



2021 SESSION POSITION PAPER

BILL: HB 1011 - Cigarettes, Other Tobacco Products, and Electronic Smoking Devices – Local Law Authorization
COMMITTEE: House Economic Matters Committee
POSITION: Support
BILL ANALYSIS: HB 1011 would abrogate the holding of the Maryland Court of Appeals in *Altadis U.S.A., Inc. v. Prince George’s County*, 431 Md. 307 to allow a county or municipality to enact and enforce local laws relating to the sale and distribution of tobacco products that are at least as stringent as state law.

POSITION RATIONALE: The Maryland Association of County Health Officers (MACHO) supports HB 1011 because it would codify public health policy shown to reduce tobacco use.¹ By enabling local jurisdictions to enact and enforce laws relating to the sale and distribution of tobacco products that are more stringent than state laws, HB 1011 would create opportunities for local jurisdictions to build upon policies adopted by the state legislature. Maryland counties and municipalities have been unable to take such actions since 2013 when the Maryland Court of Appeals held that state law preempted local laws regarding tobacco control in the *Altadis* decision. HB 1011, if enacted, would be a clear statement by the General Assembly that local authority to exceed the tobacco control measures regarding sale and distribution in state law is the express intent of the body.

The ability to legislate at the local level regarding the sale and distribution of tobacco products is important for these reasons: First, the local legislative process can act more quickly and responsively to local needs than the state legislative process. For example, when the Prince George’s County bill that gave rise to the *Altadis* case was considered by the County Council, the local health department and local police department supported the bill and cited their knowledge of local issues in their testimony and feedback on drafts of the bill, which were incorporated into the final bill by the County Council.² However, without HB 1011, if a county now sees the opportunity for legislative action based on local issues but is forced to appeal to the state legislature for a state-wide policy solution, what may be appropriate for, and responsive to, one county’s experience may not be the case for every other county in the state and a consensus on a state-wide bill could not be reached. Second, the tobacco industry prefers to lobby at the state-level rather than the local level because of the difficulty it encounters in influencing local policymaking.³

To enable counties to enact tobacco control solutions that best meet their needs, and to limit the reach of the Big Tobacco lobby, the Maryland Association of County Health Officers submits this SUPPORT position for HB 1011. For more information, please contact Ruth Maiorana, MACHO Executive Director at rmaiora1@jhu.edu or 410-937-1433. *This communication reflects the position of MACHO.*

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¹ “A broad consensus exists among public health practitioners and tobacco control advocates that preemption has an adverse impact on tobacco control efforts.” Mowery, P.D., Babb, S., Hobart, R., Tworek, C., MacNeil, A. “The Impact of State Preemption of Local Smoking Restrictions on Public Health Protections and Changes in Social Norms”, *Journal of Environmental and Public Health*, (2012). vol. 2012, . <https://doi.org/10.1155/2012/632629>, “Research has documented the effectiveness of laws and policies in a comprehensive tobacco control effort to protect the public from secondhand smoke exposure, promote cessation, and prevent initiation...” Centers for Disease Control and Prevention. Best Practices for Comprehensive Tobacco Control Programs—2014. Atlanta: 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 See “Action Summary”, <https://princegeorgescountymd.legistar.com/View.ashx?M=F&ID=4035940&GUID=1838DF24-F801-4E98-BEE6-CFE0CC349DE8>.

³ A former Maryland lobbyist for the tobacco industry said it bluntly to the *Journal of the American Medical Association*: “We could never win at the local level.” Skolnick, A. (1995). Cancer Converts Tobacco Lobbyist: Victor L. Crawford Goes On the Record. *JAMA*, 274(3), 199-202.