



2021 SESSION POSITION PAPER

BILL: Senate Bill 378 – Baltimore City - Cigarettes, Other Tobacco Products, and Electronic Smoking Devices – Local Laws Authorization

COMMITTEE: Senate Finance Committee

POSITION: Letter of Support

BILL ANALYSIS: Senate Bill (SB) 378 would authorize Baltimore City to enact and enforce local laws regulating sale and distribution of cigarettes, other tobacco products, and electronic smoking devices, subject to certain exceptions.

POSITION RATIONALE: The Maryland Association of County Health Officers (MACHO) supports SB 378 because it would codify public health policy that has been shown to reduce tobacco use.¹ By enabling Baltimore City to enact and enforce laws relating to the sale and distribution of tobacco products that are more stringent than state laws, SB 378 would create opportunities for the City 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. SB 378, 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 SB 378, if the City 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, a consensus on a state-wide bill may 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

Baltimore City has the highest per capita tobacco retailers in the entire state with over 1600 currently. SB 378 will give the City health department the tools they need to protect the health of their City residents.

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.

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 letter of support for SB 378. 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.*

615 North Wolfe Street, Room E 2530 // Baltimore, Maryland 21205 // 410-937-1433