

Testimony in Support of SB 817.pdf

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony in Support of SB 817 – Multifamily Dwellings - Smoking Policies

Many condo buildings in the State of Maryland are old and outdated – leaving families vulnerable to secondhand smoke that can seep through unsealed walls and floors. For adults who do not smoke, breathing secondhand smoke has immediate harmful effects on the heart and blood vessels. According to the Centers for Disease Control (CDC), secondhand smoke causes nearly 34,000 premature deaths from heart disease each year in the United States among adults who do not smoke. Smoking is especially dangerous for newborns and children – there are more than 1,000 infant deaths in the U.S. every year that are related to smoking.

To help address this longstanding problem, I am proposing SB 817 - which will provide more options to families and individuals affected by secondhand smoke. The bill would simply require a common ownership group of multi-family housing to develop a policy on smoking.

It does not take much research to find that being exposed to secondhand smoke poses immediate, serious health risks to Maryland residents – especially to those who are living with underlying medical conditions. Unfortunately, many families in our State have no recourse to file a complaint when faced with a neighbor whose smoking is affecting their health and well-being.

While the provisions laid out in SB 817 are important – they are also not overly burdensome. The bill simply requires ownership of multi-family housing (i.e. condo associations) to create a smoking policy if they do not have one. It must include basic provisions such as:

- The locations where smoking is allowed on the premises;
- Any conditions on the ability to smoke in areas where smoking is authorized;
- Potential fines for violations of the policy; and
- Guidelines to submit a complaint about policy violators.

The requirements laid out in this bill are straightforward steps that every common ownership group should have already be taking – yet many residents throughout our State are left in the dark when faced with this problem. This bill is an important first step in addressing the issue of secondhand smoke in our communities.

For these reasons, I respectfully request a favorable committee report on SB 817.

SB 817 Support Letter.pdf

Uploaded by: Karen Straughn

Position: FAV

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February 28, 2023

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 817 – Multifamily Dwellings – Smoking Policies (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of Senate Bill 817 sponsored by Senator Alonzo T. Washington. This bill requires the governing body of a common ownership community to develop a smoking policy if the property is a multifamily dwelling.

Smoking, including second-hand smoke, leads to disease and disability and harms nearly every organ system of the body. It is the leading cause of preventable death. In addition, there are many unknowns about vaping, including what chemicals make up the vapor and how they affect physical health over the long term. Emerging data suggests [links to chronic lung disease and asthma](#) as well as [cardiovascular disease](#). When an individual purchases a home in a multifamily dwelling, however, they may be involuntarily exposed to these risks by the actions of their neighbors, which they cannot easily avoid. By requiring associations to develop a smoking policy that mandates where smoking and vaping may be authorized and where it may be prohibited, as well as establishing fines for violations of the policy, association members can have a role in determining how and where they may be exposed to these harmful chemicals.

The Consumer Protection Division has received complaints from residents in common ownership communities who are dismayed by the inability to have any control over whether they are exposed to second-hand smoke. While our office attempts to mediate these concerns, they rarely result in any positive outcome due to the inability of an association to control the actions of their residents in this respect. This bill would provide a greater ability to ensure that those

who wish to be protected from second-hand smoke can choose to live in associations which provide greater protections.

For these reasons, we ask that the Judicial Proceedings Committee return a favorable report on this bill.

cc: The Honorable Alonzo T. Washington
Members, Judicial Proceedings Committee

20b - X - SB 817 - JPR - Health _ Wellness Council

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Position: FAV

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February 28, 2023

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 817 - Multifamily Dwellings - Smoking Policies

Dear Chair Smith and Committee Members:

The Maryland State Advisory Council on Health and Wellness (the Council) is submitting this letter of support for Senate Bill 817 (SB 817) - "Multifamily Dwellings - Smoking Policies." SB 817 requires the governing bodies of common ownership communities with multifamily dwellings to develop a smoking policy for their properties.

