

SB 249 Testimony.docx.pdf

Uploaded by: Antonio Hayes

Position: FAV

ANTONIO HAYES
Legislative District 40
Baltimore City

Finance Committee



Annapolis Office
James Senate Office Building
11 Bladen Street, Room 222
Annapolis, Maryland 21401
410-841-3656 · 301-858-3656
800-492-7122 Ext. 3656
Antonio.Hayes@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Hayes in Support of Senate Bill 249: Baltimore City - Cigarettes,
Other Tobacco Products, and Electronic Smoking Devices - Local Laws Authorization**

February 3, 2022

Dear Chairman Kelley and Members of the Finance Committee,

The Maryland Department of Health states that 7,500 adults in Maryland die each year due to tobacco-related causes and hundreds of thousands more suffer from tobacco-related diseases. In particular, Baltimore City has one of the highest rates of tobacco usage in Maryland. African Americans tend to smoke at a higher rate, leading to greater health disparities in our State. The density of tobacco retailers exacerbates tobacco usage rates as well; over 1,600 retailers operate in Baltimore City.

Smoking continues to be a leading public health hazard in Baltimore City. To address this hazard, legislation can be enacted and enforced more efficiently at the local level. Senate Bill 249 would enable greater efficiency in addressing smoking hazards by authorizing the Baltimore City Council and the Baltimore City Mayor to enact and enforce laws regulating the sale and distribution of cigarettes and other smoking devices.

Currently, Baltimore City is preempted from legislating in the aforementioned fields due to the Maryland Court of Appeals's holding in *Altadis v. Prince George's County*. Other jurisdictions, such as New York and Philadelphia, have passed legislation to prevent a similar situation from arising because it inhibits effective and efficient control of tobacco retailer density, which is directly correlated with usage.

Additionally, this bill would allow Baltimore City to enforce tobacco laws in tandem with the Comptroller's Office. This creates a meaningful opportunity for local government to reduce the burden of broad enforcement that currently falls upon the Comptroller. Furthermore, Senate Bill 249 makes an important exception for the issuance of licenses, ensuring that the Baltimore City Council and Mayor are not authorized to enact and enforce local legislation relating to licensing or the imposition of taxes on cigarettes.

Senate Bill 249 proposes to provide the Baltimore City Council and Mayor with authority proportional to the public health hazard created by current rates of tobacco usage among Baltimore City residents. In addition to enabling tobacco-related policy and enforcement, the bill has meaningful potential to reduce the broad responsibility of enforcement currently burdening the Comptroller.

Thus, I urge a favorable report on Senate Bill 249.

Respectfully,

A handwritten signature in blue ink, appearing to read "Antonio L. Hayes", with a stylized flourish at the end.

Senator Antonio L. Hayes
40th Legislative District - MD

SB249. Favorable. Brooke Torton. UMB.LRC.pdf

Uploaded by: Brooke Torton

Position: FAV

To: Senate Finance Committee

From: Brooke Torton, attorney with the University of Maryland Carey School of Law, 500 W. Baltimore Street, Baltimore, Maryland 21201

Date: February 3, 2022

Re: Testimony in Support of SB249

Background Information Relevant to Senate Bill 249

My name is Brooke Torton and I am the Managing Director of the Legal Resource Center for Public Health Policy at the University of Maryland Carey School of Law. This testimony is submitted to provide background information relevant to Senate Bill 249.

SB249 would restore authority to the Baltimore City Council and Mayor, respectively, to enact and enforce laws regulating the sale of tobacco products. This authority was stripped from Baltimore City and other local jurisdictions as a result of a faulty 2013 court decision, *Altadis U.S.A. v. Prince George's County*, 431 Md. 307 (2013). In that case, the court held that merely by passing a law requiring cigar sellers to be licensed, the General Assembly impliedly preempted local jurisdictions from enacting laws relating to the sale and distribution of tobacco products.

