



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 28, 2024

The Honorable C.T. Wilson
Chair, Economic Matters Committee
Room 231, House Office Building
Annapolis, MD 21401-1991

RE: Senate Bill 244 – Public Health - Clean Indoor Air Act - Revisions – Letter of Support with Amendments

Dear Chair Wilson and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of support with amendments for Senate Bill (SB) 244 – Public Health - Clean Indoor Air Act - Revisions. SB 244 adds electronic smoking devices to the Clean Indoor Air Act and prohibits their use in most indoor public areas and workplaces, alongside already prohibited smoking of combustible tobacco, cannabis, and hemp. As amended, it brings the companion portion of the Labor and Employment Article into alignment with these changes as well.

SB 244 strengthens the Clean Indoor Air Act to protect Maryland residents from exposure to secondhand aerosol released from electronic smoking devices.

The Clean Indoor Air Act (CIAA) of 2007 was landmark legislation that prevented smoking of combustible tobacco products in virtually all indoor public places, including bars and restaurants, to eliminate public exposure to secondhand smoke (SHS). SB 244 modernizes the CIAA to include the new sources and forms of secondhand exposure that have become common since the passage of the CIAA. When the CIAA first passed, electronic smoking devices (ESDs) (i.e., electronic cigarettes, e-cigarettes, vapes, electronic nicotine delivery systems, etc.) were not widely available or used and were not included in the CIAA. ESDs currently are not regulated in the CIAA.

In recent years, vaping, or using ESDs, has become widespread and has increased dramatically, especially among Maryland youth and young adults. In 2021, 14.7 percent of Maryland high school students and 5.2 percent of Maryland middle school students currently used ESDs (i.e., within the past 30 days) compared to just 4.5 percent of Maryland adults.^{1,2} The popularity of ESDs with Maryland youth is concerning because nicotine adversely affects adolescent brain

¹ Maryland Department of Health, “2021-2022 Youth Risk Behavior Survey/Youth Tobacco Survey,” IBIS Dataset Query System, Accessed 10 Jan 2024 at <<https://ibis.health.maryland.gov/ibisph-view/query/selection/yrbs2021/YRBSSelection.html>>.

² Maryland Department of Health, “2021 Behavioral Risk Factor Surveillance System,” IBIS Dataset Query System, Accessed 10 Jan 2024 at <<https://ibis.health.maryland.gov/ibisph-view/query/selection/brfss/BRFSSSelection.html>>.

development and mental health.³ In general, youth do not perceive vaping as risky and many are unaware that ESDs contain nicotine.⁴ Many youth also report using ESDs because they are curious about these products despite tobacco companies touting ESDs as tobacco cessation devices for adult consumers.⁵ Twenty-eight percent of Maryland adults that use ESDs, however, do so to quit smoking and the US Food and Drug Administration has never approved an ESD as a tobacco cessation device.⁶ Research suggests that youth who start using ESDs are more likely to dual use or completely transition to cigarettes, putting them at risk for a lifelong addiction to nicotine and other substances.⁷ Because the CIAA excludes ESDs, members of the public and employees working in indoor public places are exposed to aerosols, which threatens recent progress on protecting residents from the dangers of secondhand exposure and establishing smoke-free social norms.

Aerosols released from ESDs are made of “tiny particles or droplets in the air,”⁸ and are not harmless water vapor contrary to a commonly held belief. Environmental (i.e., exhaled or secondhand) ESD aerosol (often referred to as “vapor”) has documented health effects, particularly with prolonged exposure. Users inhale the aerosol and expose bystanders when they exhale secondhand vape (SHV).⁹ SHV can contain nicotine, THC (tetrahydrocannabinol) and other cannabinoids, heavy metals, tiny particles, cancer-causing chemicals, and other toxins that can cause respiratory distress and disease.¹⁰ Ventilation or air filtration may reduce toxins in SHV, but does not completely remove them.¹¹ ESDs can also be used to vape cannabis, which poses additional challenges with potential SHS and SHV exposure since Maryland legalized adult-use cannabis on July 1, 2023. Because of these risks several public health entities, including the World Health Organization and the US Surgeon General, recommend ESDs not be used indoors or in areas covered by smoke-free laws.^{12,13}

A universal ban on indoor smoking is a proven public health strategy to reduce exposure to secondhand smoke. Similarly, adding ESDs to the CIAA will protect members of the public and employees from SHV exposure from both tobacco and cannabis aerosols and further reinforce smoke-free norms. Passing SB 244 will add Maryland to the ranks of the 24 other states and hundreds of municipalities, including several jurisdictions in Maryland, that have already chosen to protect public health by adding ESDs to their smoke-free laws.¹⁴

³ US Department of Health and Human Services, “E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General,” 2016, Accessed 11 Jan 2024 at <https://www.cdc.gov/tobacco/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf>.

