



Senate Bill 99

Cigarettes, Tobacco Products, and Electronic Smoking Devices – Local Law Authorization

MACo Position: **SUPPORT**

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To: Finance Committee

From: D'Paul Nibber

The Maryland Association of Counties (MACo) **SUPPORTS** SB 99 as the bill would reverse a Maryland Court of Appeals decision that preempts local tobacco regulation.

Tobacco usage results in cancer, heart disease, and several chronic diseases. It impacts health across Maryland, but those impacts are felt disproportionately in certain jurisdictions. A one-size-fits-all approach to addressing the insidious effects of tobacco has ensured certain jurisdictions, many already tackling a number of health disparities, have been left behind. This approach was forced upon the State by the Maryland Court of Appeals in *Altadis v. Prince George's County*.

In 2013, the Maryland Court of Appeals ruled that a Prince George's County ordinance regulating the size of cigar packs was preempted by the General Assembly. The broad, and most pervasive, interpretation of the ruling in *Altadis v. Prince George's County* is that local governments may not regulate the packaging, sale, and distribution of tobacco products, including cigars, as state law has occupied that field.

Without ever passing a law that actually states local governments are preempted in this field, the State has effectively created this as its policy. This "implied preemption" has denied communities a tool to respond to local problems, and to go beyond the floor set by the statewide laws enacted by the General Assembly. Worse, it has impeded the enforcement of state law since county agencies, especially health departments, are unable to issue violations under equivalent local laws.

SB 99 would allow local governments to regulate the sale and distribution of tobacco products, while not impeding existing state law concerning licensing schemes or taxes. This is important as local governments are best situated to understand the dynamic of tobacco use and the needs of their communities.

While there are state criminal laws prohibiting tobacco sales to minors, there is no state agency that actively enforces the law. Consequently, in many jurisdictions, it is up to the local health departments – to the limited extent they can under law – to enforce prohibitions preventing youth access and sales to minors. At least 10 counties have enacted and enforce such laws, meaning they have the infrastructure necessary to implement broader reforms addressing tobacco usage if need be.

This bill would return proper authority to local governments to manage tobacco access concerns at the local level. MACo **SUPPORTS** SB 99 and urges a **FAVORABLE** report.