

ALA_MD Preemption Testimony - SB 99.pdf

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Position: FAV



American Lung Association Testimony Senate Bill 99
Finance Committee
January 27, 2022
Support

Chairwoman Kelley and Members of the Committee:

Thank you for the opportunity to provide comments on Senate Bill 99, Cigarettes, Other Tobacco Products, and Electronic Smoking Devices – Local Law Authorization sponsored by the Senator Kramer. The American Lung Association **strongly supports** this bill as an integral way to address tobacco usage especially among youth.

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education and advocacy. The work of the American Lung Association is focused on four strategic imperatives: to defeat lung cancer; to improve the air we breathe; to reduce the burden of lung disease on individuals and their families; and to eliminate tobacco use and tobacco-related diseases.

In data from the 2021 National Tobacco Youth Survey, e-cigarette use among high school and middle school students continue to show epidemic levels with more than 2 million high school and middle school students using e-cigarettes. The American Lung Association is particularly alarmed at the frequency of use by teens: 43.6% of high school students who use e-cigarettes are vaping regularly (20 or more of the past 30 days), and more than 1 in 4 (27.6%) are vaping daily. In Maryland 22.5% of high school students use a tobacco product and 15% of students report using multiple tobacco products. The tobacco industry has continued to target youth users with marketing of flavored tobacco products which makes them appealing to youth, with many of them not realizing that these products contain nicotine. The report shows that 85% of youth use flavored e-cigarettes. As a result, we are setting our kids up for a lifetime of addiction and losing the opportunity for the first tobacco-free generation.

In Maryland, local governments have been stripped of their power to fully protect residents from the devastating effects of tobacco use as a result of a contentious 2013 court ruling, *Altadis v. Prince George's County* which was brought by the tobacco industry and prevented Prince George's County and other jurisdictions from passing new laws regulating tobacco products. Prior to this 2013 court ruling local governments in Maryland had the power under the Maryland Constitution and Code to enact local laws related to smoking, tobacco use, and sale of tobacco products.

Senate Bill 99 **restores** the authority that local governments in Maryland **once had** by allowing local governments to enact and enforce local tobacco control laws. Tobacco control policy in Maryland does not have to exist only at the state or even with the local government. Each level of government brings its own strengths with local governments being uniquely positioned to meet the needs of the people who live in their communities. They see firsthand how effective tobacco control policy can evolve over time, and can respond more quickly to local needs, tailor ordinances to meet those needs and develop effective enforcement measures.

The American Lung Association thanks the Maryland General Assembly for their continued commitment to the health and wellbeing of the residents of Maryland and the desire to protect Maryland youth from a lifelong tobacco and nicotine addiction. The American Lung Association strongly supports Senate Bill 99 which will **restore local authority** over tobacco control and enforcement and encourages swift action to move the bill out of committee and passage by the General Assembly.

Sincerely,

A handwritten signature in cursive script that reads "Aleks Casper".

Aleks Casper
Director of Advocacy, Maryland
202-719-2810
aleks.casper@lung.org

SB0099-FIN_MACo_SUP.pdf

Uploaded by: D'Paul Nibber

Position: FAV



Senate Bill 99

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

MACo Position: **SUPPORT**

Date: January 27, 2022

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.

1- SB 99- FIN - MACHO - LOS.pdf

Uploaded by: Heather Shek

Position: FAV



**2022 SESSION
POSITION PAPER**

BILL: SB 99 - Cigarettes, Other Tobacco Products, and Electronic Smoking Devices –
Local Law Authorization

COMMITTEE: Senate Finance Committee

POSITION: Letter of Support

BILL ANALYSIS: SB 99 would abrogate the holding of the Maryland Court of Appeals in *Altadis U.S.A., Inc. v. Prince George’s County*, 431 Md. 307 to allow a county or municipality to enact and enforce local laws relating to the sale and distribution of tobacco products that are at least as stringent as state law.

POSITION RATIONALE: The Maryland Association of County Health Officers (MACHO) supports SB 99 because it would codify public health policy that has been shown to reduce tobacco use.¹ By enabling local jurisdictions to enact and enforce laws relating to the sale and distribution of tobacco products that are more stringent than state laws, Senate Bill 99 would create opportunities for local jurisdictions 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. Senate Bill 99, 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 Senate Bill 99, if a county 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, what may be appropriate for, and responsive to, one county’s experience may not be the case for every other county in the state and a consensus on a state-wide bill could 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

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 99. 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 and not necessarily that of the administration.*

ACS CAN _ SB 99_ FAV.pdf

Uploaded by: Jocelyn Collins

Position: FAV



American Cancer Society Cancer Action Network, Inc.
655 15th St. NW, Suite 503
Washington, D.C. 20005
fightcancer.org/md

January 27, 2022

The Honorable Delores G. Kelley, Chair
The Honorable Brian J. Feldman, Vice Chair
Members of the Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, MD 21401

RE: SUPPORT OF SB 99 Cigarettes, Tobacco Products, and Electronic Smoking Devices – Local Law Authorization

Dear Chair Kelley, Vice-Chair Feldman and Members of the Senate Finance Committee,

On behalf of the American Cancer Society Cancer Action Network (ACS CAN) and those we serve; I am writing to express **SUPPORT** of SB 99. ACS CAN advocates for public policies that will help prevent cancer at all levels of government. Local control over matters designed to protect the public's health has numerous benefits that are lost when local power is preempted.

Currently, Maryland courts have adopted, albeit inconsistently, a novel theory of State preemption over local actions – finding that counties may be preempted even without any State law explicitly stating so. This principle has been used for years to invalidate multiple local tobacco regulations, and more recently on local pesticide restrictions and land use decisions for energy facilities. *This legislation would clarify, that Maryland localities are able to enact local laws regulating the sale and distribution of cigarettes, other tobacco products, and electronic smoking devices.*

Local authority provides for greater accountability because local lawmakers interact with their constituents on a daily basis. Local policymakers can often quickly identify problems in their community and more easily craft proactive solutions to address the unique needs of their community to make healthier living easier for those who reside, work and play in their community.

Local authority fosters breakthroughs and customized solutions. Local governments are sometimes called the “laboratories of democracy.” This local authority creates an environment where community leaders can pioneer better policies, raising the bar for everyone. This ability to be innovative is especially important when we are still learning what works. Preemptive laws that discourage such breakthroughs in protecting the community's health and safety, can be especially dangerous in years to come.

The development of public policy at the local level creates community debate, education, and engagement in a way that policymaking at the state or federal level generally does not. This engagement creates a broader base of public understanding and usually leads to more sustainable policies.

Again, ACS CAN works at the local, state and federal levels, so it is important for each of these levels of government to work together to implement policies to protect the public's health. It's through working



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together that we save lives. By removing local policymakers and local policies from the process, it effects the ability to implement protective policies.

We ask the committee for a “favorable” report on SB 99.

Sincerely,

Jocelyn Collins
Delaware, Maryland, and Washington D.C. Government Relations Director
American Cancer Society Cancer Action Network
jocelyn.collins@cancer.org
(301)254-0072 (cell)

BaltimoreCounty_FAV_SB0099.pdf

Uploaded by: Joel Beller

Position: FAV



JOHN A. OLSZEWSKI, JR.
County Executive

JOEL N. BELLER
Acting Director of Government Affairs

JOSHUA M. GREENBERG
Associate Director of Government Affairs

MIA R. GOGEL
Associate Director of Government Affairs

BILL NO.: **SB 99**

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

SPONSOR: Senator Kramer

COMMITTEE: Finance

POSITION: **SUPPORT**

DATE: January 27, 2022

Baltimore County **SUPPORTS** Senate Bill 99 – Cigarettes, Tobacco Products, and Electronic Smoking Devices – Local Law Authorization. This bill provides local governments with the autonomy to regulate the sale and distribution of cigarettes, other tobacco products, and electronic smoking devices.