Preemption is the constitutional doctrine that federal law is supreme over any conflicting state or local law. Likewise, in cases of conflict between state and local law, state law is controlling. There are two types of preemption, express and implied. A federal or state statute may explicitly prohibit local regulation; that is express preemption. Preemption may also be implied either by conflict (if the local law interferes with the objectives of a state or federal law) or field preemption (when state or federal government has heavily regulated a particular field, suggesting an intent to occupy the entire subject area). Local control is integral to addressing youth access and retailer restrictions. Local governments typically develop the strongest and most innovative laws tailored to their populations.

The *Altadis*¹ case concerned a 2008 Prince George's County ordinance requiring cigars to be sold in packages of at least five. The Maryland Court of Appeals ultimately held the state has occupied the field of regulating the packaging and sale of tobacco products. In reaching its decision, the Court focused extensively on the other tobacco product (OTP) licensing provisions which passed in 2011, *subsequent* to the oral argument which took place in this case. The Court stated that the licensing provisions define the term "package" as not more than 10 cigars, which is at odds with the Prince George's County ordinance which defined a "package" as minimum of 5 cigars. However, this analysis is flawed because a minimum of 5 cigars is certainly consistent, not at odds with, not more than 10.

¹ *Altadis U.S.A. v. Prince George's County*, 431 Md. 307 (2013).

Additionally, my office provided extensive technical assistance on these licensing provisions and worked closely with the Comptroller's Office (which drafted and had the legislation introduced), advocates, opponents, and legislators. Never was there discussion about this licensing scheme, designed to mirror licensing for cigarette sellers, preempting local law. The public health community certainly would have opposed the bill if there was any belief that the result would be preemption of local tobacco regulation. In fact, the *Altadis* case was pending decision during the 2011 session and the public health community, including local health officers, weighed in in favor of Prince George's County and local control in that case. It is nonsensical that a bill the public health community supported would end up curtailing local powers.

Regardless of whether the Court of Appeals properly found implied preemption, Baltimore City and county governments across the State are hamstrung by the *Altadis* decision and only the General Assembly can remedy that. As a result of *Altadis*, since 2013 Baltimore City has been unable to enforce tobacco regulation that preexisted the decision and has been unable to pass additional regulations to address new and persistent issues related to tobacco use. This bill seeks to rightfully return this authority to Baltimore City. I urge you to issue a favorable report for SB249.

2 - SB 249 - FIN -MACHO - LOS.docx.pdf

Uploaded by: Heather Shek

Position: FAV



BILL: SB 249 - Baltimore City - Cigarettes, Other Tobacco Products, and Electronic Smoking Devices – Local Law Authorization

COMMITTEE: Senate Finance Committee

POSITION: Letter of Support

BILL ANALYSIS: SB 249 would authorize Baltimore City to enact and enforce local laws regulating the 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) strongly supports Senate Bill (SB) 249. This legislation will enable the enactment of evidence-based local public health regulations shown to reduce tobacco and electronic nicotine use.¹ SB 249 sends a clear message that Baltimore City may enact legislation that best meets the health needs of its residents without requiring other jurisdictions to take on policies that exceed the decisions of the full General Assembly. Baltimore City has been unable to take such actions since 2013 when the Maryland Court of Appeals held that, in its interpretation, existing state law preempted local laws regarding tobacco control (*Altadis U.S.A. v. Prince George's, Maryland*)² Passage of SB 249 will clarify for the Court that it is the intent of the Legislature to allow local jurisdictions to act in the best interests of its electorate in the context of this important health policy area.

SB 249 acknowledges that in tobacco control, individual jurisdictions in Maryland are impacted in different ways. The concentration of tobacco vendors, the proximity of vendors to schools and other facilities that attract children and adolescents, and the local cultural factors that lead to generational views on the acceptance of tobacco and electronic smoking devices, vary considerably around the state. Maintaining the current one-size-fits-all approach ignores the realities of disparate tobacco and nicotine addiction and disease across local populations within Maryland. As we've seen nicotine addiction surge among adolescents since the mass marketing of vaping products, the ability of local governments to respond in a timely and effective manner to tobacco products and electronic smoking device control is even more important in 2022 than it was in 2013.

