

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 597 (Delegate Platt, *et al.*)
Economic Matters

Public Health - Clean Indoor Air Act - Repeal of Exception Regarding Hotel and Motel Rooms

This bill repeals the exception under the Clean Indoor Air Act (CIAA) for a hotel or motel room where the total percent of rooms being so used (for smoking) does not exceed 25%; thus, any hotel or motel room in Maryland is subject to CIAA.

Fiscal Summary

State Effect: The Department of Health and Mental Hygiene (DHMH) can revise regulations and conduct outreach and education regarding the bill's changes with existing resources. Special fund revenues may increase minimally, to the extent the bill results in additional fines that are paid to the Cigarette Restitution Fund.

Local Effect: Enforcement can be handled with existing resources. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: Pursuant to CIAA, except as otherwise specified, a person may not smoke in (1) an indoor area open to the public; (2) an indoor place in which meetings are open to the public; (3) a government-owned or -operated means of mass transportation; (4) an indoor place of employment; (5) a private home used by a licensed child care provider; or (6) a private vehicle used for public transportation of children or as part of health care or day care transportation. The prohibition includes bars, clubs, restaurants, pubs, taverns,

retail establishments, theaters, concert halls, athletic facilities, financial service institutions, government buildings, educational institutions, museums, and libraries.

However, the prohibition does not apply to (1) private homes or residences; (2) private vehicles; (3) a hotel or motel room as long as the total percent of rooms so used does not exceed 25%; (4) specified tobacco facilities and retail businesses; or (5) a laboratory for the purpose of conducting scientific research into the health effects of tobacco smoke. CIAA defines “smoking” as the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

CIAA required DHMH to adopt regulations that prohibit environmental tobacco smoke in indoor areas open to the public. A person who violates the DHMH regulations is subject to a written reprimand for a first violation, a civil penalty of \$100 for a second violation, \$500 for a third violation, and \$1,000 for each subsequent violation, unless otherwise waived by DHMH after the department considers the seriousness of the violation and good faith measures. (Statute requires that the civil penalty for third and subsequent violations be at least \$250.) However, an employer who takes certain retaliatory actions against an employee (who has complained or taken other actions related to violations) is subject to a civil penalty of at least \$2,000 but no more than \$10,000 for each violation. All civil penalty revenue is paid to the Cigarette Restitution Fund.

Background: According to the American Nonsmokers’ Rights Foundation, as of January 2017, five states (Indiana, Michigan, North Dakota, Vermont, and Wisconsin) prohibit smoking in *all* hotel and motel rooms. At least 121 local jurisdictions throughout the country also do so (this number does not include jurisdictions in a state that prohibits smoking). Additionally, a November 2016 survey by the American Hotel and Lodging Association found that 97% of hotels offered nonsmoking rooms as an option – an all-time high.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Department of Health and Mental Hygiene; American Nonsmokers’ Rights Foundation; American Hotel and Lodging Association; Department of Legislative Services

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