The current marketing and use of tobacco disproportionately targets BIPOC communities, young individuals and vulnerable users. The tailored messaging has led to an increase in young people, including those under the age of 21, using these products. Blanket regulations in Maryland and nationwide on the sale and distribution of these products has proven to be ineffective at protecting communities from predatory marketing.

Senate Bill 99 allows local governments to enact their own tobacco regulations, thereby targeting issues unique to their communities. Local governments often have a clear perspective on whether certain public health initiatives will be effective, and therefore are better equipped to impose their own tobacco regulations for the safety of residents. Baltimore County has always put protecting the health and wellbeing of vulnerable citizens as a top priority; this legislation gives Baltimore County the authority to continue to meet this need.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 99. For more information, please contact Joel Beller, Acting Director of Government Affairs at jbeller@baltimorecountymd.gov.

MDDCSAM FAV SB99 local tobacco control.pdf

Uploaded by: Joseph Adams, MD

Position: FAV



SB 99 Cigarettes, Tobacco Products, and Electronic Smoking Devices - Local Law Authorization

Senate Finance Committee January 27, 2022

SUPPORT

The importance of anti-preemption policies in protecting public health has been recognized by the American Public Health Association (APHA), the Center for Disease Control and Prevention (CDC), the Office of Disease Prevention and Health Promotion of the U.S. Dept of Health & Human Services (HHS), and others.

An illustration is the process by which the law establishing smoke-free public places in Maryland was passed in 2007. **I and other tobacco control advocates spent years working to enact a series of local smoke-free laws, knowing that this was our only path to a state-wide law.** Montgomery County was first, followed by Prince Georges and Talbot, then Charles and Howard counties. When Baltimore City became the sixth Maryland jurisdiction to enact a local smoke-free ordinance, the Maryland General Assembly was able to enact a statewide law the same year. This was followed by a 33% decline in Maryland smoking rates between 1998 to 2009, double the rate of decline nationally. ('Ban on smoking becomes Md. law.' May 18, 2007 The Baltimore Sun <https://www.baltimoresun.com/news/bs-xpm-2007-05-18-0705180101-story.html>)

According to a **Policy Statement by the APHA (November 2015) entitled 'Impact of Preemptive Laws on Public Health,'** "...State and local governments are often at the forefront of public health policy-making. **Some of the most effective public health policies have been enacted at the state and local levels.** Legislators should support evidence-based policy-making by considering the impact preemptive laws may have on state and local public health efforts." <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2016/01/11/11/08/impact-of-preemptive-laws-on-public-health>.

According to **the CDC** in an online article entitled '**Preemption Can Impede Local Tobacco Protection Efforts,**' "Communities have adopted and put into action some of the strongest, innovative, and effective tobacco control policies that have served as a catalyst for transitioning social norms about tobacco use. . . **The tobacco industry has historically supported state preemption laws as a way to reverse existing local tobacco control laws and prevent future enactment of such laws.**" <https://www.cdc.gov/statesystem/factsheets/preemption/Preemption.html>

One of the objectives listed in the HHS report 'Healthy People 2030,' is to **"Eliminate policies in states, territories, and the District of Columbia that preempt stronger local tobacco control policies."** <https://health.gov/healthypeople/search?query=preemption>

Joseph A. Adams, MD, FASAM. Chair, Public Policy Committee

SB99testimony.pdf

Uploaded by: Julie Reinhard

Position: FAV

January 24, 2022

Dear Chair Kelly, Vice Chair Feldman and Members of the Senate Finance Committee,

On behalf of Maryland Parents Against Vaping e-Cigarettes and as a resident of Montgomery County, Maryland, I am writing to strongly urge your support for Senate Bill 99, a bill which would return power back to local governments to regulate the sale and distribution of tobacco products.

Maryland Parents Against Vaping e-Cigarette is a state chapter of Parents Against Vaping e-Cigarettes, a national non profit parent volunteer run organization dedicated to educating parents about the hazards of youth vaping and advocating for legislation on the local, state and national level to keep tobacco products away from kids and prevent them from the highly addictive nicotine consumption. See www.parentsagainstvaping.org. As you know, the youth vaping epidemic is a grave public health issue facing our country. In Maryland, data from 2021 shows that 5% of high school students smoke cigarettes, 7% of high school students smoke cigars, and 23% use e-cigarettes. There are 1400 kids in Maryland who become new daily smokers each year, too. These numbers are alarming and demonstrate the need for local governments to have the power to regulate the tobacco sales and distribution within their respective jurisdictions if needed. The needs among the jurisdictions are heterogenous and without such authority, local governments cannot respond to the critical public health matters to protect their own constituents.

History, too, demonstrates the importance of doing away with state preemption power. For example, in Maryland, it was the local jurisdictions of Baltimore City, Howard, Talbot, Montgomery, Charles, Prince George's County, Baltimore Counties who passed clean indoor air laws prior to the statewide one. Those local actions set the examples for the state, and in 2007, the state did take the historic step to pass it. Further, in 2009, Prince George's County became one of the first jurisdictions to pass an ordinance imposing a minimum pack size for cheap cigars. PG county responded to the increase use of individually sold cigars by young people in its jurisdiction. In 2013, that ordinance, was challenged in court and over turned on the grounds of preemption. Since then, local governments are prohibited from passing new laws relating to tobacco sales and distribution. They are even hesitant to enforce existing tobacco ordinances for fear of further lawsuits from the tobacco industry.

Now we are living through a global pandemic. COVID-19 can severely impact lung health and research shows that smokers who catch COVID are more likely to develop serious symptoms. This state of the world further highlights the urgency of local governments to have the power to act in the best interest of their communities to keep them healthy and make them healthier.

For each of these reasons, I strongly urge to vote yes on SB 99 and give power back to local governments to respond to the needs of their communities. Maryland is a diverse state and local jurisdictions should be able to respond to their specific needs in the area of tobacco sales and distribution. Public health demands it, and our kids deserve that protection. Thank you.

Yours sincerely,

Julie Mendel Reinhard
Maryland Advocate
Parents Against Vaping e-cig(PAVe)
julie@parentsagainstvaping.org
www.parentsagainstvaping.org
240-731-6505

SB99testimonyFinal.pdf

Uploaded by: Julie Reinhard

Position: FAV

January 24, 2022

Dear Chair Kelly, Vice Chair Feldman and Members of the Senate Finance Committee,

On behalf of Maryland Parents Against Vaping e-Cigarettes and as a resident of Montgomery County, Maryland, I am writing to strongly urge your support for Senate Bill 99, a bill which would return power back to local governments to regulate the sale and distribution of tobacco products.

Maryland Parents Against Vaping e-Cigarette is a state chapter of Parents Against Vaping e-Cigarettes, a national non profit parent volunteer run organization dedicated to educating parents about the hazards of youth vaping and advocating for legislation on the local, state and national level to keep tobacco products away from kids and prevent them from the highly addictive nicotine consumption. See www.parentsagainstvaping.org. As you know, the youth vaping epidemic is a grave public health issue facing our country. In Maryland, data from 2021 shows that 5% of high school students smoke cigarettes, 7% of high school students smoke cigars, and 23% use e-cigarettes. There are 1400 kids in Maryland who become new daily smokers each year, too. These numbers are alarming and demonstrate the need for local governments to have the power to regulate the tobacco sales and distribution within their respective jurisdictions if needed. The needs among the jurisdictions are heterogenous and without such authority, local governments cannot respond to the critical public health matters to protect their own constituents.

