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February 17, 2023

TO: The Honorable Joseline Peña-Melnyk
Chair, Health & Government Operations Committee

FROM: John M. Leovy
Chief Counsel, Tobacco Enforcement Unit, Office of the Attorney General

RE: HB 0321 – Cigarette Restitution Fund – Payments for Sale and Marketing of
Electronic Smoking Devices – Use – **(Support)**

The Office of the Attorney General urges this Committee report favorably Delegate Rosenberg's HB 0321 with the amendments described below. This legislation provides that funds recovered from enforcing Maryland's laws against electronic smoking device ("ESD") manufacturers that have preyed on children and otherwise misled consumers are used for appropriate purposes.

As ESD use has risen, increased enforcement is necessary to ensure that ESD manufacturers do not illegally market or sell their products to children. Such enforcement will result in monetary recovery from lawsuits, administrative proceedings, or other enforcement actions by the State. The Office of the Attorney General supports using the moneys obtained from ESD enforcement efforts to fund programs to reduce the use of tobacco products by those under the age of 21. Stopping tobacco use by Maryland's children is an important goal both for the health of Marylanders and to reduce the significant health care costs associated with nicotine addiction.

To ensure that HB 0321 does not interfere with the State's diligent enforcement of the Escrow Act, Business Regulation § 16-401 *et seq.*, and Complementary Legislation, Business Regulation § 16-501 *et seq.*, and to capture recoveries from all methods of enforcement, the Office of the Attorney General recommends the following amendments to the new subsection State Finance and Procurement § 7-317(I):

15 (I) (1) THE FUND SHALL INCLUDE A SEPARATE ACCOUNT CONSISTING
16 OF PAYMENTS RECEIVED BY THE STATE AS A RESULT OF LITIGATION BY

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us

~~17 PARTICIPATING MANUFACTURERS~~ **FROM JUDGMENTS, SETTLEMENTS, PENALTIES,
OFFERS OF COMPROMISE, OR ANY OTHER ENFORCMENT ACTIONS** RELATED TO THE
SALE AND MARKETING OF
18 ELECTRONIC SMOKING DEVICES.

19 (2) DISTRIBUTIONS FROM THE SEPARATE ACCOUNT ESTABLISHED
20 UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE USED, ~~ONLY~~ **CONSISTENT
WITH ANY OTHER PROVISION**, TO SUPPLEMENT
21 THE GENERAL FUND APPROPRIATIONS DESIGNATED FOR PROGRAMS UNDER
22 SUBSECTION (F) OF THIS SECTION WITH THE PURPOSE OF REDUCING THE USE OF
23 TOBACCO PRODUCTS BY INDIVIDUALS UNDER THE AGE OF 21 YEARS.

For the foregoing reasons, we urge a favorable report on HB 321.

cc: Committee Members