

SENATE BILL 175

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71r0324

By: **Senators Manno, Feldman, and Smith**

Introduced and read first time: January 18, 2017

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Use of Medical Oxygen in Residential Dwellings – Smoking and**
3 **Open Flame Restrictions**

4 FOR the purpose of prohibiting an individual from lighting or smoking certain matters or
5 substances that contain tobacco in a room of a residential dwelling in which medical
6 oxygen is being used and within a certain number of feet of a certain room of a certain
7 residential dwelling; prohibiting an individual from having an open flame in a room
8 of a residential dwelling in which medical oxygen is being used and within a certain
9 number of feet of a certain room of a certain residential dwelling; providing for the
10 application of a certain provision of this Act; requiring a certain individual who uses
11 or will begin to use medical oxygen to notify a certain person that the individual uses
12 or will begin to use medical oxygen; requiring the individual to make a certain
13 notification within a certain time period before beginning to reside in the residential
14 dwelling or, under certain circumstances, within a certain time period before the
15 individual begins to use medical oxygen; requiring a certain person to prominently
16 post certain signs within a certain time period; requiring certain individuals to
17 prominently post certain signs; requiring the Department of Health and Mental
18 Hygiene to adopt certain regulations; establishing certain penalties; authorizing the
19 Secretary of Health and Mental Hygiene to waive a certain penalty; defining a
20 certain term; and generally relating to the use of medical oxygen in residential
21 dwellings.

22 BY adding to

23 Article – Health – General

24 Section 24–1501 through 24–1505 to be under the new subtitle “Subtitle 15. Use of
25 Medical Oxygen in Residential Dwellings – Smoking and Open Flame
26 Restrictions”

27 Annotated Code of Maryland

28 (2015 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 **SUBTITLE 15. USE OF MEDICAL OXYGEN IN RESIDENTIAL DWELLINGS – SMOKING**
5 **AND OPEN FLAME RESTRICTIONS.**

6 **24–1501.**

7 (A) IN THIS SUBTITLE, “RESIDENTIAL DWELLING” MEANS A BUILDING OR
8 PART OF A BUILDING THAT PROVIDES LIVING OR SLEEPING FACILITIES FOR ONE OR
9 MORE INDIVIDUALS.

10 (B) “RESIDENTIAL DWELLING” INCLUDES:

- 11 (1) AN APARTMENT;
12 (2) A CONDOMINIUM;
13 (3) A DUPLEX;
14 (4) A TOWNHOUSE; AND
15 (5) A SINGLE-FAMILY HOME.

16 (C) “RESIDENTIAL DWELLING” DOES NOT INCLUDE:

- 17 (1) A HOTEL; OR
18 (2) A MOTEL.

19 **24–1502.**

20 (A) AN INDIVIDUAL MAY NOT LIGHT OR SMOKE A CIGARETTE, CIGAR, PIPE,
21 OR ANY OTHER MATTER OR SUBSTANCE THAT CONTAINS TOBACCO:

22 (1) IN A ROOM OF A RESIDENTIAL DWELLING IN WHICH MEDICAL
23 OXYGEN IS BEING USED; OR

24 (2) WITHIN 20 FEET OF A ROOM OF A RESIDENTIAL DWELLING IN
25 WHICH MEDICAL OXYGEN IS BEING USED.

26 (B) AN INDIVIDUAL MAY NOT HAVE AN OPEN FLAME:

1 **(1) IN A ROOM OF A RESIDENTIAL DWELLING IN WHICH MEDICAL**
2 **OXYGEN IS BEING USED; OR**

3 **(2) WITHIN 20 FEET OF A ROOM OF A RESIDENTIAL DWELLING IN**
4 **WHICH MEDICAL OXYGEN IS BEING USED.**

5 **24-1503.**

6 **(A) (1) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO**
7 **RESIDES IN A RESIDENTIAL DWELLING THAT IS:**

8 **(I) OWNED BY ANOTHER PERSON; OR**

9 **(II) SUBJECT TO THE RULES AND REGULATIONS OF A**
10 **HOMEOWNERS ASSOCIATION OR OTHER SIMILAR ENTITY.**

11 **(2) AN INDIVIDUAL WHO USES OR WILL BEGIN TO USE MEDICAL**
12 **OXYGEN SHALL NOTIFY THE OWNER OF THE RESIDENTIAL DWELLING, THE OWNER'S**
13 **REPRESENTATIVE OR AGENT, OR THE HOMEOWNERS ASSOCIATION OR OTHER**
14 **SIMILAR ENTITY THAT THE INDIVIDUAL USES OR WILL BEGIN TO USE MEDICAL**
15 **OXYGEN.**