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Yours sincerely,

Julie Mendel Reinhard
Maryland Advocate
Parents Against Vaping e-cig(PAVe)
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AHA Supports SB 99 Local Tobacco .pdf

Uploaded by: Laura Hale

Position: FAV



January 24, 2022

Testimony of Laura Hale
American Heart Association
Support of SB 99 Cigarettes, Other Tobacco Products, and Electronic Smoking Devices - Local Law Authorization

Dear Chair Kelley, Vice Chair Feldman, and Honorable Members of the Finance Committee,

Thank you for the opportunity to submit testimony. My name is Laura Hale and I am the Director of Government Relations for the American Heart Association. The American Heart Association offers our strong support of SB 99.

Localities in Maryland have long been a partner with the state in the fight against big tobacco. Without the local authority to enact and enforce tobacco control laws, Maryland's local governments will not be able to respond to the unique drivers of tobacco use in their jurisdictions. It is estimated that each day 5,000 children under the age of 18 try smoking for the first time, and more than 3,000 children become new regular smokers. Unless smoking rates decline, 5.6 million kids alive today will ultimately die from smoking. To protect Maryland's youth from the dangers of tobacco use, local governments must be able to rectify a recent Court of Appeals decision that calls into question their ability to regulate the sale and distribution of tobacco products at the local level.

In 2013, the Maryland Court of Appeals held that state law preempts local regulation of minimum packaging requirements for cigars, the effect of which has limited our authority to pass and enforce laws regulating the sale and distribution of tobacco products. *Altadis U.S.A., Inc., et al. v. Prince George's County, Maryland*, 431 Md. 307, (2013). The holding turns on the existence of certain provisions in the State Business Regulation Article relating to cigar packaging even though those state provisions were enacted after the local laws in question and even after oral argument in this matter. Unfortunately, this decision contains broad language concerning state preemption of the local authority to enact and enforce laws regulating the sale and distribution of tobacco products. This language has resulted in local jurisdictions being threatened with lawsuits if they continue to enforce and enact and enforce tobacco laws that appropriately address the specific challenges of their community.

The legislation before you today seeks to clarify, for the courts that counties and cities in Maryland can go farther than the state to pass tobacco control laws. Maryland cities and counties need to be able to fight back against big tobacco. This bill allows them to do this. The American Heart Association urges a swift and favorable report on SB 99.

SB 99_MoCo_Frey_FAV.pdf

Uploaded by: Leslie Frey

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

SB 99

DATE: January 27, 2022

SPONSOR: Senator Kramer

ASSIGNED TO: FINANCE

CONTACT PERSON: Leslie Frey (leslie.frey@montgomerycountymd.gov)

POSITION: SUPPORT

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

Except for the issuance of licenses or the imposition of taxes, Senate Bill 99 would permit counties to regulate the sale and distribution of cigarettes and other tobacco products (e.g., cigars, pipe tobacco, smoked products containing tobacco or nicotine, chewing tobacco, snuff, and hookahs) by enacting local laws at least as restrictive as the State's laws. This bill would also permit counties to regulate the sale and distribution electronic smoking devices such as e-cigarettes, e-cigars, e-hookahs, and vaping liquid with local laws at least as restrictive as the State's laws.

This bill is intended to abrogate the Maryland Court of Appeals' holding in *Altadis U.S.A., Inc. v. Prince George's County*, 431 Md. 307 (2013). In that case, the Court of Appeals struck down a Prince George's County ordinance requiring cigars to be sold in packages of at least five, finding that the ordinance was impliedly preempted by extensive state regulation in the field.

To date, Montgomery County has taken numerous measures to regulate tobacco products to the extent currently permitted under State law, including restrictions on the distribution of tobacco and electronic smoking devices to minors, limiting smoking and vaping in certain public places, restricting the display and storage of tobacco and electronic smoking devices, requiring child-resistant packaging of liquid nicotine containers, prohibiting the distribution of electronic smoking devices near schools, and prohibiting the distribution of flavored electronic smoking devices near schools, libraries, and recreational facilities. With the enactment of Senate Bill 99, Montgomery County would be enabled to build upon the local laws already in place and determine whether and which additional local laws would be appropriate and necessary for the County.

As a matter of protecting the health of the public and especially our youth, and exercising appropriate and necessary local law-making authority, Montgomery County respectfully urges the committee to issue a favorable report.

PG County NAACP Testimony Tobacco Control SB 0099

Uploaded by: Linda Thomas

Position: FAV



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP)
PRINCE GEORGE'S COUNTY BRANCH
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Testimony of Political Action Committee Chair

Tonya Harrison Edwards

Prince George's County Branch of the NAACP

To the Senate Finance Committee

on

SB 0099-The Maryland Local Tobacco Control Bill

January 27, 2022

Good morning Chair Kelley, Vice-Chair Feldman, Senator Kramer and Members of the Finance Committee.

Thank you for the opportunity to speak on behalf of the Prince George's County NAACP. I am submitting this **testimony in support of the Maryland local tobacco control bill, SB 0099**, on behalf of the Prince George's County Branch of the National Association for the Advancement of Colored People, the NAACP. Founded in 1909, the NAACP is the oldest and largest, and well-known civil rights organization in the United States. It currently has more than 2,200 membership units in every state in the country, and the Prince George's County Branch is one of the largest in Maryland.

After the 2013 ruling in *Altadis v Prince George's County*, local governments in Maryland were stripped of the ability to pass new laws regulating tobacco products.¹ In turn, the localities' ability to protect their residents from the effects of tobacco use was severely

¹ *Altadis v Prince George's County*

limited. This is especially worrisome since Department of Health found that 7,500 Marylanders a year die from tobacco-related causes.²

According to the CDC, being a current or former cigarette smoker increases your risk of severe illness from COVID-19.³ This statistic is incredibly problematic for Prince George's County since we currently have over 66,000 cases of COVID-19⁴, the highest number in the state of Maryland. If the County is to control the spread of COVID-19 and similar diseases, working to reduce the prevalence of preexisting conditions linked to tobacco use such as coronary heart disease, stroke, and lung cancer is going to be vital. The inability to pass and new laws to regulate tobacco products will make it more challenging to make those gains.

For these reasons, both the Maryland State Conference of the NAACP and the Prince George's County Branch of the NAACP **support SB 0099.**

If enacted, Senate Bill 0099 will right the wrongs of the *Altadis v Prince George's County* ruling and return a county or locality's authority to regulate tobacco and related products. Local governments' ability to regulate tobacco is needed as the tobacco industry has a history of targeting predominately Black and Brown communities like Prince George's County. A recent study found that stores in predominantly Black neighborhoods were up to 10 times more likely to display tobacco ads inside and outside than retailers in areas with fewer Black residents.⁵ The Maryland State Conference of the NAACP views preemption, such as what we have in Maryland regarding tobacco as a tool, that when used by politicians, disempowers and disproportionately hurts people and racial and ethnic minorities and immigrants.

²https://phpa.health.maryland.gov/ohpetup/pages/tob_home.aspx#:~:text=7%2C500%20adults%20in%20Maryland%20die,toxins%20found%20in%20secondhand%20smoke.

³ <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html#smoking>

⁴<https://princegeorges.maps.arcgis.com/apps/MapSeries/index.html?appid=82fa5c47b1f542849ca6162ab156443>

⁵ Kirchner TR, Villanti AC, Cantrell J, *et al*

Tobacco retail outlet advertising practices and proximity to schools, parks, and public housing affect Syntar underage sales violations in Washington, DC

Tobacco Control 2015;**24**:e52-e58.

