

To: The St. Mary's County Public Health Department
From: Allyson Myers, Legislative Policy Intern
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Maryland Tobacco Legislation

Business Regulation - Tobacco Product and Electronic Smoking Devices - Revisions (SB895 / HB1169)

Description:

This bill would increase the minimum age requirement to purchase tobacco and ENDS products from 18 years to 21 years. Would rename ENDS (Electronic Nicotine Delivery Systems) as ESDs (Electronic Smoking Devices), and define these products as being tobacco products. It would continue to authorize the Maryland Department of Health to conduct random inspections of licensed retailers. Sale of tobacco products in vending machines would be prohibited in locations accessible to individuals under the age of 21.

Support:

- ❖ Support of this bill comes from organizations and individuals interested in the advancement of public health and who want to limit morbidity and mortality statistics related to tobacco/ENDS use.
- ❖ Maryland and DC Government Relations Director for the American Cancer Society, Cancer Action Network representative stated that:
 - 95% of adults who smoke start before the age of 21 (Center for Disease Control and Prevention).
 - Predicts Tobacco 21 will reduce smoking prevalence by 12%, and smoking related deaths by close to 10% for future generations.
- ❖ MACHO, Maryland Cancer Council, Health advocacy groups, students
- ❖ HSMP Tobacco Free Living
 - Focusing on decreasing vaping amongst youth, TFL Juniors at Great Mills High School testified at hearing.

Opposition:

- ❖ Many Tobacco Product and ENDS Retailers oppose the bill, as it increases restrictions on their business and decreases the demand for their products.
- ❖ Individuals who support the notion that servicemen and women should legally be able to smoke if they are putting their lives on the line. Military exemption added.
- ❖ Notion that bill is not realistic, as youth also obtain tobacco products from adults over 21 years of age.

Expected Effects on St. Mary's County/SMCHD:

- ❖ Decreases the 2013 Maryland Youth Tobacco Survey statistic that 19.2% of SMC high schoolers have used a tobacco product (compared to MD state average of 16.9%).

- ❖ Decreases the number of related deaths to the Maryland Tobacco Quitline statistic that one-third of youth smokers will die from a tobacco-related disease.
- ❖ Institute of Medicine data suggests a 15% reduction in individuals under 21 who will begin smoking if the bill is passed.
- ❖ Expected youth decrease of smoking rates in the county. Other states that have introduced the bill have displayed a decrease in smoking rates amongst individuals under 21 years of age.
 - Needham, Massachusetts had a 48% decrease in high school smoking rates since their Tobacco 21 implementation.
 - Chicago had a 36% decrease in 18-20 year old individuals who reported using cigarettes the year after Tobacco 21 was implemented.
 - California statewide retailer violation rates of selling products to minors decreased from 10.3% to 5.7% since their implementation.
- ❖ SMCHD increased need for educating the public on new tobacco and ENDS regulations.
 - No phase-in for 18-20 year olds allowed to smoke today, but who are prohibited from smoking tomorrow.
 - SMCHD would need to be ready to provide resources to aid in cessation.
- ❖ Tobacco Retailer Enforcement Program and St. Mary's County Sheriff's Office retailer compliance checks would now be based on the 21 year age restriction.

Hearing Dates/Status:

- ❖ Senate (SB895): First Reading on 2/14: Senate Rules. Hearing Scheduled 2/28 at 1pm in Finance. Third Reading Passed 3/18 (35-11). First Reading House Economic Matters and Health and Government Operations 3/19.
- ❖ House (HB1169): First Reading on 2/8: Economic Matters and Health and Government Operations. Hearing 2/27 at 1pm in Economic Matters. Third Reading Passed 3/14 (100-39). Senate- Third Reading Passed 4/2. Current Passed-Enrolled.

Pharmacists - Aids for the Cessation of Tobacco Product Use - Prescribing and Dispensing (SB497 / HB1217)

Description:

Licensed pharmacists who meet requirements listed in this bill would be authorized to both prescribe and dispense aids/medications that would help in the cessation of the use of tobacco products. These products would need FDA approval. Would require Medicaid and Maryland Children's Health Program to cover these services.

Support:

- ❖ The public would have a more efficient and less time-consuming method for obtaining aids for the cessation of using tobacco products.

- ❖ National Alliance of State Pharmacy Associations and the Maryland Pharmacists Association represented at Health and Government Operations hearing on 3/5.
 - Representatives stated that bill would lower barriers to access tools that patients need to end their tobacco use.