One of the Council's core responsibilities is to promote evidence-based strategies to prevent chronic diseases. Tobacco use contributes significantly to the risk of numerous chronic diseases including cardiovascular disease, diabetes, chronic obstructive pulmonary disease, and cancer.¹ Use of e-cigarettes is associated with increased risk of developing asthma, emphysema, and chronic obstructive pulmonary disease.² Exposure to secondhand smoke is a major concern, as secondhand smoke exposure can cause coronary heart disease, stroke, and lung cancer.³ The health effects of secondhand vaping exposure are not well-understood given how new e-cigarette technology is, but exhaled e-cigarette vapor includes nicotine, ultrafine particles, and known carcinogens.⁴

Approximately one in four Americans live in multifamily dwellings, and an estimated 28 million U.S. residents living in multifamily dwellings are exposed to secondhand smoke each year.^{5,6} A recent survey of Maryland teenagers revealed that about one-third of Maryland high school students live with a current tobacco smoker and report recent exposure to secondhand smoke.⁷ Further, low-income and minority residents are at higher risk, with seven in 10 Black children in the U.S. exposed to secondhand smoke.⁸

Smoke-free building policies can protect residents from secondhand smoke and vape exposure and reduce the risk of building fires, however only one in three multifamily

¹ Centers for Disease Control and Prevention. Smoking and Tobacco Use: Health Effects; retrieved 5 January 2022 at https://www.cdc.gov/tobacco/basic_information/health_effects/index.htm

² Xie W, Kathuria H, Galiatsatos P, et al. Association of electronic cigarette use with incident respiratory conditions among US adults from 2013 to 2018. *JAMA Netw Open*. 2020;3(11):e2020816. doi:10.1001/jamanetworkopen.2020.20816

³ Centers for Disease Control and Prevention (2020). Health Problems Caused by Secondhand Smoke; retrieved 27 January 2023 at [https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm#:~:text=There%20is%20no%20risk%2Dfree,infant%20death%20syndrome%20\(SIDS\)](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm#:~:text=There%20is%20no%20risk%2Dfree,infant%20death%20syndrome%20(SIDS))

⁴ McCabe, B. (2019). Is Secondhand Vaping Something to be Concerned About? Hackensack Meridian Health.

https://www.hackensackmeridianhealth.org/en/HealthU/2019/11/27/is-secondhand-vaping-something-to-be-concerned-about#.Yg_Ic9_MK5c

⁵ U.S. Department of Housing and Urban Development. Housing Agency (HA) Profiles; retrieved 17 February 2022 at https://www.hud.gov/program_offices/public_indian_housing/systems/pic/haprofiles

⁶ King BA, Babb SD, Tynan MA, et al. National and state estimates of secondhand smoke infiltration among U.S. multiunit housing residents. *Nicotine Tobacco Research*. 2013 Jul; 15(7):1316-21; <https://pubmed.ncbi.nlm.nih.gov/23248030/>

⁷ Maryland Department of Health. 2021 Youth Pandemic Behavior Survey Detailed Report; <https://health.maryland.gov/phpa/ohpetup/Documents/2021%20Youth%20Pandemic%20Behavior%20Survey%20Detailed%20Report.pdf>

⁸ Homa DM, Neff LJ, King BA, et al. Vital Signs: Disparities in nonsmokers' exposure to secondhand smoke — United States, 1999–2012. *MMWR Morb Mortal Wkly Rep* 2015; 64(04):103-108; https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6404a7.htm?s_cid=mm6404a7_w

housing residents in the U.S. are currently covered by smoke-free building policies.^{9,10} More than 585 municipalities across the U.S. have enacted policies or laws that partially restrict or fully prohibit smoking in private units of multi-unit public housing buildings.¹¹ While SB 817 does not compel common ownership communities to make their properties smoke-free, the bill does require them to develop a comprehensive smoking policy that outlines locations where smoking and vaping are allowed and prohibited on the property, conditions that allow individuals to smoke/vape in otherwise prohibited areas, a process to file complaints, and any penalties for policy violations. Importantly, SB 817 does not prevent local jurisdictions from passing more stringent smoking laws or impede nuisance smoking lawsuits.

As written, SB 817 would only apply to common ownership communities and would not impact the approximately 868,000 Maryland residents who live in apartments, many of whom are lower income and at risk for poor health outcomes.¹² The Council feels including residential smoking policies in multifamily dwellings would be a meaningful step toward reducing exposure to secondhand smoke and improving the health of Maryland residents. We respectfully ask for the Committee to approve SB 817 and consider further extending its benefits to all multifamily dwellings.

Sincerely,

A handwritten signature in black ink that reads "Jessica Kiel". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Jessica Kiel, M.S., R.D., Chair, State Advisory Council on Health and Wellness

⁹ American Lung Association (2022). Smokefree Policies in Multi-Unit Housing;

<https://www.lung.org/policy-advocacy/tobacco/smokefree-environments/multi-unit-housing>

¹⁰ Licht AS, King BA, Travers MJ, et al. Attitudes, experiences, and acceptance of smoke-free policies among US multiunit housing residents. *American Journal of Public Health*. 2012 Oct; 102(10):1868–1871; <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3490662/>

¹¹ American Nonsmokers' Rights Foundation (2023). Smokefree Multi-Unit Housing Policies: Where Are We Now?