16 **(3) THE INDIVIDUAL SHALL MAKE THE NOTIFICATION REQUIRED**
17 **UNDER PARAGRAPH (2) OF THIS SUBSECTION:**

18 **(I) AT LEAST 5 DAYS BEFORE BEGINNING TO RESIDE IN THE**
19 **RESIDENTIAL DWELLING; OR**

20 **(II) IF THE INDIVIDUAL RESIDES IN THE RESIDENTIAL**
21 **DWELLING AT THE TIME THE INDIVIDUAL WILL BEGIN TO USE MEDICAL OXYGEN, AT**
22 **LEAST 5 DAYS BEFORE THE INDIVIDUAL BEGINS TO USE MEDICAL OXYGEN.**

23 **(4) WITHIN 5 DAYS AFTER A NOTIFICATION IS MADE UNDER**
24 **PARAGRAPH (2) OF THIS SUBSECTION, THE OWNER OF THE RESIDENTIAL DWELLING,**
25 **THE OWNER'S REPRESENTATIVE OR AGENT, OR THE HOMEOWNERS ASSOCIATION OR**
26 **SIMILAR ENTITY SHALL PROMINENTLY POST SIGNS STATING THAT:**

27 **(I) MEDICAL OXYGEN IS BEING USED IN THE RESIDENTIAL**
28 **DWELLING; AND**

29 **(II) THE RESTRICTIONS SPECIFIED IN § 24-1502(A)(2) AND**
30 **(B)(2) OF THIS SUBTITLE ARE IN EFFECT.**

1 **(B) AN INDIVIDUAL WHO USES OR WILL BEGIN TO USE MEDICAL OXYGEN**
2 **AND IS NOT SUBJECT TO SUBSECTION (A) OF THIS SECTION SHALL PROMINENTLY**
3 **POST SIGNS STATING THAT:**

4 **(1) MEDICAL OXYGEN IS BEING USED IN THE INDIVIDUAL'S**
5 **RESIDENTIAL DWELLING; AND**

6 **(2) THE RESTRICTIONS SPECIFIED IN § 24-1502(A)(2) AND (B)(2) OF**
7 **THIS SUBTITLE ARE IN EFFECT.**

8 **24-1504.**

9 **(A) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS**
10 **SUBTITLE.**

11 **(B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION**
12 **SHALL INCLUDE REGULATIONS GOVERNING THE PLACEMENT AND SIZE OF SIGNS**
13 **REQUIRED TO BE POSTED UNDER § 24-1503(A)(4) OR (B) OF THIS SUBTITLE.**

14 **24-1505.**

15 **(A) A PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE OR A**
16 **REGULATION ADOPTED UNDER § 24-1504(A) OF THIS SUBTITLE:**

17 **(1) FOR A FIRST VIOLATION, SHALL BE ISSUED A WRITTEN**
18 **REPRIMAND BY THE SECRETARY OR THE SECRETARY'S DESIGNEE;**

19 **(2) FOR A SECOND VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF**
20 **\$100; AND**

21 **(3) FOR EACH SUBSEQUENT VIOLATION, IS SUBJECT TO A CIVIL**
22 **PENALTY NOT LESS THAN \$250.**

23 **(B) THE SECRETARY MAY WAIVE A PENALTY ESTABLISHED UNDER**
24 **SUBSECTION (A) OF THIS SECTION, GIVING CONSIDERATION TO FACTORS THAT**
25 **INCLUDE:**

26 **(1) THE SERIOUSNESS OF THE VIOLATION; AND**

27 **(2) ANY DEMONSTRATED GOOD FAITH MEASURES TO COMPLY WITH**
28 **THE PROVISIONS OF §§ 24-1502 AND 24-1503 OF THIS SUBTITLE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2017.