Opposition:

- ❖ Primary care providers would experience a decrease in business related to individuals who would have originally gone to them for these prescriptions.
- ❖ Some question if pharmacists have received the training necessary to prescribe medications that would normally be prescribed by a physician.

Expected Effects on St. Mary's County/SMCHD:

- ❖ The current primary care provider to St. Mary's resident ratio is low, so it can take weeks to get medications related to tobacco use cessation prescribed. This bill would allow for prescriptions to be ready right away if community members could instead go to licensed pharmacists.
- ❖ Small business pharmacies would receive additional reimbursement for these services from Medicaid and Maryland Children's Health Program (MCHP).
- ❖ SMCHD grant funding currently buys cessation medications -- Nicotine replacement therapy. This bill could possibly allow for reallocation of grant money currently used to purchase cessation medications, as SMCHD would instead likely have a pharmacist that patients would be sent to. Insurance (and coverage from Medicaid and MCHP) already covers nicotine replacement therapy.

Hearing Dates/Status:

- ❖ Senate (SB497): First Reading in Finance on 2/4. Reassigned to Education, Health and Environmental Affairs on 2/7. Hearing 2/26 @ 1 pm. Unfavorable report 3/11.
- ❖ House (HB1217): First Reading Health and Government Operations on 2/8. Hearing 3/5 at 1 pm.

Electronic Nicotine Delivery Systems- Prohibitions and Requirements (SB708 / HB1185)

Description:

The Secretary of Health would set manufacturing standards for labeling ENDS products as dangerous household substances, for tamper-evident packaging, and for the child-proof packaging of vaping liquid and electronic nicotine delivery systems (ENDS). The bill would prohibit efforts to advertise ENDS and vaping liquid to minors (no advertisements picturing cartoons, celebrities with a minor audience, or individuals who look younger than 27 years). ENDS products would need to be kept in displays that are inaccessible by customers without employee assistance. Retailers must obtain valid ID verification of age for individuals who

appear to be under 27 years old. A second violation penalty for ENDS retailers selling products to minors within two years of a first penalty would increase from \$1,000 to \$2,500, and any subsequent violations within two years of a prior violation would increase from a penalty of \$3,000 to \$5,000.

Support:

- ❖ MACHO
 - All major tobacco companies owns at least one E-cigarette brand.
 - Advertising targets young adults.
 - MACHO promotes an amendment that states that it is not intent of the legislature to preempt local jurisdictions from regulating ENDS products.
- ❖ Maryland State Medical Society, Maryland Chapter of American Academy of Pediatrics, and the Maryland/District of Columbia Society of Clinical Oncologists
- ❖ Maryland Vapor Alliance

Opposition:

- ❖ Deputy Director Brook Torton of the Legal Resource Center of Public Health Policy of the University of Maryland Carey School of Law
 - Unintended legal consequence preempts local governments from regulating. Confusion for locals and reduces their ability to regulate.
 - Wording of bill seems to allow Secretary of Health to establish labeling regulations different than those enacted by the Federal government.
 - Would not apply to the ENDS retailers who are not licensed.
- ❖ Some ENDS retailers would oppose these new regulations, as increases in the regulations and penalties would occur.
- ❖ There are no penalties inflicted on the minors who would be obtaining these products illegally.

Expected Effects on St. Mary's County/SMCHD:

- ❖ Would decrease the number of youth using ENDS products.
 - YBRS 2014 Data: 41.5% of students in St. Mary's County have used ENDS products at some point in their lives.
- ❖ Local revenues would increase due to increase in civil penalties for selling ENDS products to minors.
- ❖ Tobacco Retailer Enforcement Program: Legal sale of ENDS products would be enforced with existing resources.

Hearing Dates/Status:

- ❖ Senate (SB708): First Reading in Finance on 2/4. Crossover Date: 2/8. Hearing: 3/14 @ 1 pm in Finance.
- ❖ House (HB1185): Hearing 2/27 @ 1 pm in Economic Matters. Unfavorable Report by Economic Matters, Withdrawn 3/28.

Tobacco Tax- Premium Cigars- Exemption (SB826 / HB1291)**Description:**

This bill would prevent the tobacco tax on premium cigars, which are defined by the Comptroller of Maryland.

Support:

- ❖ Premium Cigar Retailers Association of Maryland, small business premium cigar retailers
 - Bill reverses inequity caused by 2012 legislature exempting out-of-state retailers of products to pay an excise tax of 15%.
 - Tax check is written before product is actually sold.
 - This legislation ended up benefitting Internet retailers as their cigar products did not have an increased tax, while in-state sellers are taxed at a much higher rate.
 - Internet sale of tobacco products is already taking business from Maryland cigar retailers, so in-state retailers have a decreased income in both of these aspects.

