CITY OF BALTIMORE

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Mayor

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March 2, 2022

TO: Members of the House Economic Matters Committee

FROM: James L. Shea, City Solicitor

RE: HOUSE BILL 442 – Baltimore City - Cigarettes, Other Tobacco Products, and Electronic Smoking Devices - Local Laws Authorization

POSITION: SUPPORT

Chair Wilson, Vice Chair Crosby, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** House Bill (HB) 442.

HB 442 would operate to overturn the case of Altadis U.S.A., Inc. et al. v. Prince George's County, Maryland, 431 Md. 307 (2013) in Baltimore City only. The case struck down two Prince George's County's ordinances concerning the packaging, sale, and distribution of cigars. The Court of Appeals wrote: "We shall hold that state law occupies the field of regulating the packaging and sale of tobacco products, including cigars, and thus impliedly preempts the two ordinances enacted by the County Council of Prince George's County." The Court determined that the General Assembly meant for Section 16-101, et. seq. of the Business Regulation Article of the Maryland Code to prevent local regulation of packaging and sale of tobacco products. HB 442 would give express permission to allow Baltimore City to regulate the packaging and sale of tobacco products locally.

To be clear, the Altadis decision does not prevent local governments from regulating where people can smoke, criminal laws on sales to minors, or laws concerning product placement or advertising. Rather, the Altadis decision is limited to the packaging and sale of tobacco products. It prevents the City from enforcing two Subtitles of the Baltimore City's Health Code: Subtitle 2 (Sale of Unpackaged Cigarettes) and Subtitle 6 (Flavored Tobacco Wrappings) of Title 12 of the City Health Code. It also prevents the City from enacting additional laws on these topics.

We respectfully request a **favorable** report on House Bill 442.