In the current health pandemic that we, unfortunately, find ourselves in, we need to work to eliminate as many preexisting conditions as possible. As stated earlier in our testimony, smoking leads to health conditions such as coronary heart disease, stroke, and lung cancer as a condition that increases the risk of severe illness from COVID-19. It is a sad fact that in 2017 the Office of Minority Health found that African Americans were 20 percent more likely to die from heart disease than non-Hispanic whites.⁶ More concerning, African American women are 60 percent more likely to have high blood pressure than non-Hispanic white women.⁷

Death Rate:

Age-adjusted heart disease death rates per 100,000 (2017)			
	Non-Hispanic Black	Non-Hispanic White	Non-Hispanic Black / Non-Hispanic White Ratio
Men	264.8	214.0	1.2
Women	166.3	131.9	1.3
Total	208.0	168.9	1.2

Source: CDC 2019. National Vital Statistics Report, Vol. 68, No. 9, Table 10.
https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68_09-508.pdf [PDF | 1.76MB]

For a largely Black state like Maryland, and county like Prince George’s combating both COVID-19 and heart disease caused, in part, by smoking is a heavy lift. The passage of SB 0099 will not end the health problems of Maryland residents, but it will give the government the tools it needs to assist in the battle. We can only hold onto hope that your colleagues on both sides of the aisle as well as Governor Hogan can see the good this bill’s passage will do for not just Prince George’s but the state of Maryland as a whole.

Thank you again, Chairman Kelley, for holding this important hearing and for soliciting the NAACP’s thoughts, and for your continued leadership in this area

⁶ <https://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlID=19>

⁷ *ibid*

SB 99 Testimony PAVE.pdf

Uploaded by: Linda Willard

Position: FAV

**MARYLAND SENATE FINANCE COMMITTEE
HEARING ON S.B. 99
JANUARY 27, 2022**

Mr. Chairman, Ms. Vice-Chairman and members of the Committee, thank you for the opportunity to provide written testimony and express my support for S.B. 99, which would ensure local governments are able to regulate the sale and distribution of tobacco products. My name is Linda Willard, and I am a resident of Chevy Chase Village, Maryland.

I am a Maryland representative of a national grassroots organization, Parents Against Vaping E-Cigarettes, or PAVe. PAVe was started in 2018 by three concerned moms in response to the youth vaping epidemic and is now in more than a dozen states with its chapters called "pods", all run by volunteer parent advocates like me. The youth vaping epidemic is a serious public health issue. Smoking also continues to be a concern for Maryland youth. 1400 kids in the state become new daily smokers each year.

Throughout history, local governments in Maryland were on the front lines in the protection of public health with respect to tobacco use. For example, Baltimore City, Howard, Talbot, Montgomery, Prince George's, and Baltimore Counties passed clean indoor air laws prohibiting smoking prior to the statewide one.

In 2009, Prince George's County became one of the first counties in the state to prohibit the sale of unpackaged cigars, which was in response to the significant increase in the consumption of single-pack cigars by young people. Cigar manufacturers and distributors challenged the ordinance in court, arguing that state tobacco laws preempted the County's authority to regulate cigar pack size. Sadly, the court sided with the tobacco industry (*Altadis v. Prince George's County*, 431 Md. 307 (2013)), leaving local governments in Maryland powerless with respect to the regulation of tobacco products.

Without the power to enact and enforce tobacco control laws, local governments are unable to respond to specific causes of tobacco use in their jurisdictions. This situation is particularly harmful to Maryland's youth, who are often the target of marketing tactics from the tobacco industry. Localities are not only afraid to enact new legislation, they are now also reluctant to enforce some existing tobacco regulations. In Baltimore City, for instance, the Health Department stopped enforcing a local tobacco control law prohibiting the sale of single cigarettes, for fear that such enforcement would invite litigation, as in the *Altadis* case.

The regulation of tobacco is not something that should reside solely with the state or with the local jurisdictions. Rather, states and localities can and should work together in protecting public health. S.B. 99 makes clear that localities in Maryland have the authority to enact and enforce local laws regulating the sale and distribution of cigarettes and other tobacco products. And it also ensures that traditional state powers, such as licensing and taxing, stay with the states.

Mr. Chairman, members of the Committee, I urge you to pass S.B. 99 to make clear that localities can protect the public health of their communities, particularly the youth in their communities.

SB0099-FIN-FAV (002).pdf

Uploaded by: Natasha Mehu

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 0099

January 27, 2022

TO: Members of the Senate Finance Committee

FROM: Natasha Mehu, Director of Government Relations

RE: Senate Bill 0099 – Cigarettes, Tobacco Products, and Electronic Smoking Devices - Local Law Authorization

POSITION: Support

Chair Kelley, Vice Chair Feldman, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate (SB) 0099.

SB 0099 authorizes a county or municipality, including the City of Baltimore, to enact and enforce local laws regulating the sale, distribution, and packaging of tobacco and tobacco-related products. With more than 1,600 retail establishments licensed to sell tobacco products, Baltimore City has the largest number of licensed cigarette retailers of any jurisdiction in the State of Maryland.ⁱ Accordingly, it is no coincidence that the prevalence of tobacco usage in Baltimore City is one of the highest in the state,ⁱⁱ and likewise, Baltimore City has some of the highest rates of morbidity and mortality associated with tobacco use.ⁱⁱⁱ

In 2008, several local jurisdictions including the City of Baltimore worked diligently to curb tobacco usage rates using the legislative tools at their disposal. That year, the BCA, along with Prince George's County, enacted a series of regulations concerning tobacco wrappers, which then came under scrutiny by the Court of Appeals.^{iv} Citing existing Maryland statutes, the Court of Appeals 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 of all local laws throughout¹ political subdivisions throughout the state.^v

The Court of Appeals decision had far-ranging impacts on the City of Baltimore. Two provisions of the City's Health Code were invalidated, including Title 12, Subtitle 2 (Sale of Unpackaged Cigarettes) and Subtitle 6 (Flavored Tobacco Wrappings). Moreover, in 2015, the BCA created a local option for citizens to call 311 to report businesses that are selling tobacco to underage youth, a behavior currently banned by state law and delegated to local jurisdictions for enforcement. While receiving

several 311 requests to investigate tobacco sales to minors, the BCA also receives calls concerning illegal tax stamps and the sales of unpackaged cigarettes. The Baltimore City Health Department (BCHD)'s Tobacco Enforcement Officers diligently investigate each complaint and are only able to address issues concerning sales to minors due to the aforementioned *Altadis* decision. All other calls were referred to the State Comptroller's office for enforcement. Due to the uneven and bifurcated enforcement regime created by the *Altadis* decision, many of these cases remain unresolved due to the resultant inconsistent jurisdiction.

The BCA believes that by allowing the City to both enact and enforce tobacco laws analogous to those already in place on the state level, many of the above-mentioned complaints will decrease. Furthermore, the BCA would be able to address certain public safety issues surrounding the sale of tobacco products. In many of our documented cases, complaints regarding tobacco retailers also involve violence and criminal activity. The BCA welcomes the ability to coordinate with other local and state agencies, as would be authorized with the enactment of SB 0099, to better address these situations as they arise and ease the concerns of our residents, creating a healthier, more vibrant city.

Assuming local authority under SB 0099 is granted, the BCA will move to adopt the proven practices that have shown positive results in other jurisdictions. For example, in 2014, New York City—a leader in municipal tobacco control in the United States—greatly furthered its goal of reducing the prevalence of tobacco use by enacting groundbreaking laws like “Sensible Tobacco Enforcement.”^{vi} The “Sensible Tobacco Enforcement” law established additional enforcement authority with clear requirements for tobacco retailers. It included penalties for failing to display legally required signage, penalties for avoiding cigarette taxes, and the possibility of shuttering a retailer for repeat violations of certain tobacco laws.^{vii} These enforcement efforts were coordinated by three New York City agencies, with ultimate responsibility resting with the New York City's Department of Health to issue citations. To date, fewer and fewer violations have been issued because New York City's comprehensive cross-agency approach has bolstered compliance.^{viii}

Altogether, there is a public health crisis in the City of Baltimore fueled by the availability of tobacco products and the prevalence of tobacco use. Accordingly, the BCA is requesting the ability to do more at the local level in coordination and consistent with the authority granted by state law to curb these alarming trends and improve the health of its residents.