To enable Baltimore City to enact tobacco control solutions that best meet its needs of its residents, the Maryland Association of County Health Officers submits this letter of support for SB 249. 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

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 Altadis USA, inc., et al. v. Prince George's County, Maryland (<https://caselaw.findlaw.com/md-court-of-appeals/1629061.html> April 25, 2013).

SB 249 _ ACS CAN_ 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

February 3, 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 249 *Baltimore City – Cigarettes, Other Tobacco Products, and Electronic Smoking Devices – Local Laws 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 249. 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



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

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 249.

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)

AHA Supports SB 249 Baltimore City Local Tobacco .

Uploaded by: Laura Hale

Position: FAV



February 1, 2022

Testimony of Laura Hale

American Heart Association

Support of SB 249 Baltimore City - Cigarettes, Other Tobacco Products, and Electronic Smoking Devices - Local Laws 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 support of SB 249.

Localities in Maryland have long been a partner with the state in the fight against big tobacco. We support all localities, including Baltimore City to have the authority to regulate tobacco control (stronger than the state.) 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.

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 249.

SB0249-FIN-FAV.pdf

Uploaded by: Natasha Mehu

Position: FAV



BRANDON M. SCOTT
MAYOR

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

SB 0249

February 3, 2022

TO: Members of the Senate Finance Committee

FROM: Natasha Mehu, Director of Government Relations

RE: Senate Bill 0249 – Baltimore City - Cigarettes, Tobacco Products, and Electronic Smoking Devices - Local Laws 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) 0249.

SB 0249 authorizes 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 0249, 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 0249 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 0249.

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.

SB 249 Baltimore local aurthorization .pdf

Uploaded by: Kirk McCauley

Position: UNF



WMDA/CAR Service Station
and Automotive Repair Association

Chairperson: Delores G. Kelley
Members of Senate Finance Committee

RE: SB 249 – Baltimore City – Local Laws Authorization -Tobacco, OTP and ESD

In opposition

Last week a similar bill SB 99 came up in this committee. Majority of proponents sited youth tobacco, OTP and ESD use and the need to control it. This bill does just the opposite.

As you know tobacco age is 21 by Maryland and Federal law. Our member tobacco retailer in cooperation with organizations like “We Card” are dedicated to Age verification and protecting our youth. Baltimore City has the authorization now to enforce age verification, invoke heavy fines, and license suspension for those that do not comply.

This bill has no reason, if not to stiffen Tobacco and OTP regulations. Illegal sales of Packs, cartons, OTP and ESD are on the streets of Baltimore now with next to zero enforcement. Enhanced restrictions, Higher Age, Ban on Flavors, or outright prohibition would be a blessing to the Illegal Market. Too much money involved for gangs not to become involved, and they will recruit youth to sell, just like drugs, except more money and little enforcement.

Unlike these gangsters our member location within the city of Baltimore that sell tobacco, OTP, and ESD products are dedicated to checking ID and collecting taxes for the state. Tobacco, OTP, and ESD are high percentage of store sales and ancillary sales of other products when customers come in to purchase tobacco. Businesses are struggling to recover from the last 2 years. Let us not push them over the edge.

This bill would only enhance and expand the illegal market that exist now, while giving underage, and adults more options that could put them in harm’s way. While enhancing Illegal market , it has the potential to close businesses and take tax revenue away from the state that could be used for educational purposes for the young.

Tobacco regulations belong to this legislative body, not the council of a county or a city.

Please give SB249 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 249 - amendment.pdf

Uploaded by: Matthew Bohle

Position: UNF

BY: Premium Cigar Retailers Association of Maryland

AMENDMENT TO SENATE BILL 249

(First Reading File Bill)

AMENDMENT NO. 1

On page 2, after line 6 insert “(1) LICENSED TOBACCONIST ARE EXEMPT FROM THIS PROVISION”.

SB249 - Premium Cigar - 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, Ellicott 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, Elton 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

February 3, 2022

Opposition for Senate Bill 249

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 249.

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.

If adopted, this legislation will have the effect of driving business in Baltimore City across jurisdictional lines and will require people to move farther and spend more time, in order to obtain the products that they want.

