

Legislative Summary 2020 and Peek into 2021

Maryland General Assembly

Howard County Local Health Improvement Coalition

Kathleen Hoke
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Did You Know . . .

The Legal Resource Center hosts a bi-weekly conference call during session on all public health legislation pending in the Maryland General Assembly.

We also track all public health legislation in a user-friendly chart, with a tab for tobacco bills.

To be added to the list to get call announcements and chart links, email the LRC at publichealth@law.umaryland.edu.

CHANGES DUE TO COVID

- ▶ Hearings are all virtual with varying limits on the number of witnesses (no limit on written testimony); sign-up and submit 2 days in advance.
 - ▶ Extremely limited in-person meetings with members (really, none).
 - ▶ Hearings, voting sessions, and Floor sessions are live streamed on Zoom and You Tube.
 - ▶ 781 pre-filed bills; hearings started quickly; limited sponsors; access to written testimony.
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TOBACCO & VAPE TAX BILL

House Bill 732: Taxation - Tobacco Tax, Sales and Use Tax, and Digital Advertising Gross Revenues Tax: PASSED . . . then VETOED*

- ✓ ESDs at 12% of the taxable price; vaping liquid containers of 5 ml or less at 60% of the taxable price;
- ✓ Cigarette packs of 20 at \$3.75/pack;
- ✓ Other tobacco products at 53% of the wholesale price;
- ✓ Cigars at 70% of the wholesale price; premium cigars at 15% of the wholesale price; and
- ✓ Pipe tobacco at 30% of the wholesale price.

Starting in fiscal year 2022, it also requires the Governor to include \$18.25 million in the annual budget for activities aimed at reducing tobacco consumption.

****Veto override vote expected February 8 (House) and 9 (Senate)***

FLAVORED TOBACCO BAN

Senate Bill 233/House Bill 3: Business Regulation - Flavored Tobacco Products - Prohibition: FAILED

- ✓ Prohibited the manufacturing, shipping, importing, or selling into or within the State *all flavored tobacco products, including menthol cigarettes and flavored electronic smoking devices.*
- ✓ A person who violates its requirements would be guilty of a misdemeanor and subject to a fine of \$1,000, or imprisonment not exceeding 30 days, or both.

HB 3 amendments would have made an exemption for flavored premium cigars and permitted on-premises consumption of flavored other tobacco products at “smoking bars.” The amendments also would have prohibited the manufacture, sale, or importation of “closed ESDs” or “cartridge-based ESDs,” but left “open ESDs” untouched.

*2021: Senate Bill 177 (hearing Jan. 28)/House Bill 134 (hearing Feb 10)
Same language; advocates concerned about amendments from 2020.*

PHARMACIST-PROVIDED CESSATION MEDS

Senate Bill 440/House Bill 1594: Pharmacists - Aids for the Cessation of Tobacco Product Use: FAILED

- ✓ Authorized a pharmacist to prescribe and dispense aids for the cessation of the use of tobacco products;
- ✓ Required the Maryland Medical Assistance Program and the Maryland Children's Health Program to provide coverage for services rendered by a licensed pharmacist under the Act (SB 440 amendments would have eliminated this requirement).

Amendments in the Senate narrowed the bill so that pharmacists are only permitted to prescribe NRT. No hearing held in the House on the cross-file or the crossed-over version.

2021: RESTORING LOCAL POWER

Senate Bill 410: Cigarettes, Other Tobacco Products, and Electronic Smoking Devices – Local Law Authorization

This bill would authorize a county or municipality to enact and enforce local laws regulating the sale and distribution of cigarettes, other tobacco products, and electronic smoking devices. The county or municipality may not regulate the issuance of licenses for cigarettes, other tobacco products, or electronic smoking devices and may not regulate the imposition of taxes on cigarettes and other tobacco products. If passed this bill will repeal the Court of Appeals' decision in *Altadis U.S.A., Inc. v. Prince George's County*, 431 Md. 30 (2013), which struck down as preempted Prince George's County's cigar minimum pack size ordinance (and had same impact on similar Baltimore City Health Commissioner regulation).

Hearing February 11.

2021: REGULATION OF ESDs

Senate Bill 273: Electronic Smoking Device Regulation Act of 2021

- Prohibits the sale of ESDs by anyone except licensed vape shop vendors who exclusively sell ESDs and related items;
- Vape shop vendors pay license fee to local health department for enforcement (fee set by MDH);
- ESD manufacturer may no longer sell direct to consumer;
- No flavored disposable vapes (including menthol)
- Requires electronic scanning of IDs at the register
- Adds ESDs to Clean Indoor Air Act
- No one under 21 may enter the vape shop

Hearing Jan. 28!

Superficially sounds good but concerns about bill language, preemption, and Clean Indoor Air Act provisions.

2021: EXPLOITATION OF SENIORS

Senate Bill 327: Civil Actions – Financial Exploitation of Vulnerable Adults (Maryland SAFE Act)

- Applies to elderly and vulnerable adults including those with disabilities, habitual drunkenness, and substance use disorder.
- Establishes a civil cause of action that a financially exploited vulnerable adult may bring against a financial exploiter of the vulnerable adult.
- Cause of action survives the death of the vulnerable adult so may be brought by the estate or other representatives.
- Adds to the existing criminal law to allow for recovery of damages.

Hearing was Feb. 3; looks like there will be amendments to add punitive damages.

****Note: Senate overrode veto on SB407 (2020), which created the OAG Senior and Vulnerable Adult Asset Recovery Unit; pending House override***

2021: FOOD BILLS

- ▶ ***House Bill 101: Heat and Eat Program***
 - Allows for a deduction from income for calculation of SNAP benefits based on utility payments.
- ▶ Nothing else of significance!
- ▶ Seriously, nothing really food security related.

2021: COVID BILLS

- ▶ Immunity Bills
 - For health care workers with expanded definition
 - For employers
- ▶ Worker Protection (including migrant workers)
 - Add ASH standards for prevention of COVID transmission
- ▶ Governor's RELIEF Act
 - Direct payments to individuals/families
 - Additional unemployment funding
 - Tax, unemployment, and PPP loan relief for businesses

CONTACT INFORMATION

Kathleen Hoke
Director



Phone: (410) 706-1294

Email: khoke@law.umaryland.edu

Website: www.law.umaryland.edu/programs/publichealth