We respectfully request a **favorable** report on Senate Bill 0099.

ⁱ Baltimore City Health Department. 2017 Community Health Assessment, September 2017.

ⁱⁱ Maryland Department of Health. Monitoring Changing Tobacco Use Behaviors: 2000-2016. Baltimore: Maryland Department of Health, Prevention and Health Promotion Administration, Cancer and Chronic Disease Bureau, Center for Tobacco Prevention and Control, May 2018.

ⁱⁱⁱ Ibid.

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

^v Ibid.

^{vi} Moorelan-Russel, Sarah, et al, “Success in the city: the road to implementation of Tobacco 21 and Sensible Tobacco Enforcement in New York City.” 2016

^{vii} Repeat violations could include the sale of cigarettes or other tobacco related products to patrons under the age of 21; evasion of New York City cigarette or other tobacco product taxes; sale of loose cigarettes or little cigars; allowing an employee younger than 18 years old to sell, dispense or handle tobacco products without supervision by a store owner or employee who is at least 18 years old; sale of flavored tobacco products; and sale of tobacco and non-tobacco smoking products to a minor. Ibid.

^{viii} Ibid.

SB0099_FAV_MedChi, MDCSCO, MDAAP_Cigarettes Other

Uploaded by: Pam Kasemeyer

Position: FAV

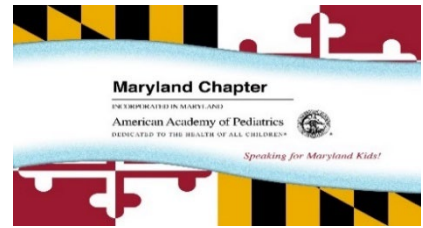


The Maryland State Medical Society

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Baltimore, MD 21201-5516
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www.medchi.org



MARYLAND/DISTRICT OF COLUMBIA
SOCIETY OF CLINICAL ONCOLOGY



TO: The Honorable Delores G. Kelley, Chair
Members, Senate Finance Committee
The Honorable Benjamin F. Kramer

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Christine K. Krone

DATE: January 27, 2022

RE: **SUPPORT** – Senate Bill 99 – *Cigarettes, Tobacco Products, and Electronic Smoking Devices*
– *Local Law Authorization*

On behalf of the Maryland State Medical Society, the Maryland/District of Columbia Society of Clinical Oncology, and the Maryland Chapter of the American Academy of Pediatrics, we submit this letter of **support** Senate Bill 99.

Senate Bill 99 authorizes a county or municipality to enact and enforce local laws regulating the sale and distribution of cigarettes, other tobacco products, and electronic smoking devices. Local control over matters designed to protect the public’s health have numerous benefits that are often lost when local power is preempted. Local authority provides for greater accountability and a more responsive and proactive approach to addressing the needs of a community. The development of public policy at the local level also creates community engagement and a broader base of public understanding and investment in the intended objectives.

Tobacco use has significant public health implications. Enabling local authorities to enact and enforce legislation that addresses the unique circumstances of their communities, will result in the development of more responsive and effective policies. It will enable local authorities to address the negative public health impacts of tobacco use and improve the health of its residents. A favorable report is requested.

For more information call:
Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Christine K. Krone
410-244-7000

SB99_MdPHA_fav.pdf

Uploaded by: Raimee Eck

Position: FAV



***Mission:** To improve public health in Maryland through education and advocacy **Vision:** Healthy Marylanders living in Healthy Communities*

SB99 Cigarettes, Tobacco Products, and Electronic Smoking Devices—Local Law Authorization

Hearing Date: January 27, 2022

Committee: Finance

Position: SUPPORT

Chairperson Kelley and members of the Finance Committee: The Maryland Public Health Association (MdPHA) would like to express support for SB99, sponsored by Senator Kramer. This bill will give authority back to local communities to enhance provisions that regulate the sale and distribution of cigarettes, other tobacco products, and electronic smoking devices.

Healthy families, a clean environment, and good jobs are goals that we all strive for here in Maryland. Allowing local communities to create greater protections against tobacco for their neighborhoods or certain more vulnerable populations is a way to keep moving towards those goals. Good ideas are often grown locally, such as no smoking, child bike helmet, and paid sick leave laws, which all started locally here in Maryland and made their way to the state level.

Research shows that Americans trust local governments more than state or federal entities, making the local authority the more sensible place to enhance targeted population protections. This eliminates the need for a state or federal policymaker to make assumptions about what all communities need with a wide brush. There are certain protective provisions that are absolutely needed at a state level, but this should not preclude local policymakers from listening to their community and acting accordingly.

This bill is not creating a new system or suggesting a new structure to Maryland policy. This bill seeks to restore power back into the hands of our local communities to protect the good welfare and values of their own residents surrounding tobacco and other smoking devices. The state should support communities that want to pass laws enhancing health and safety, not position itself to interfere. We urge a favorable report on SB99.

The Maryland Public Health Association (MdPHA) is a nonprofit, statewide organization of public health professionals dedicated to improving the lives of all Marylanders through education, advocacy, and collaboration. We support public policies consistent with our vision of healthy Marylanders living in healthy, equitable, communities. MdPHA is the state affiliate of the American Public Health Association, a nearly 145-year-old professional organization dedicated to improving population health and reducing the health disparities that plague our state and our nation.

Testimony.Bressler.PAVe.SB0099.pdf

Uploaded by: Shellie Bressler

Position: FAV



Testimony of Shellie Bressler, Parent Advocate for DC/Maryland/Virginia for Parents Against Vaping in favor of SB 0099

Good afternoon, my name is Shellie Bressler and I am a parent and the DC/Maryland/Virginia Advocate for Parents Against Vaping e-cigarettes, a national grassroots organization formed in response to the youth vaping epidemic.

Families across the state of Maryland are dealing with children addicted to nicotine, thanks to the predatory practices of Big Tobacco in targeting teens to become their next customers. Over the past two decades, the Maryland Department of Health, along with their counterparts across the nation, have worked hard in educating young people of the dangers of smoking, and this is a generation that never would have initiated the use of tobacco. However now, we are seeing all that hard work backslide and tobacco use rates of teens is going up.

I am here today to express my support for SB 0099, the Cigarettes, Tobacco Products, and Electronic Smoking Devices – Local Law Authorization, introduced by Senator Kramer. This bill would allow Maryland counties and municipalities to enact and enforce their own tobacco related ordinances. Maryland is a big and diverse state. Having a one size fits all policy for tobacco control. A policy that addressed the needs of the city of Baltimore might not be appropriate for Salisbury, Frostburg, or for Waldorf. Preemption prohibits local governments from having any ability to respond to the needs of their communities. In addition, preemption takes away the local control of cities and counties along state borders. These cities and towns will be at a disadvantage in not being able to respond with similar ordinances should Delaware, the District of Columbia, Virginia, West Virginia, or Pennsylvania change their rules or enforcement activities.

The parents of Maryland are looking for more tools to address the issues of sales of these products to their children. Eliminating the ability for localities to enact ordinances to address sales and enforcement makes the fight to save their kids from a lifelong nicotine addiction that much harder.

Thank you for the opportunity to speak today. On behalf of the families of Maryland dealing with nicotine addicted children, I ask that you support the passage of SB0099.

Anne Arundel County _FAV_SB 99.pdf

Uploaded by: Steuart Pittman

Position: FAV



January 27, 2022

Senate Bill 99

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

Senate Finance Committee

Position: FAVORABLE

Anne Arundel County **SUPPORTS** Senate Bill 99 - Cigarettes, Tobacco Products, and Electronic Smoking Devices – Local Law Authorization. Senate Bill 99 expressly authorizes a county or municipality to enact and enforce local laws that are at least as stringent as State laws that regulate the sale and distribution of cigarettes, other tobacco products, and electronic smoking devices. 7,500 adults in Maryland die each year due to tobacco-related causes, and hundreds of thousands more suffer from tobacco-related diseases such as COPD, emphysema or cancers.¹ The legislation clarifies that counties and cities in Maryland can go further than the state to pass tobacco control laws.