Opposition:

- ❖ As taxes are decreased, use increases amongst customers buying from in-state retailers. Potential increase of Marylanders experiencing negative health outcomes caused by tobacco use.

Expected Effects on St. Mary's County/SMCHD:

- ❖ Tobacco Free Living Team
 - This would potentially require more educational resources that would be targeted towards premium cigar users.
 - A lack of tobacco tax on these cigars would cause one less hindrance in obtaining the product.

Hearing Dates/Status:

- ❖ Senate (SB826): First Reading in Budget and Taxation on 2/4. Hearing: 3/8 @ 1 pm.
- ❖ House (HB1185): First Reading in House Rules and Executive Nominations 2/27 at 1pm. Unfavorable Report by Economic Matters, Withdrawn 3/28.

Alcohol and Tobacco Commission (HB1052 / SB0703)

Description:

This bill would establish the Alcohol and Tobacco Commission. The Executive Director of this Commission would take the responsibilities that are currently held by the Comptroller of Maryland. Allows for communication, enforcement, prevention, and regulation of these topics in a public health office.

Support:

- ❖ Maryland Public Health Association
 - Independent, free from conflict of interest, follow public health up-to-date practices, address interests from jurisdictions in a timely manner.
- ❖ Comptroller involved in tax collection, not trained in public health. Essential to establish a new Commission that would oversee alcohol, tobacco, and motor fuel regulations.
- ❖ Death rate related to alcohol climb over the past. Maryland Department of Health data: Deaths related to alcohol use were at 187 in 2007, now closer to 500/600 deaths.
- ❖ Death/injury related to motor crashes, suicides, sexual assaults, brain impairment.
 - Most effective way to prevent will be to conduct compliance checks of retailers.
- ❖ Academic performance problems result from excessive alcohol use.

Opposition:

- ❖ Maryland Comptroller's Office and Field Enforcement Division-- advise, consult and collaborate to assist with tax administration, compliance, and prevent tax fraud
 - Separated, duplicate efforts
 - Maryland Comptroller's Office would lose investigative resources and knowledge that the Field Enforcement provides
 - Field Enforcement Division wouldn't have access to taxpayer data
 - Cost \$50 million to establish the organization.

Expected Effects on St. Mary's County/SMCHD:

- ❖ The shift from the Comptroller's Office to a public health office setting could cause changes in the governing system of current programs. Not anticipated to materially affect local operations or finances.
 - Local liquor boards would still rely on grants for compliance checks from local health departments.
 - Potentially changes the governing system for the Tobacco Retailer Enforcement.

Hearing Dates/Status:

- ❖ Senate (SB0703): First Reading in Economic Matters on 2/8.

- ❖ House (HB1052) (CH0012): Hearing in Economic Matters on 2/22 @ 1 pm. Favorable with Amendments 3/6. Third Reading Passed Senate 3/18. Passed Enrolled. Vetoed by Governor 3/27. Gubernatorial Veto Override 3/28.

Cigarette Restitution Fund - Establishment of Account (HB1159)

Description:

The Cigarette Restitution Fund would be required to have a separate account in which funds from the State of MD would be kept. The funds from this account would be used to supplement (not replace) funds that are available to tobacco use prevention and cessation programs, and cancer prevention, early detection, and treatment programs.

Support:

- ❖ Would create an additional source of funding for the Cigarette Restitution Fund.
- ❖ Funding thus far has come from the Master Settlement Agreement, in which the five largest cigarette manufacturers in the United States must pay the settling states billions of dollars annually.
- ❖ 75% of the money received from non-participating cigarette manufacturers would, instead of being placed into the general fund or Cigarette Restitution Fund, be placed into this fund that would allow for use towards substance abuse treatment, programs preventing children from beginning use of tobacco products, research, etc.

Opposition:

- ❖ This income of money would not be available for general fund use by the State of Maryland.

Expected Effects on St. Mary's County/SMCHD:

- ❖ Would increase the funding available for SMCHD programs.
 - Includes local prevention and cessation programs, and cancer prevention, early detection, and treatment programs.
- ❖ Funding for Tobacco Retailer Enforcement comes from the Cigarette Restitution Fund.

Hearing Dates/Status:

- ❖ House (HB1159): First Reading 2/8 in Appropriations. Hearing on 3/12 @ 1 pm.