AN ACT concerning the Sale of Flavored Tobacco Products.
For the purpose of regulating the sale of flavored tobacco products, and providing for enforcement of these regulations by civil fines.

Section 1. Be it enacted by the County Council of ______ County, Maryland that Article ___, “Sale of Flavored Tobacco Products,” be added in Title ______ of the ______ County Code.

TITLE ___.

ARTICLE ___. Sale of Flavored Tobacco Products

Section ______. Definitions.

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

1. “Characterizing Flavor” means a distinguishable taste or aroma other than that of tobacco [or menthol, mint or wintergreen] that is imparted either prior to or during consumption of a tobacco product or component part thereof, including but not limited to tastes or aromas relating to fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverages, herbs, or spices [and flavor concepts such as spicy, arctic, ice, cool, warm, hot, mellow, fresh, and breeze]; however, no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

2. “Cigarette” means any size or shaped roll for smoking that is made of tobacco, or tobacco mixed with another ingredient, and is wrapped in paper or any other material except tobacco [or as defined in Section ___ of Title ___].

3. “Component Part” means any element of a tobacco product, including but not limited to, the tobacco, filter, paper, pouch, strip, stick, or any other distinguishable part of the tobacco product.

4. “Constituent” means any ingredient, substance, chemical or compound, other than tobacco, water, or reconstituted tobacco sheet, which is added by the manufacturer to a tobacco product during the processing, manufacturing, or packaging of the tobacco product.

5. “Flavored Tobacco Product” means any tobacco product or component part thereof that contains a constituent imparting a characterizing flavor; public statements or claims that a tobacco product imparts a characterizing flavor, and which are made by a manufacturer or a person authorized to issue
public statements or claims on behalf of the manufacturer, shall constitute presumptive evidence that a tobacco product is a “flavored tobacco product” for purposes of this Article.

(6) “Tobacco Product” means any substance containing tobacco [or nicotine], including but not limited to, cigars, cigarillos, smoking tobacco, snuff, or smokeless tobacco [and electronic cigarette cartridges], [or as defined in Section ___ of Title ____]; however, such term shall not include (1) cigarettes, including those subject to the Special Rule for Cigarettes regarding characterizing flavors under the Family Smoking Prevention and Tobacco Control Act (21 U.S.C. § 387g); [and (2) any product approved by the U.S. Food and Drug Administration, and subject to its regulatory authority, as a smoking cessation or modified-risk product.]

Section ______. Sale of Flavored Tobacco Products.

(a) It shall be unlawful for any person to sell or offer for sale any flavored tobacco product to a consumer.

[Section ______. Exemptions for certain persons and establishments.]

[(a) This Article does not apply to the sale or offer for sale of flavored tobacco products by and on the premises of a retail tobacco establishment that:

1) Derives at least 75% of its revenues, measured by average daily receipts, from the sale of non-cigarette tobacco products; and
2) Prohibits the entry of minors at all times.]

[(b) This Article does not apply to the sale or offer for sale of flavored tobacco products by a tobacco wholesaler, if such sale or offer for sale is:

1) Made to a retail tobacco establishment that is exempted under Subsection (a) of this Section; or
2) Made for the purpose of reselling or otherwise redistributing the flavored tobacco products outside of the County.]

[(c) This Article does not apply to the sale or offer for sale of cigars that have a wholesale price of more than $2.00 or a retail price of more than $2.50]

Section ______. Enforcement and penalties.

(a) This Article shall be enforced by the Health Officer or Health Officer’s designee, in accordance with ______ of the Code. The Health Officer or designee may issue a civil citation to any person who violates Sections ______. This citation shall be notification to the person that a violation has occurred and that a civil penalty will be applied in accordance with Subsection (b) of this Section. The person in violation shall have a right to stand trial pursuant to Sections ______ of the Code.

(b) A person who violates this section shall be subject to a civil fine of [$500] for the first violation and [$1000] for each subsequent violation.

(c) For purposes of this Article, “subsequent violation” means a separate and distinct incident at a different time and occasion.
Note: In deciding what would be an appropriate civil fine, the following information may be helpful:

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<tr>
<th>Jurisdiction</th>
<th>Law</th>
<th>Civil Fine</th>
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| New York City, NY          | Prohibition on Sale of Flavored Tobacco Products (N.Y.C. Admin. Code §17-715-17) | 1<sup>st</sup> violation: $500 max; each additional violation found on that day: $500 max  
2<sup>nd</sup> violation: $1,000 max; each additional violation found on that day: $1,000 max  
3<sup>rd</sup> and subsequent violations: $2,000 max |
| Providence, RI             | Prohibition on Sale of Flavored Tobacco Products (Providence Code §14-308-10) | 1<sup>st</sup> violation: $250  
2<sup>nd</sup> violation: $350  
Subsequent violations: $500 |
| State of Maryland          | Distribution of Tobacco Products to Minors (MD Crim. §10-107)        | Misdemeanor and fine:  
1<sup>st</sup> violation: $300 max  
2<sup>nd</sup> violation: $1,000 max  
Subsequent violations: $3,000 max |
| Baltimore City, MD         | Distribution of Tobacco Products to Minors (Health Code § 12-501-07)  | Misdemeanor and fine of not more than $1,000 for each offense              |
| Carroll County, MD and St. Mary’s County, MD | Distribution of Tobacco Products to Minors (Md. Code Local Govt. §1-1203-04) | 1<sup>st</sup> violation: $300  
Subsequent violations: $500 |
| Cecil County, MD           | Distribution of Tobacco Products to Minors (Md. Code Local Govt. §1-1203-04) | 1<sup>st</sup> violation: $300  
2<sup>nd</sup> violation: $500  
Subsequent violations: $750 |
| Garrett County, MD         | Distribution of Tobacco Products to Minors (Md. Code Local Govt. §1-1203-04) | $300 maximum |
| Prince George’s County, MD | Distribution of Tobacco Products to Minors (Prince George’s Code § 12-202) | For owners:  
1<sup>st</sup> violation: $300 max  
Subsequent violations: $1,000 max  
For employees:  
1<sup>st</sup> violation: $50 max  
Subsequent violations: $100 max |

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