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 249.

Sincerely

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

SB0249 Scott Webber Feb 3 2022 Unfavorable.pdf

Uploaded by: Scott Webber

Position: UNF

Senate Bill 0249

Testimony Of
Scott Webber
Before the
Maryland Senate Finance Committee
Feb. 3, 2022

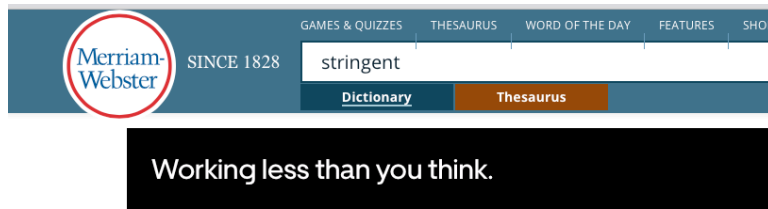
UNFAVORABLE

Distinguished Members of the Committee,

When it comes to law, words matter... because that is what defines the law.

SB0249 provides muddlement beyond reasonable understanding, and as such, is bad legislation.

For the purposes of this brief testimony, I am going to focus on the bill text 'stringent'.



stringent adjective

Save Word

stringent | \ˈstrɪn-jənt\

Definition of *stringent*

- 1 : TIGHT, CONSTRICTED
- 2 : marked by rigor, *strictness*, or severity especially with regard to rule or standard
// stringent decontamination procedures
- 3 : marked by money scarcity and credit strictness
// a stringent budget

For a 'local law' to be given legal authority to be "at least as stringent as..." means that it has to comply 'at least as strictly' to the original law, as the original law itself.

Any law that is 'less stringent' than the actual law, is in violation of the law, because by definition, it is not following 'the letter of the law'.

Any law that is 'more stringent' than the actual law to which it is being compared, can only reach the point where it is more rigorous in adherence, and more tightly in conformance to the original law, than the original law, which is a linguistic, and legalistic, impossibility; once you get to full 100% conformity... you cannot become any more 'stringent', lest one now start deviating from the original law, which is exactly the opposite of being 'stringent'.

There is also no definition of 'stringent' in the context of tobacco regulation.

In the Altadis case, Prince George's County sought to make it law that cigarettes be sold in larger packages. Is this more 'stringent' than other laws that require smaller packages? Could Baltimore – or any other local body – impose a more 'stringent' law that requires/restricts each tobacco purchaser to purchase at least six cartons of cigarettes in each transaction, and no smaller? Or is it more 'stringent' to pass a law or ordinance that requires/restricts the sale of tobacco to a single carton at any one transaction?

Is it more 'stringent' to require vape shops to remain open 24 hours a day to serve the needs of the smoking public who are trying to quit? Or more 'stringent' to limit their operation hours to 3-4am?

The language is ambiguous, and amorphous, and will lead to confusion and chaos.

Please Vote Unfavorably.

Most Sincerely,

Scott Webber
240-994-4670
ScottWebberMD@gmail.com

SB 249- Royal Farms Written Testimony- Senate Fina

Uploaded by: Shelby Kemp

Position: UNF



FOR IMMEDIATE RELEASE

February 3, 2022

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

SENATE BILL 249- CIGARETTES, OTHER 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.

We have 27 stores in Baltimore City. Royal Farms is committed to serving the people in Baltimore. While many companies prefer the suburbs, Royal Farms has always served Baltimore City. Our headquarters are in the City of Baltimore. Royal Farms pays significant real estate property taxes. Its employees pay substantial income taxes. We employ hundreds of workers in Baltimore.

Cigarettes and other tobacco products make up a significant percentage of sales in our stores. If SB 249 were to pass, revenues in our stores would substantially decrease, and we would be forced to lay off workers. From a state policy perspective, I seriously doubt banning tobacco products would stop or even reduce smoking. People who smoke would simply find another market to smoke.

This type of legislation does simply 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.

On behalf of Royal Farms, we respectfully request an unfavorable report.

Shelby Kemp
Marketing Project Manager
skemp@royalfarms.com