<https://no-smoke.org/smokefree-multi-unit-housing-policies-now/#:~:text=Hawaii%2C%20Maine%2C%20Montana%2C%20New.the%20states%20housing%20finance%20agencies>.

¹² National Multifamily Housing Council. Geography of Apartment Residents. Accessed 27 January 2023 at

<https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-resident-demographics/geography-of-apartment-residents/>

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Position: UNF

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February 27, 2023

Hon. Delegate Kumar Barve
Hon. Delegate Dana Stein
Environment and Transportation Committee
251 House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: SB 817 – Multifamily Dwellings -Smoking Policies
Hearing: February 28, 2023 Position: Oppose

Dear Chair Barve & Vice Chair Stein, and Committee Members:

This letter is submitted on behalf of the Maryland Legislative Action Committee (“MD-LAC”) of the Community Associations Institute (“CAI”). CAI represents individuals and professionals who reside in or work with condominiums, homeowners associations and cooperatives throughout the State of Maryland.

MD-LAC is writing today to voice our opposition for SB 817 which requires a multi-family dwelling (condominium or cooperative association) with four or more units to adopt a policy to set forth where smoking is both permitted and prohibited on the property of the multi-family dwelling. Such bill also requires a multi-family dwelling to establish a process to file a complaint against violators of such smoking policy and set forth any penalties or fines for violation of the policy.

While some condominium or cooperative associations may have a smoking policy in place, there are significant challenges to enforcing such a policy. The bill does not address concerns within the community association industry pertaining to enforcement of such policies. It is exceptionally

difficult for a community association to penalize violators of a no-smoking policy because there is often insufficient proof of the source of the smoke. Smoking complaints are often unsubstantiated claims from a resident who believes smoke is emanating from a nearby unit or common area but has no definitive proof of such claim. By mandating a multi-family dwelling to adopt such a policy, the bill is inadvertently requiring a multi-family dwelling to enforce such a policy when that is difficult, if not impossible, to do. This could lead to claims against the multi-family dwelling for failing to enforce such a policy. Therefore, multi-family dwellings should have autonomy to determine if such a policy is prudent for their community and whether enforcement is possible.

In addition, although the bill requires the multi-family dwelling to create a policy on any “lighted matter” or “lighted substance,” this bill does not address the recent legalization of marijuana in the state of Maryland. Multi-family dwellings must first have guidance from the state on whether recreational marijuana can be prohibited in multi-family dwellings before a policy on smoking can be required. Housing providers are already faced with Fair Housing accommodation requests with respect to medical or medicinal marijuana and should not now be forced to decide between a potential discrimination claim from the user of medical marijuana and enforcement of a mandatory no-smoking policy.

Accordingly, the MD-LAC respectfully request that the Committee does not give SB 817 a favorable report.

We are available to answer any questions which you may have. Please feel free to contact any of the individuals listed: Lisa Harris Jones, CAI MD-LAC lobbyist, at 410-366-1500 or by email at lisa.jones@mdlobbyist.com; Hillary Collins, Esq., member by email at hcollins@reesbroome.com; or Steven Randol, Chair 410-695-2183, or srandol@pineyorchard.com

Sincerely,

Steven Randol

Steven Randol
Chair, CAI MD-LAC

Hillary Collins

Hillary Collins, Esq., CIRMS
Member, CAI MD-LAC

CAI is a national organization dedicated to fostering vibrant, competent, harmonious community associations for more than thirty years. Its members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to common interest associations. As part of its mission, CAI advocates for legislative and regulatory policies that support responsible governance and effective management. As part of this purpose state Legislative Action Committees represent CAI members before state legislatures and agencies on issues such as governance, assessments collection, insurance and construction defects.

Maryland Legislative Action Committee
Post Office Box 6636
Annapolis, Maryland 21401

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Position: INFO



DEPARTMENT OF HEALTH

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

February 28, 2023

The Honorable William C. Smith Jr.
Chair, Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401-1991

RE: SB 817 - Multifamily Dwellings - Smoking Policies - Letter of Information

Dear Chair Smith:

The Maryland Department of Health (MDH) submits this letter of information for Senate Bill 817 (SB 817) entitled “Multifamily Dwellings - Smoking Policies”. SB 817 requires the governing body of a common ownership community to develop a smoking policy if the property subject to control of the governing body is a multifamily dwelling.