Prior to 2013, counties and cities in Maryland were generally able to pass tobacco control laws that were stronger than the state. In *Altadis v. Prince George's County*, the Maryland Court of Appeals held that local governments are unable to pass new laws related to tobacco sales and distribution. Local governments are hesitant to enforce existing tobacco ordinances for fear of further lawsuits from the tobacco industry. SB 99 recognizes that county governments and local health departments are key partners in maximizing the effectiveness of tobacco use prevention and cessation initiatives in Maryland.²

The Bill is enabling only and puts no obligation on a local jurisdiction to enact any laws. If a county does enact a local law, it could tailor such an ordinance to the county's needs. SB 99 does not grant new tax authority to local governments. It allows local flexibility in licensing regulations. Cities and counties face a host of issues when it comes to tobacco and nicotine products, and being able to locally address some of these issues rather than running to the state for everything can be very effective to protect the health of our residents.

For all of these reasons, I respectfully request a **FAVORABLE** report on Senate Bill 99.

A handwritten signature in blue ink that reads "Stuart Pittman".

Stuart Pittman
County Executive

¹ https://phpa.health.maryland.gov/ohpetup/pages/tob_home.aspx

² https://phpa.health.maryland.gov/ohpetup/Pages/tob_local_initiatives.aspx

PG County NAACP Testimony Tobacco Control SB 0099

Uploaded by: Tonya Harrison-Edwards

Position: FAV



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP)
PRINCE GEORGE'S COUNTY BRANCH
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WEB ADDRESS WWW.PGCNAACP.ORG

Testimony of Political Action Committee Chair

Tonya Harrison Edwards

Prince George's County Branch of the NAACP

To the Senate Finance Committee

on

SB 0099-The Maryland Local Tobacco Control Bill

January 27, 2022

Good morning Chair Kelley, Vice-Chair Feldman, Senator Kramer and Members of the Finance Committee.

Thank you for the opportunity to speak on behalf of the Prince George's County NAACP. I am submitting this **testimony in support of the Maryland local tobacco control bill, SB 0099**, on behalf of the Prince George's County Branch of the National Association for the Advancement of Colored People, the NAACP. Founded in 1909, the NAACP is the oldest and largest, and well-known civil rights organization in the United States. It currently has more than 2,200 membership units in every state in the country, and the Prince George's County Branch is one of the largest in Maryland.

After the 2013 ruling in *Altadis v Prince George's County*, local governments in Maryland were stripped of the ability to pass new laws regulating tobacco products.¹ In turn, the localities' ability to protect their residents from the effects of tobacco use was severely

¹ *Altadis v Prince George's County*

limited. This is especially worrisome since Department of Health found that 7,500 Marylanders a year die from tobacco-related causes.²

According to the CDC, being a current or former cigarette smoker increases your risk of severe illness from COVID-19.³ This statistic is incredibly problematic for Prince George's County since we currently have over 66,000 cases of COVID-19⁴, the highest number in the state of Maryland. If the County is to control the spread of COVID-19 and similar diseases, working to reduce the prevalence of preexisting conditions linked to tobacco use such as coronary heart disease, stroke, and lung cancer is going to be vital. The inability to pass and new laws to regulate tobacco products will make it more challenging to make those gains.

For these reasons, both the Maryland State Conference of the NAACP and the Prince George's County Branch of the NAACP **support SB 0099**.

If enacted, Senate Bill 0099 will right the wrongs of the *Altadis v Prince George's County* ruling and return a county or locality's authority to regulate tobacco and related products. Local governments' ability to regulate tobacco is needed as the tobacco industry has a history of targeting predominately Black and Brown communities like Prince George's County. A recent study found that stores in predominantly Black neighborhoods were up to 10 times more likely to display tobacco ads inside and outside than retailers in areas with fewer Black residents.⁵ The Maryland State Conference of the NAACP views preemption, such as what we have in Maryland regarding tobacco as a tool, that when used by politicians, disempowers and disproportionately hurts people and racial and ethnic minorities and immigrants.

²https://phpa.health.maryland.gov/ohpetup/pages/tob_home.aspx#:~:text=7%2C500%20adults%20in%20Maryland%20die,toxins%20found%20in%20secondhand%20smoke.

³ <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html#smoking>

⁴<https://princegeorges.maps.arcgis.com/apps/MapSeries/index.html?appid=82fa5c47b1f542849ca6162ab156443>

⁵ Kirchner TR, Villanti AC, Cantrell J, *et al*

Tobacco retail outlet advertising practices and proximity to schools, parks, and public housing affect Syntar underage sales violations in Washington, DC
Tobacco Control 2015;**24**:e52-e58.

In the current health pandemic that we, unfortunately, find ourselves in, we need to work to eliminate as many preexisting conditions as possible. As stated earlier in our testimony, smoking leads to health conditions such as coronary heart disease, stroke, and lung cancer as a condition that increases the risk of severe illness from COVID-19. It is a sad fact that in 2017 the Office of Minority Health found that African Americans were 20 percent more likely to die from heart disease than non-Hispanic whites.⁶ More concerning, African American women are 60 percent more likely to have high blood pressure than non-Hispanic white women.⁷

Death Rate:

Age-adjusted heart disease death rates per 100,000 (2017)			
	Non-Hispanic Black	Non-Hispanic White	Non-Hispanic Black / Non-Hispanic White Ratio
Men	264.8	214.0	1.2
Women	166.3	131.9	1.3
Total	208.0	168.9	1.2

Source: CDC 2019. National Vital Statistics Report, Vol. 68, No. 9. Table 10.
https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68_09-508.pdf [PDF | 1.76MB]

For a largely Black state like Maryland, and county like Prince George’s combating both COVID-19 and heart disease caused, in part, by smoking is a heavy lift. The passage of SB 0099 will not end the health problems of Maryland residents, but it will give the government the tools it needs to assist in the battle. We can only hold onto hope that your colleagues on both sides of the aisle as well as Governor Hogan can see the good this bill’s passage will do for not just Prince George’s but the state of Maryland as a whole.

Thank you again, Chairman Kelley, for holding this important hearing and for soliciting the NAACP’s thoughts, and for your continued leadership in this area

⁶ <https://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlID=19>

⁷ *ibid*

NAACP_SB0099.pdf

Uploaded by: Willie Flowers

Position: FAV



NAACP

Maryland

STATE CONFERENCE

Testimony of the NAACP Maryland State Conference
Willie Flowers, President
Maryland Senate Finance Committee
S.B. 0099 2021 Maryland Local Tobacco Control Bill
Jan, 27, 2022

As President of the NAACP Maryland State Conference, I join other coalition partners like the American Heart Association in strongly supporting S.B. 0099 and appreciate the General Assembly's emphasis on promoting health equity, eliminating health disparities and ensuring that Maryland's localities can pass their own laws regulating tobacco products to fit the specific needs of their communities, ultimately improving health in communities of color and the entire state.

Local governments in Maryland have been stripped of their power to fully protect residents from the devastating effects of tobacco use due to a contentious 2013 court ruling (*Altadis v. Prince George's County*) — brought on by the tobacco industry — preventing them from passing new laws regulating tobacco products.

This prohibits local governments from responding to what causes people to use tobacco in their communities — stifling progress in reducing use, especially among young people. Without the authority to enact and enforce tobacco control laws, local governments cannot respond to what causes people to use tobacco in their communities. What the state is doing is called preemption and it is ultimately hurting the health of Maryland's residents.

