

**UPDATED STATUTORY INFORMATION
RELATED TO ELECTRONIC SMOKING DEVICES RETAIL SALES**

**(House Bill 1169)
Effective October 1, 2019**

FREQUENTLY ASKED QUESTIONS

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

If you already have a Cigarette or OTP retail license, you “may not be required to obtain an additional license” to sell electronic smoking devices under MD BUS REG § 16.7-102.
2. *What is an Electronic Smoking Device?*

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 sell Electronic Smoking Devices?*

If you sell direct to consumers Electronic Smoking Devices, a component for an electronic device, or a product used to refill or resupply an electronic device that can be used to deliver nicotine and/or vaping liquid, and do not already possess a Cigarette or OTP retail license - then you are required to get a license.
5. *How many Electronic Smoking Device Retailer licenses are there?*

Two, the Electronic Smoking Device Retailer and the Vape Shop Vendor license.
6. *How do I know if I am an Electronic Smoking Devices Retailer or a Vape Shop Vendor?*
 - a. You are an **Electronic Smoking Devices Retailer** if your business "(1) sells electronic smoking devices to consumers; (2) holds electronic smoking devices for sale to consumers; or (3) unless otherwise prohibited or restricted under local law, this article, the Criminal Law Article, or § 24-305 of the Health--General Article, distributes sample electronic smoking devices to consumers in the State." MD BUS REG § 16.7-101
 - b. You are a **Vape Shop Vendor** if you derive “at least 70% of your revenues, measured by average daily receipts, from the sale of Electronic Smoking Devices and related accessories.” MD BUS REG § 16.7-101.

7. *Who determines whether at least 70% of my revenues are from the sale of Electronic Smoking Devices and related accessories?*

The applicant for the Vape Shop Vendor license must make that determination based on financial records, measured by average daily receipts. Your accountant could advise you. Once you obtain a Vape Shop Vendor license, the Comptroller may inspect your records to confirm the revenue percentage.

8. *Where do I apply for an Electronic Smoking Devices Retailer or Vape Shop Vendor license?*

You apply with the **Clerk of the Circuit Court** in the county where the business is located, to include Baltimore City.

9. *As a Vape Shop Vendor, where am I authorized to purchase Electronic Smoking Device products from?*

You may buy Electronic Smoking Devices directly from a manufacturer or purchase ESD products directly from an ESD wholesaler-distributor or wholesaler-importer. You may not sell ESD components or products, including e-liquids, that you manufacture yourself unless you possess an Electronic Smoking Device Manufacturer License.

10. *What is the license fee for an Electronic Smoking Devices Retailer or Vape Shop Vendor license?*

The annual fee is \$25.00.

11. *If I am applying for an Electronic Smoking Devices Retailer or Vape Shop Vendor license, do I also need to apply for a Traders license?*

Yes, you are required by law to have a Traders license when buying or selling a tangible product from a permanent location.

12. *When does the annual license expire?*

The Electronic Smoking Devices Retailer and Vape Shop Vendor license expire on April 30th following the effective date.

13. *If I acquire a new Electronic Smoking Devices Retailer license or Vape Shop Vendor license, can it be prorated?*

No, the Electronic Smoking Devices Retailer license and Vape Shop Vendor license cannot be prorated.

14. *Can I sell Electronic Smoking Device products on-line, over the phone, or by mail?*

An **Electronic Smoking Devices Retailer License** authorizes the licensee to: (1) sell electronic smoking devices to consumers; (2) buy electronic smoking devices from an electronic smoking devices wholesaler distributor or electronic smoking devices wholesaler importer; (3) if the electronic smoking devices retailer licensee also holds a license to act as an electronic smoking devices manufacturer, sell at retail electronic smoking devices manufactured under the manufacturer license; and (4) except as otherwise prohibited or restricted under local law, this article, the Criminal Law Article, or § 24-305 of the Health--General Article, distribute sample electronic smoking devices products to consumers in the State." MD BUS REG § 16.7-204

A **Vape Shop Vendor License** authorizes the licensee to: "(1) sell electronic smoking devices as a vape shop vendor; (2) if the vape shop vendor licensee also holds a license to act as an electronic smoking devices manufacturer, sell at retail electronic smoking devices manufactured under the manufacturer license; and (3) buy electronic smoking devices from an electronic smoking devices manufacturer, an electronic smoking devices wholesaler distributor, or an electronic smoking devices wholesaler importer. MD BUS REG § 16.7-204.

15. *Where can I get more information?*

You can contact your local Circuit Court here: <http://www.mdcourts.gov/courtsdirectory/> or you may call the State License Bureau at 410-260-6240. For information on becoming a licensed Vape Shop Vendor, or an Electronic Smoking Device Retailer, Manufacturer, Wholesaler, or Importer, please call 410-260-7314.