



## DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 5, 2024

The Honorable C. T. Wilson  
Chair, House Economic Matters Committee  
Room 231, House Office Building  
Annapolis, MD 21401-1991

### **RE: House Bill 1414 – Electronic Smoking Devices - Licensure, Indoor Use, and Taxation - Alterations – Letter of Information**

Dear Chair Wilson and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of information for House Bill (HB) 1414 – Electronic Smoking Devices - Licensure, Indoor Use, and Taxation - Alterations. As written, this bill adds electronic smoking devices (ESDs) to the Clean Indoor Air Act (CIAA) and increases sales and use tax rates on ESDs. HB 1414 also updates laws for licensed tobacco retailers and makes it illegal for retailers to sell ESD products that have not received approval from the US Food and Drug Administration (FDA).

The Department believes adding ESDs to the CIAA and including FDA review are important goals. However, we have concerns regarding the bill's current language. The Department believes strongly that ESDs should be included in the CIAA, and has submitted its own bill (SB 244/ HB 238 - Public Health - Clean Indoor Air Act - Revisions) to add ESDs to the CIAA. We believe the language used in SB 244/HB 238 more comprehensively addresses the addition of ESDs to the CIAA to guide operationalization. Amendments to remove the alterations to the CIAA are attached to this letter. We have discussed the Department's bill with the sponsor and would be happy to provide additional information on the specific differences.

Separately, the Department supports the intent of HB 1414 to require ESDs to go through FDA review before being sold to Marylanders. However, the Department wishes to call to the Committee's attention that the FDA authorizes ESD products for marketing, but does not *approve* ESD products as written on page one of HB 1414. The Attorney General has similar legislation in SB 987/HB 1033 - Business Regulation – Electronic Smoking Devices Manufacturers – Certifications, which requires the authorization for marketing. The Department believes the wording in SB 987/HB 1033 best matches the federal regulatory framework currently in place.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at [sarah.case-herron@maryland.gov](mailto:sarah.case-herron@maryland.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "LH Scott", is enclosed within a faint, light blue outline of the state of Maryland.

Laura Herrera Scott, M.D., M.P.H.  
Secretary

Attachments: (1)

- Proposed amendments to HB 1414

AMENDMENT TO HOUSE BILL 1414  
(First Reader File Bill)

On page 1, strike starting with “altering” on line 4 through “devices;” on line 6.

On pages 1 and 2, strike starting with page 1 line 14, through page 2 line 1, inclusive.

On page 3, strike starting on line 12 through page 7 line 18, inclusive.

- **Rationale:** The Department has separately submitted its own Departmental bills altering the Clean Indoor Air Act. To avoid the bills interfering with each other, this proposed amendment strikes the changes to Articles: Health General (the Clean Indoor Air Act itself), Labor and Employment (Department of Labor’s regulatory authority over workplace), and Public Utilities (requiring MDOT to post signage).