The current definition for “smoking” outlined in the bill would include tobacco, other lighted matter/substances (i.e., cannabis), and electronic smoking devices (i.e., vapes, electronic cigarettes, etc.). Exposure to secondhand smoke (SHS), secondhand vape (SHV), and cannabis smoke are major concerns. SHV, the aerosol users exhale from ESDs, is not harmless water vapor and contains many of the same toxic chemicals found in cigarette smoke.¹ An estimated 28 million U.S. residents living in multifamily dwellings are exposed to SHS each year.² Data collected during the COVID-19 pandemic reveal that about one-third of Maryland high school students live with a current tobacco smoker (31 percent) and report recent exposure to SHS (35 percent).³ Only 1 in 3 multifamily housing residents in the U.S. are currently covered by smoke-free building policies.⁴ The home is the primary source of SHS exposure among children. Smoke-free policies are the most effective way to fully protect residents and children from involuntary exposure to SHS.⁵ SB 817 focuses on housing such as condominiums. However,

¹ American Non-Smokers’ Rights Foundation, “Electronic Smoking Devices and Secondhand Aerosol,” 1 January 2023, Accessed 30 January 2023, at <<https://no-smoke.org/electronic-smoking-devices-secondhand-aerosol/>>.

² State Tobacco Activities Tracking and Evaluation (STATE) System, Secondhand Smoke Exposure in Multiunit Housing Facilities Is Detrimental to the Health of Children and Nonsmoking Adults, 25 October 2022, U.S. Center for Disease Control and Prevention, Accessed on 29 January 2023, <https://www.cdc.gov/statesystem/factsheets/multiunithousing/MultiUnitHousing.html#:~:text=Approximately%2080%20million%20residents%20in%20the%20United%20States,savings%20for%20multi-unit%20housing%20operators%20and%20society.%20%2C9%2C10> >.

³ Maryland Department of Health. 2021 Youth Pandemic Behavior Survey Detailed Report; <https://health.maryland.gov/phpa/ohpetup/Documents/2021%20Youth%20Pandemic%20Behavior%20Survey%20Detailed%20Report.pdf>

⁴ Going Smoke-free Matters Multiunit Housing, U.S. Centers for Disease Control and Prevention, Accessed on 29 January 2023, <https://www.cdc.gov/tobacco/infographics/policy/pdfs/going-smokefree-matters-multiunit-housing-infographic.pdf#:~:text=Approximately%201%20in%203%20multiunit%20housing%20residents%20are,have%20chosen%20to%20make%20th%20eir%20own%20homes%20smokefree.5> >.

⁵ State Tobacco Activities Tracking and Evaluation (STATE) System, Secondhand Smoke Exposure in Multiunit Housing Facilities Is Detrimental to the Health of Children and Nonsmoking Adults, 25 October 2022, U.S. Center for Disease Control and Prevention, Accessed on 29 January

including all multiunit housing residences would be considered comprehensive and further promote health equity. Lower income residents, who have fewer housing alternatives, often have more exposure to SHS, and are thus at risk of adverse health outcomes associated with SHS.⁶ Studies show most multifamily housing residents want smoke-free policies.⁷ One major concern has been the potential results of enforcing such a policy. However, smoke-free policies do not require individuals to quit smoking or limit housing approvals based on smoking status. Rather, these policies could designate areas where individuals have access to smoke outdoors in order to protect those indoors and across units. Developing such policies will necessitate a concerted effort among housing providers, residents, health departments, and community partners.

SB 817, as written, would not have a significant impact on MDH, as most communication regarding implementation of the smoking policies would likely come from the individual governing bodies for the housing units.

If you have any further questions, please contact Megan Peters, Acting Director of Governmental Affairs at megan.peters@maryland.gov or (410) 260-3190.

Sincerely,



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

2023, <https://www.cdc.gov/statesystem/factsheets/multiunithousing/MultiUnitHousing.html#:~:text=Approximately%2080%20million%20residents%20in%20the%20United%20States,savings%20for%20multi-unit%20housing%20operators%20and%20society.%208%2C9%2C10> >.

⁶ People with Low Socioeconomic Status Need More Protection from Secondhand Smoke Exposure, 27 June 2022, U.S. Center for Disease Control and Prevention, Accessed on 29 January 2023 <https://www.cdc.gov/tobacco/health-equity/low-ses/secondhand-smoke.htm> >.

⁷ Andrea Licht, Brian King, et al. "Attitudes, Experiences, and Acceptance of Smoke-Free Policies Among US Multiunit Housing Residents, American Public Health Association, Accessed on 29 January 2023, <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2012.300717?searchHistoryKey=&prevSearch=%5BTitle%3A+attitudes%5D+and+%5BContrib%3A+hyland%5D> >.