⁴ Miech R, et al., “Trends in Use and Perceptions of Nicotine Vaping Among US Youth From 2017 to 2020,” *JAMA Pediatr*, 2021;175(2):185–190. Accessed 11 Jan 2024 at <<https://jamanetwork.com/journals/jamapediatrics/fullarticle/2774132>>.

⁵ Ibid fn 1.

⁶ US Food and Drug Administration, “E-Cigarettes, Vapes, and other Electronic Nicotine Delivery Systems (ENDS),” 1 Jul 2023, Accessed 12 Jan 2024 at <<https://www.fda.gov/tobacco-products/products-ingredients-components/e-cigarettes-vapes-and-other-electronic-nicotine-delivery-systems-ends>>.

⁷ Ibid fn 3.

⁸ Environmental Protection Agency. “Secondhand electronic-cigarette aerosol and indoor air quality,” 26 Oct 2023, Accessed 29 Dec 2023 at <<https://www.epa.gov/indoor-air-quality-iaq/secondhand-electronic-cigarette-aerosol-and-indoor-air-quality>>.

⁹ Ibid.

¹⁰ US Centers for Disease Control and Prevention, “About Electronic Cigarettes (E-Cigarettes),” 2 Nov 2023, Accessed 11 Jan 2024 at <https://www.cdc.gov/tobacco/basic_information/e-cigarettes/about-e-cigarettes.html>.

¹¹ Ibid fn 7.

¹² World Health Organization, “Electronic nicotine delivery systems,” 2014, Accessed 10 Jan 2024 at <https://apps.who.int/gb/fctc/PDF/cop6/FCTC_COP6_10-en.pdf>.

¹³ Ibid fn 3.

¹⁴ Campaign for Tobacco-Free Kids, “Electronic Cigarettes Should Be Included In Smoke-Free Laws,” 26 Oct 2023, Accessed 11 Jan 2024 at <<https://assets.tobaccofreekids.org/factsheets/0387.pdf>>.

Because the 2007 CIAA was enacted before the advent of ESDs, it contained no provision for ESDs. By expanding the definition of “environmental smoke” to include aerosols from ESDs and adding the updated definition of tobacco (that includes ESDs), SB 244 will help business owners and consumers alike to treat using all ESD products the same in indoor areas to the public. The revision to the CIAA will set the same standard for all businesses to remain in compliance with the CIAA.

The impact of SB 244 on small businesses and regulated industries is expected to be minimal with nominal costs to update signage related to smoking and/or vaping prohibitions. Many businesses in Maryland, including bars and restaurants, already prohibit ESD use within their establishments. Exceptions for certain licensed tobacco retailers already exempted from the Act, including vape shop vendors and hookah establishments, will not change as long as businesses comply with other parts of the CIAA (i.e., their primary business is the sale of tobacco products and the sale of other products are “incidental”).

The Maryland Department of Transportation (MDOT) has requested a change to allow for a more flexible timeline to update signage in all owned and operated mass-transportation vehicles. The additional proposed amendments attached give MDOT two years to update said signage, allowing them to replace the signage piecemeal; MDOT indicated this amendment provides adequate time to complete the required task.

The Department strongly supports the passage of SB 244.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,



Laura Herrera Scott, M.D., M.P.H.
Secretary

Amendment to Senate Bill 244
(Third Reader File Bill)

On page 4, after line 26, insert:

“(E) SIGNS POSTED IN GOVERNMENT-OWNED OR GOVERNMENT-OPERATED MEANS OF MASS TRANSPORTATION INDICATED IN § 24-504(3) OF THIS SUBTITLE SHALL BE POSTED BY THE SECRETARY OF TRANSPORTATION NO LATER THAN JULY 1, 2026.”

Rationale: Change requested by the Maryland Department of Transportation to allow for more flexibility on implementing changes to signage.