



**Bill No:** HB 1295—Multifamily Dwellings- Smoking Policies

**Committee:** Environment and Transportation

**Date:** 3/8/2022

**Position:** Unfavorable

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

House Bill 1295 requires a housing provider or governing body of a condo community of 4 or more units to develop a smoking policy for multifamily dwellings. The policy must include the locations where smoking is authorized and prohibited on the property and the conditions for areas where smoking is allowed. Housing providers must establish a process to file a complaint against violators of the smoking policy and provide any penalties or fines for the violation.

While some housing providers currently add a smoking policy or addendum to their leases, there are significant challenges to enforcing those policies. This bill does not address industry concerns over the ability to properly enforce the smoking policies mandated by this bill. It is difficult for many housing providers to penalize violators of a no-smoking policy because they often lack sufficient proof. Many of the complaints brought to a housing provider are unsubstantiated claims from residents who believe they smell smoke from a nearby unit or common area. In some ways, this bill highlights issues with existing smoking policies; mandating every property develop a smoking policy will not resolve the issue of residents smoking in unauthorized locations.

HB 1295 also creates liability concerns for housing providers when enforcing the policy and trying to police residents' behavior in their own homes. In the instance that a resident receives sanctions for a violation of the policy, if the resident later causes fire damage resulting from behavior in violation of the policy, AOBA members fear a neighboring resident could hold the housing provider liable for the subsequent fire. If the housing provider was notified of the issue, imposed penalties based on that notification

and the behavior continues ultimately harming neighbors, members feel they could face a lawsuit for not taking sufficient action to prevent that resident from smoking again. Establishing a smoking policy on residential properties shifts the liability from a resident to the housing provider by implementing a hard-to-enforce policy.

**For these reasons, AOBA requests an unfavorable report on HB 1295.**

For further information, contact Ryan Washington, AOBA Government Affairs Manager, at 202-770-7713 or [rwashington@aoba-metro.org](mailto:rwashington@aoba-metro.org).