The Maryland State Conference of the NAACP views preemption as a tool, that being promoted by special interest groups, disempowers and disproportionately hurts people and communities of color and immigrants.

While all individuals should have equal opportunity to live a healthy life, the tobacco industry employs marketing strategies that have led to disparities in tobacco use, including higher use of tobacco products in populations of lower SES, Blacks, AIAN, youth and LGBT individuals.

Researchers in Washington, D.C. found that stores in predominantly Black neighborhoods were up to 10 times more likely to display tobacco ads inside and outside than retailers in areas with fewer Black residents.

Communities of color have been unfairly targeted in marketing tobacco-related products and it hurting the chances of our young people to live healthy and productive lives.

It goes without saying that using tobacco-related products is an immense health risk to anyone that uses them. Each year, 7,500 Marylanders die from tobacco related causes. That's one person – a mom or dad, son or daughter, friend or colleague – every hour of every day.

23% of Maryland high school students use electronic smoking devices, more commonly known as vapes. Given the COVID-19 pandemic and its devastating impact on the heart, lungs and other vital organs, curbing tobacco use is more important than ever.

The Maryland Local Tobacco Control Bill would restore the ability of localities to enact and enforce local laws regulating the sale and distribution of cigarettes and other tobacco products to fit the needs of their communities.

For all these reasons, I recommend the General Assembly swiftly pass, S.B. 0099, so that Maryland's localities can pass their own laws regulating tobacco products to fit the specific needs of their communities and create healthier environments for the citizens of our state.

MVA_SB 99_OPP.pdf

Uploaded by: Isaac Meyer

Position: UNF



**SB 99 – Cigarettes, Tobacco Products, and Electronic Smoking Devices – Local Authorization
OPPOSED**

January 27, 2021

Honorable Delores Kelley
Chair
Finance Committee
3 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Chair Kelley, Vice-Chair Feldman, and Committee Members,

The Maryland Vapor Alliance represents approximately 200 brick-and-mortar vapor shops across Maryland. We are small businesses and defined in statute as vape shop vendors meaning 70% or more of our retail sales are derived from vapor products and accessories such as hardware and liquids. For almost all of our shops, this number is closer to 90% - 100%.

We have helped thousands of Maryland tobacco users transition to electronic nicotine delivery systems (ENDS) through the use of “open systems” that allow the user to control the amount of nicotine intake. This allows the adult user to decrease their nicotine intake over time.

The last four years, the Maryland Vapor Alliance has opposed numerous flavor ban bills in the Maryland General Assembly that, if passed, would eliminate access for consumers that have used the products our members sell to quit combustible cigarettes. This legislation would give the full authority to local jurisdictions to implement laws that are at least as stringent as Maryland law. This means each county could pass local laws that increases taxation of ENDS or ban flavored products. Our products are sold in fewer than 200 shops in Maryland. If a local jurisdiction passed such laws, these businesses would fail. The state would lose tax revenue and consumers would be stuck with combustible cigarettes or high nicotine closed system electronic smoking devices, often the equivalent of a pack of cigarettes.

We remain committed to working with the legislature on crafting legislation to strengthen the regulations around vaping products. We thank you for your consideration of our testimony.

Sincerely,

Matt Milby
Vice-President, Maryland Vapor Alliance

SB 99 Opposition Letter - Dash In 1.27.2022.pdf

Uploaded by: Julian Wills

Position: UNF



January 27, 2022

Dear Senate Finance Committee Members,

My name is Julian (Blackie) Wills and I am the President and CEO for Dash In Convenience Stores, a Maryland-based company with 41 outlets in the state.

I felt it was necessary for me to write this letter because I am very concerned about SB 99, which repeals preemption on the sales and marketing of tobacco products. Tobacco is one of the many items we sell at Dash In (in addition to prepared food and beverage and general convenience items) and we take the responsibility of selling tobacco very seriously. We are fully committed to keeping tobacco products out of the hands of underage youth. Adolescent use of tobacco or any adult substance is something no one in the convenience industry supports. In fact, we are proud partners with organizations like We Card who work everyday to educate our employees on the necessity of age verification and we have scanning technology in our outlets to verify customer age for age-restricted products.

However, the answer to youth usage of tobacco products is not SB 99. If passed, SB 99 will give cities and counties the ability to close convenience stores with a single vote. We respect all elected officials, but no elected official should have the ability to permanently shutter a business for doing no wrong.

You may believe this sounds severe, but tobacco products make up a large percentage of sales for every convenience store, albeit at very thin profit margins. The profit margins we make on tobacco helps fund investments like new locations, more jobs, and environmentally friendly innovations in fuel and store infrastructure. If enough cities and counties pass onerous measures like menthol bans, wintergreen bans, and even complete prohibitions that profit will erode and eventually we will be forced to close our doors leaving thousands of our associates without a career. Even worse, the loss of one store's sales will simply transfer to another store outside of city, county, or even state lines where the products remain legal. This could result in illegal contraband being transferred across the lines of municipalities which could further exacerbate a black market for these types of products. And not only will small businesses close, but the state will lose out on much needed tobacco excise taxes.

The use of tobacco products is a decision that adults have the right to decide. The people of Maryland did not elect state officials to have them dictate which products they can and can't buy. Conversely, they elected those officials to help our economy and businesses grow so they can continue to support their communities. If you are anything like me, you believe that the best way to grow the well-being of a community is to support local businesses to create jobs. Therefore, I strongly urge you to oppose SB 99 for the reasons stated above.

I am available to chat if you would like to discuss this proposal any further. Thank you for your time and thank you in advance for being a champion of small business.

Sincerely,

A handwritten signature in blue ink that reads 'JBW'.

Julian (Blackie) Wills III
CEO & President
443.532.5222
jbwills@willsgroup.com

SB 99 local authorization tobacco.pdf

Uploaded by: Kirk McCauley

Position: UNF



WMDA/CAR Service Station
and Automotive Repair Association

January 25, 2022

Chairperson: Delores G. Kelley
Members of Senate Finance Committee

RE: SB99 - Local Authorization Tobacco Products and Electronic Smoking
Devices

Position: In Opposition

Giving 24 counties and 157 municipalities the authority to change tobacco and OTP laws would create a hodgepodge of regulations that would be confusing to retailers, enforcement and to adult users. What it would accomplish is sending legal buying age resident to a different retailer, at best within the state and at worst to our boarding states that collect no Maryland tax.

In a municipality or county that banned a product or all tobacco products, with no legal retailers close or they are transportation restricted will turn to street sales of illegal tobacco products. Illegal market sales are an ongoing business now. Banning a product would bring about two things – expanding criminal activity within the area and exposing more location for those age restricted to buy product – these locations ask for no I.D.

Retailers have enough regulations to think about while keeping their customer and employees safe. Expenses are up and customers traffic is down. Taking away a product they sell and sending buyer to another location to purchase legally or illegal will hurt retailers, Maryland residents and promote crime while achieving nothing.

Turning Marylanders into scavenger hunters for legal product and criminals for buying illegal product on the street is not a clever idea.

Please give SB 99 an unfavorable Report

WMDA/CAR is a trade association that has represented service stations, convenience stores and repair shops since 1937. Any questions can be addressed to Kirk McCauley, 301-775-0221 or kmccauley@wmda.net

SB 99 - amendment - Md. Premium Cigar Retailers.pd

Uploaded by: Matthew Bohle

Position: UNF

BY: Premium Cigar Retailers Association of Maryland

AMENDMENT TO SENATE BILL 99

(First Reading File Bill)

AMENDMENT NO. 1

On page 2, after line 5 insert "(1) LICENSED TOBACCONISTS ARE EXEMPT FROM THIS PROVISION."

