



Montgomery County

Office of Intergovernmental Relations

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HB 732

DATE: February 18, 2020

SPONSOR: Delegates Luedtke & Peña-Melnyk

ASSIGNED TO: Ways and Means and Economic Matters

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POSITION: SUPPORT WITH AMENDMENT (Department of Health and Human Services)

Electronic Smoking Devices, Other Tobacco Products, and Cigarettes – Taxation and Regulation

This bill (1) increases the tobacco tax rate from \$2.00 to \$4.00 per pack of cigarettes; (2) generally increases the other tobacco products (OTP) tax rate from 30% to 86% of the wholesale price; (3) imposes an electronic smoking device tax equal to 86% of the wholesale price; (4) requires the Governor to include at least \$21 million in annual funding for the Tobacco Use Prevention and Cessation Program; (5) removes the prohibition from local governments imposing a tax on OTP and cigarettes; and (6) alters the definitions of electronic smoking devices and OTP.

Montgomery County Department of Health and Human Services supports House Bill 732 because increases in tobacco taxes decrease tobacco use: raising taxes on tobacco and thereby increasing its price is one of the most effective ways to reduce tobacco use. Prices affect virtually all measures of cigarette use, including per-capita consumption, smoking rate, and the number of cigarettes smoked daily.¹⁻⁴ These effects apply across a wide range of racial and socioeconomic groups.⁵

Currently in Montgomery County, an excise tax is imposed on distributors of electronic smoking devices in the County at the rate of 30% of the wholesale price of the electronic smoking device. Montgomery County is concerned about the youth vaping epidemic and feels strongly that our local taxing authority should be preserved because scientific research has found that youth vaping is sensitive to price increases.⁶ We ask the Committee to preserve County authority to tax electronic smoking devices with the attached amendments and issue a favorable report.

¹ U.S. Department of Health and Human Services. The health consequences of smoking – 50 years of progress: a report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health;2014.

² Hu TW, Sung HY, Keeler TE. Reducing cigarette consumption in California: tobacco taxes vs an anti-smoking media campaign. *American journal of public health.* 1995;85(9):1218-1222

³Ahmad S, Franz GA. Raising taxes to reduce smoking prevalence in the US: a simulation of the anticipated health and economic impacts. *Public health.* 2008;122(1):3-10.

⁴ Hu TW, Ren QF, Keeler TE, Bartlett J. The demand for cigarettes in California and behavioral risk factors. *Health economics.* 1995;4(1):7-14.

⁵ Centers for Disease Control and Prevention. Response to increases in cigarette prices by race/ethnicity, income, and age groups-- United States, 1976-1993. *MMWR Morbidity and mortality weekly report.* 1998;47(29):605-609.

⁶ Pesko, M. F., Huang, J., Johnston, L. D., & Chaloupka, F. J. (2018). E-cigarette price sensitivity among middle- and high-school students: evidence from monitoring the future. *Addiction (Abingdon, England)*, 113(5), 896–906.

<https://doi.org/10.1111/add.14119>

House Bill 732 – Proposed Amendments
Requested by Maryland Association of Counties (MACo)

Amendment 1

On page 2, after line 34, insert:

“BY repealing and reenacting, with amendments
The Public Local Laws of Montgomery County
Section 52-17(b)
Article 16 – Public Local Laws of Maryland
(2004 Edition and July–August 2019 Supplement)””.

Amendment 2

On page 18, after line 26, insert:

“SECTION 3. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 16 – Montgomery County

Section 52-17.

(b) Provided, that the Council shall not have the power to impose any tax upon any alcoholic beverages, intangible personal property or upon the subject matter of Annotated Code of Maryland, 1957, Sections 135 to 157 of Article 56 (Gasoline Tax); Sections 3-601.1, 3-801 to 3-824, 11-706, 14-112 of Article 66 1/2 (Motor Vehicle Registration); Section 3-831 of Article 66 1/2 (Titling Tax); Sections 181 to 190 of Article 56 and Section 273 of Article 81 (Motor Vehicle Taxation); Section 9(32) of Article 81 (Class A and Class D Motor Vehicles); Sections 279 to 323 of Article 81 (Tax on Incomes); Article 78B (Horseracing and Pari-mutuel Betting); Sections 194 and 195 of Article 81 (Bonus Tax); Sections 197 to 201 of Article 81 (Tax on Franchise to a Corporation); Sections 129 and 130 of Article 23 (Recording Corporate Papers); Section 128 of Article 81 (Deposits of Savings Banks); Sections 135 to 143 of Article 81 (Insurance Premiums); Sections 149 to 193 of Article 81 (Inheritances); Article 62A (Estate Tax); or Section 144 of Article 81 (Tax on Commissions of Executors and Administrators); **or** Sections 431 to 464 of Article 81 (State Tobacco Tax Act) **or** Sections 12-A and 12-B of Article 81 (Sales Tax and Gross Receipt Tax on Advertising, etc.) to the extent applicable; or any other tax prohibited to a political subdivision of this state by any applicable statewide law; nothing in this Section shall be construed to authorize the County to impose a tax upon the gross receipts of any person in the County; provided, however, that the County in taxing the receipts, from motor vehicle operations, may only tax receipts from operations of motor vehicles having a permit from the Public Service Commission of Maryland authorizing both the taking on and discharging of passengers at more than one point within the County and/or the transportation of passengers between 2 or more points within the County.

On page 18, in line 27, strike “**SECTION 3**” and substitute “**SECTION 4**”.

Amendment 3

On page 8, in line 14, strike “[“. In line 15, strike “not”. In line 15 insert “**Electronic Smoking Devices,**” after “a tax on cigarettes”. And in line 16 strike “,” after “or”, and strike “]”.

Amendment 4

On page 8, after line 11, insert:

"NOTHING IN THIS SUBTITLE IS TO BE CONSTRUED AS PREEMPTING OR ABRIDGING THE TAXING AUTHORITY GRANTED UNDER SECTION 52-17 OF THE MONTGOMERY COUNTY CODE, SECTION 11-102 OF THE BALTIMORE COUNTY CODE, OR ARTICLE 11, SECTION 40 OF THE BALTIMORE CITY CHARTER."