

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1419 (Delegates Arnick and Oaks)
Health and Government Operations

Political Subdivisions - Smoking Regulations - Restrictions

This bill prohibits a political subdivision from adopting ordinances or laws regulating smoking in county offices, county buildings, hotels, motels, restaurants, bars, taverns, or other establishments that are more stringent or restrictive than any public general law in existence on October 1, 2005. The bill applies only prospectively and may not be applied or interpreted to have any effect on or application to any smoking regulation ordinances or laws passed by a political subdivision enacted before the bill's effective date.

Fiscal Summary

State Effect: None. The bill would affect local government operations only.

Local Effect: The bill would not have a fiscal effect on local government.

Small Business Effect: Potential meaningful effect on small businesses that derive business from smoking customers in counties that currently do not prohibit smoking in those businesses but may do so in the future.

Analysis

Current Law: Smoking tobacco products is allowed in: (1) private residences; (2) any establishment that is not a restaurant or hotel, possesses an alcoholic beverages license, and is a bar or tavern; (3) a bar in a hotel or motel; (4) a club that has an alcoholic beverages license; (5) restaurants under specific conditions; (6) up to 40% of a hotel's or motel's sleeping rooms; (7) any other separate enclosed room in an establishment that holds an alcoholic beverages license; or (8) up to 40% of the premises of a fraternal, religious, patriotic, or charitable organization, corporation, fire company, or rescue squad

subject to the authority of the Secretary of Health and Mental Hygiene during a public event.

Smoking is not allowed in the public areas of retail stores. A retail store supervisor who does not post and conspicuously place signs that indicate smoking is not permitted in the public area of a retail store is subject to a civil fine of up to \$25. Smoking is not allowed in hospitals. A director of a nursing home, health clinic, or physician's office must make and carry out a plan that adequately protects the health of nonsmoking patients by regulating the smoking of tobacco products on the premises.

Counties or municipal corporations of the State, except for Charles and St. Mary's counties, may enact ordinances, resolutions, laws, or rules that are more stringent than State statute.

Background: On October 9, 2003, a Montgomery County Council law banning smoking in restaurants and bars took effect. The ban does not include a bar and dining area of an eating and drinking establishment that is a club as defined in the State alcoholic beverages law, has an alcoholic beverages license issued to private clubs under the State alcoholic beverages law, and allows the drinking of alcoholic beverages. The law requires the county Department of Economic Development to establish and administer a fund for marketing assistance to county restaurants affected by this bill.

A 1999 Montgomery County health regulation prohibiting smoking in eating and drinking establishments other than private clubs was declared invalid by the Circuit Court for Montgomery County. The Court of Appeals of Maryland found the regulation invalid on May 2, 2003.

The county ban does not apply to the 22 municipalities within its limits. However, the county identified 12 municipalities that previously adopted the county's smoking law affecting eating and drinking establishments. Montgomery County expects that these municipalities are likely to adopt the more stringent requirements.

A City of Rockville ordinance that bans smoking in eating and drinking establishments was adopted December 8, 2003 and took effect February 1, 2004.

A Talbot County Council ordinance extending its smoking prohibition became effective in April 2004. Prior to the ordinance, smoking was banned in restaurants. Bars and the bar area, not exceeding 40% of the total area of a restaurant, were exempt from the ban. Under the ordinance, bar areas are no longer exempt from the smoking ban. However,

the bar and dining area of a club that has a Class G alcoholic beverage license is exempt from the smoking ban.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Caroline County, Howard County, Montgomery County, Prince George's County, Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2005
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