



TO: Chair Delores Kelley and Members of the Finance Committee
FROM: Shawn McIntosh, Executive Director, Sugar Free Kids Maryland
Representing LOCAL Maryland
DATE: February 11, 2021
RE: SB 378 - Baltimore City – Cigarettes, Other Tobacco Products, and Electronic Smoking
Devices – Local Laws Authorization
POSITION: **Support**

I am writing as the lead representative of LOCAL (Let Our Communities Act Locally) Maryland, a statewide coalition of community, labor, faith and business organizations, committed to protecting the ability of local elected officials to pass laws that support healthy families, a clean environment and good jobs for the people of our state. Because our membership includes organizations from multiple sectors, ranging from the American Heart Association to the Public Justice Center, not every organization has a position on tobacco regulations. Our stance as a coalition is not based on the merits of various tobacco laws, but instead on a philosophy that the state law should be setting a universal floor and that local jurisdictions should have the ability to exceed it. LOCAL Maryland also believes that cities and counties should be able to introduce legislation that is intended to improve the health and quality of life of their residents without the threat of an implied preemption court challenge.

LOCAL Maryland recognizes that one size will not always fit all when it comes to our state laws. Maryland's cities and counties are extremely diverse. All localities should have the ability to pass laws that support healthy families, a clean environment and good jobs for people in the community. Baltimore City is certainly no exception, and they should have the ability to pass policies that can address their specific tobacco-related problems.

However, in 2008, several local jurisdictions including Baltimore City attempted several policy change strategies designed to curb tobacco usage rates, including a series of regulations concerning tobacco packaging, which then was challenged in the Maryland Court of Appeals.¹ Citing existing Maryland statutes, the Court held that the state had intended to fully occupy the field of regulating the sale, distribution, and packaging of tobacco and tobacco-related products, resulting in implied preemption.²

The Court of Appeals decision invalidated two significant city health codes that had long lasting, negative impacts on their ability to fully enforce tobacco laws in a manner that would be most beneficial to public health.

Senate Bill 378 would enable Baltimore City to more effectively enforce existing tobacco laws and introduce more effective policies for tobacco regulation to reduce smoking. Maryland has passed a number of successful policies to regulate the sale and distribution of tobacco products. Those laws should be setting the floor for cities and counties. All localities should have the ability to exceed the Maryland standards.

The tobacco and retail industries may argue that having a patchwork of regulations is too difficult to manage. However, they are already managing a patchwork of regulations nationally, regionally and within the state. It's a false narrative. LOCAL Maryland urges you to pass Senate Bill 378.

¹ *Altadis U.S.A., Inc., et al. v. Prince George's County, Maryland*, 431 Md. 307 (2013)

² *Ibid.*