

MARYLAND RETAILERS ALLIANCE

The Voice of Retailing in Maryland



**SB1056 Cigarettes, Other Tobacco Products, and Electronic Smoking Devices -
Revisions (Tobacco Retail Modernization Act of 2024)
Economic Matters Committee
March 28th, 2024**

Position: Amend

The Maryland Retailers Alliance (MRA) has serious concerns about the overall impact of SB1056 on businesses in Maryland. SB1056 would create a monopoly for the electronic tobacco product market and would prohibit retailers with a pharmacy permit from selling any tobacco products. As a proponent of the free market, we strongly oppose the changes which would restrict access to legal, regulated products for purchase by adults. No other state has established a monopoly for the sale of electronic products, and the proposed changes would have an extremely adverse impact on cigarette and vape retailers in Maryland.

Marylanders are accustomed to being able to buy a variety of goods outside of the primary categories of food and medicine at both grocery stores and pharmacies, with retail pharmacies often meeting consumer needs by operating as a small general store in many communities. Additionally, convenience stores provide a one-stop-shop with a selection of ready-to-eat food, groceries and paper products, automotive items, and tobacco products. Restricting access to legal products may drive consumers to shop in jurisdictions outside of Maryland. This is of concern to not only our convenience stores and retail chain drug stores but also grocery stores in Maryland that provide a pharmacy counter in their community. The prohibition on tobacco sales for any retailer with a pharmacy permit imposes unfair and unavoidable competition within the grocery industry as food retailers that do not have pharmacies may continue to sell tobacco products but those that fulfill their community's need for medication access may not.

Our membership does not disagree with an intent to address minors' illegal use of tobacco products and supports heightened enforcement of existing laws; however, additional sales prohibitions and the creation of an industry monopoly are not necessary, nor would they be ultimately the most effective option for reducing use. Restricting or prohibiting the sale of products is often well-intentioned and seems like the simplest solution to curb use: ban or make it difficult for customers to buy their preferred products, and they will stop using them. We know from cases around the country where governments have passed local flavored tobacco bans that this is not an overall effective policy. Adults who cannot conveniently purchase legal, federally regulated tobacco products in Maryland will go to another market to buy the items that they are looking for. There are over 1,600 tobacco retailers within ten miles of Maryland's border in neighboring jurisdictions and no Marylander lives farther than 35 miles from a tobacco retailer across the state line. Those who face new barriers to purchasing cigarettes or

electronic products in their community will cross borders, and consumers who cannot travel can get their products online instead which may be unregulated or difficult to trace.

We support a regulated industry, and that includes making sure that the products that are available to adult customers are vetted items and that Maryland has a strong enforcement mechanism to ensure that children do not access these items. The tobacco and retail industries have proffered a variety of solutions to our concerns with this proposal, including:

- Requiring businesses to scan IDs upon the sale of all tobacco products
- Implementing an escalating tiered system of penalties for the sale of products to minors, up to and including the complete loss of a retailer's license

On the bill as amended in the Senate, we would respectfully request the following amendments:

- On Page 10, Line 1, strike "an electronic smoking devices";
- On Page 10, Line 3, strike "**EXCLUSIVELY**";
- On Page 11, Line 23, strike "**\$300**" and substitute "**\$400**";
- On Page 12, Line 1, strike "**\$275**" and substitute "**\$375**";
- On Page 25, Line 21, remove the brackets around "and";
- On Page 25, Line 26, strike "AND"; and
- On Page 25, Lines 27 through 30, strike from "(24) May not sell" through "Regulation Article".

These amendments will allow convenience store and cigarette/OTP licensees to obtain a "vape shop vendor" license, increase the license fee to \$400, and allow pharmacy licensees to continue to sell tobacco products and pursue a vape license should they choose to do so. The increased license fee amount would be fully remitted to the Department of Health for enforcement. Allowing pharmacy licensees to continue their current operations will reduce the risk of exacerbating grocery and pharmacy desert issues in Maryland. Grocery stores operate on 1-3% profit margins and pharmacies also operate on low profit margins. Eliminating tobacco products from being sold at any store with a pharmacy license will adversely impact these businesses; one grocery store member with stores throughout Maryland calculated an annual loss of \$7-10 million across the state should this prohibition pass.

Thank you for your consideration.