SB99 - Md. Premium Cigar Retailers- Oppose.pdf

Uploaded by: Matthew Bohle

Position: UNF



Aphelion Cigar Lounge 410-721-1700
2510 Conway Road, Ste. 106, Gambrills 21054

Broadleaf Tobacco 410-315-8118
487 Ritchie Highway, #101, Severna Park 21146

Burnt Leaf 443-272-7206
487 Ritchie Highway, #101, Severna Park 21146

Cross Street Tobacco 410-752-9220
1103 Light Street, Baltimore 21230

Dan's Cigar Lounge 410-780-5959
8300-B Pulaski Highway, Rosedale 21237

Davidus Cigars, 301-865-1000
2134 Generals Highway, Annapolis 21401
1300 Bank Street, Baltimore 21231
1716 Liberty Road, Eldersburg 21784
9180 Baltimore National Pike, Elicott City 21042 529
West South Street, Frederick 21701
25 Olney Sandy-Spring Road, Ashton 20861
10810 Reisterstown Road, Owings Mills 21117
11632 Rockville Pike, Rockville 20852
15922 Shady Grove Road, Gaithersburg 20832 8925
Fingerboard Road, Urbana 21704
23 East Main Street, Westminster 21157 25
Allegheny Avenue, Towson 21204

Easton Cigar & Smokeshop 410-770-5084
6 Glenwood Ave, Easton 21601

Etch-Art Awards 410-202-6616
931 Mount Hermon Road, Salisbury 21804

Fire & Smoke Cigar Parlor 443-970-6634
6827 Loch Raven Blvd., Towson 21286

Leonardtown Cigar 240-309-4108
40955 Merchants Lane #14, Leonardtown 20650

Main Street Cigar Company 410-734-4494
2217 E. Churchville Road, Bel Air 21015

Mount Vernon Tobacco 410-728-5669
221 W. Read Street, Baltimore 21201

Mt. Washington Cigar Co. 410-377-4711
5909 Falls Road, Baltimore 21209

Oakleigh Beach Tobacco 410-388-8080
702 Wise Avenue, Dundalk 21222

Office Cigar Lounge at QG 410-685-7428
31 S Calvert St, Ste 300, Baltimore 21202

Quartermasters Cigars 410-898-2134
880 Northeast St, Frederick 21701

Senor Cigars 410-524-2069
11805 Coastal Highway, Ocean City 21842
3314 Coastal Highway, Ocean City 21842

Signature Cigars 301-424-8833
1331 Rockville Pike, Rockville 20852
4919 Cordell Avenue, Bethesda 20814

Spartan Cigar Lounge 443-350-9808
128 East Pulaski Highway, Elkton 21921

The Book Center 301-722-8345
15 North Centre Street, Cumberland 21502

The Humidour Cigar Shoppe 410-666-3212
2 Sherwood Road, Cockeysville 21030

TinderBox #398 301-374-9100
2754 Crain Highway, Waldorf 20601

Titan Cigar 410-721-2944
2634 Chapel Lake Drive, Gambrills 21056

Tobacco Leaf 410-799-2094
7351 Assateague Drive, Jessup 20794

W. Curtis Draper Tobacconist 301-907-7990
4916 Del Ray Avenue, Bethesda 20814

January 27, 2022

Opposition for Senate Bill 99

Madame Chair and members of the Committee,

The Premium Cigar Retailers Association of Maryland represents over 35 adult only brick and mortar premium cigar specialty stores in the State. Members of the PCRAM have appeared before your committee on several matters this legislative term and we thank you for the opportunity to testify again.

We write today in opposition to Senate Bill 99.

The Maryland General Assembly has taken the position that tobacco regulation and taxation should remain exclusively a matter within the State's purview. We support that position, as it maintains a consistent statewide regulatory approach.

Enabling jurisdictions to enact their own set of rules and regulations will lead to inconsistencies and redundancies in enforcement and will make compliance more difficult, costly, and burdensome. We oppose a patchwork approach by local jurisdictions on these matters.

Additionally, during the COVID-19 Pandemic, we have seen how difficult it is for business owners to comply with a varying closures and mandates by localities. Overlapping jurisdiction creates confusion and consternation among businesses, customers, and regulators.

For these reasons we respectfully ask for an unfavorable report on SB 99.

Sincerely

Matthew Bohle and Obie Chinemere of RWL – 410-269-5066

SB99_NFIB_unf (2022).pdf

Uploaded by: Mike O'Halloran

Position: UNF



NFIB-Maryland – 60 West St., Suite 101 – Annapolis, MD 21401 – www.NFIB.com/Maryland

TO: Senate Finance Committee

FROM: NFIB – Maryland

DATE: January 27, 2022

RE: **OPPOSE SENATE BILL 99** – Cigarettes, Tobacco Products, and Electronic Smoking Devices
– Local Law Authorization

Founded in 1943, NFIB is the voice of small business, advocating on behalf of America's small and independent business owners, both in Washington, D.C., and in all 50 state capitals. With more than 250,000 members nationwide, and nearly 4,000 here in Maryland, we work to protect and promote the ability of our members to grow and operate their business.

On behalf of Maryland's small businesses, NFIB-Maryland opposes Senate Bill 99 – legislation allowing counties and municipalities to set and enforce their own local laws regulating the sale and distribution of tobacco products.

Combined, there are more than 170 counties and municipalities throughout Maryland. Enacting SB99 would mean giving each of them authority to create what will amount to a logistical nightmare when it comes to enforcement and compliance. The costs to comply will skyrocket for retailers – particularly those who operate in multiple jurisdictions. It will lead to redundancies and inconsistencies throughout.

For these reasons **NFIB opposes SB99** and requests an unfavorable committee report.

SB099_Unfavorable_Royal Farms_1.27.2022.pdf

Uploaded by: Shelby Kemp

Position: UNF



FOR IMMEDIATE RELEASE

January 27, 2022

Senator Delores G. Kelley
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

SENATE BILL 99- CIGARETTES, TOBACCO PRODUCTS, AND ELECTRONIC SMOKING DEVICES- LOCAL LAW AUTHORIZATION- UNFAVORABLE -

Dear Chair Kelley and Members of the Senate Finance Committee,
Thank you for the opportunity to testify in opposition to Senate Bill 99. My name is Shelby Kemp, and I am a Marketing Manager for Royal Farms Convenience Stores. We are a 3rd generation family-owned Maryland based business with our headquarters located in Baltimore. We proudly operate 167 stores and employ 3,167 employees in the state of Maryland.

HB009 is a concerning bill for Royal Farms and others in our industry because it would authorize individual counties to impose strict rules regarding tobacco sale in their county, without fully understanding the consequences. Tobacco is 36% of our in-store revenue. If tobacco sales decrease dramatically due to a strict county law, we likely would not be able to afford to keep the store open or keep the current employees employed. We would also need to reconsider our site selection process to favor locations in counties or states with less strict legislation. We would not be the only business that would be forced to reconsider either, which would have a negative impact on that county's economy and tax revenue.

While a county might have great intentions by enacting strict tobacco laws, the past shows that type of legislation does not work. On a macro level, the state of Massachusetts banned all flavored tobacco in 2019. The state banned flavored tobacco with the intent and hope that flavored tobacco consumption would decrease. The problem was that most of the banned item's sales just moved over to neighboring Rhode Island and New Hampshire. There is now legislation in Massachusetts to repeal this legislation and bring the tax revenue back to their state.

If this legislation was copied on a county level, people would be even more inclined to take a short drive to the next county and stock up on their favorite products. We have seen this in our Virginia locations, where the sales just transfer over to a neighboring county that does not have as stringent rules or expensive tobacco due to local excise taxes. The customers don't stop buying it, they just move to another county where its less expensive or their product is sold. On behalf of Royal Farms, we respectfully request an unfavorable report.

Shelby Kemp
Marketing Project Manager
skemp@royalfarms.com