



February 11, 2021

The Honorable Delores G. Kelley
Chair, Finance Committees
Miller Senate Office Building, 3 East Wing
11 Bladen St.
Annapolis, MD 21401

RE: Senate Bill 410 - Cigarettes, Other Tobacco Products, and Electronic Smoking Devices - Local Law Authorization - Letter of Support

Dear Chair Kelley and Committee Members:

The Maryland State Council on Cancer Control supports Senate Bill (SB) 410 which would restore authority to Maryland counties and municipalities to enact and enforce laws regulating the sale of tobacco products. This authority was stripped from local jurisdictions in a 2013 court decision, *Altadis U.S.A. v. Prince George's County*, 431 Md. 307 (2013), in which the court held that state law preempts local jurisdictions from enacting laws relating to the sale and distribution of tobacco products.

Local control is integral to reducing tobacco use among youth and adults in Maryland. Local governments typically develop the strongest and most innovative laws tailored to their populations. These local provisions often result in comprehensive state laws. For example, well before the General Assembly passed the comprehensive Clean Indoor Air Act, counties across the State had passed local laws protecting workers and the public from secondhand smoke exposure. Gutting these local public health powers through preemption threatens public health and particularly has deterred local innovation in tobacco control that could have curbed the vape epidemic that we now see among our youth.

The implied preemption comes from the *Altadis* opinion in which the Maryland Court of Appeals found that state legislation passed in 2011 to create a licensing scheme for other tobacco products (OTP; meaning non-cigarette products) preempted a cigar minimum pack size ordinance passed by Prince George's County in 2009. The Court ultimately held the state has occupied the field of regulating the packaging and sale of tobacco products. As a result, local jurisdictions have been unable to enforce existing laws (i.e., restrictions on the sale of single cigarettes) and have been unable to pass new legislation regulating tobacco product sales (i.e., banning the sale of menthol cigarettes or flavored cigarillos). The laboratories of innovation have been stymied by the *Altadis* decision and public health has suffered. Opportunities to reduce cancer prevalence through decreasing tobacco use have been removed.

We urge a favorable report on Senate Bill 410 so that local jurisdictions in Maryland can use their plenary public health powers to address tobacco use in the community, contributing to reductions in cancer prevalence.

Sincerely,

Kevin Cullen, MD
Chair, Maryland State Council on Cancer Control