importer, who can I buy ESD products from?*

A wholesaler distributor and a wholesaler importer may buy ESD products directly from an ESD manufacturer, an ESD wholesaler distributor, or an ESD wholesaler importer.

11. Where do I apply for an ESD manufacturer or wholesaler license?

You can find the appropriate application online - www.marylandtaxes.gov

Mail the check and application (Form 723) to:

Maryland Alcohol, Tobacco, and Cannabis Commission

Regulatory & Research Section

1215 E Fort Ave, Ste 300, Baltimore, Maryland 21230

12. What is the license fee for an ESD Manufacturer, Wholesaler Distributor, and Wholesaler Importer?

The annual license fee is:

Manufacturer - \$25.00

Wholesaler Distributor - \$150.00

Wholesaler Importer - \$150.00

13. When does the annual license expire?

The ESD manufacturer and wholesaler licenses expire on April 30th following the effective date.

14. If I acquire a new ESD manufacturer or wholesaler license can it be prorated?

No, the ESD manufacturer and wholesaler license cannot be prorated.

15. Where can I get more information?

For information on becoming an ESD manufacturer or wholesaler distributor/importer, please call the Regulatory and Licensing Section at 410-260-7314.