



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

February 20, 2024

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

RE: House Bill 1180 – Cigarettes, Other Tobacco Products, and Electronic Smoking Devices - Revisions (Tobacco Retail Modernization Act of 2024) – Letter of Support with Amendments

Dear Chair Wilson and Committee members:

The Maryland Department of Health (the Department) respectfully submits this letter of support with amendments for House Bill (HB) 1180 – Cigarettes, Other Tobacco Products, and Electronic Smoking Devices - Revisions (Tobacco Retail Modernization Act of 2024). HB 1180 updates licensing requirements and business operations for tobacco retailers in Maryland. HB 1180 also requires the Department to conduct at least two unannounced inspections of licensed tobacco retailers each year and to conduct a one-time study of tobacco retailers and statewide tobacco enforcement efforts in conjunction with the Alcohol, Tobacco, and Cannabis Commission (ATCC). Finally, HB 1180 prohibits the sale of all tobacco products in pharmacies.

HB 1180 updates the regulatory scheme for licensing tobacco retailers in Maryland and better aligns Maryland law with evidence-based practices in tobacco use prevention and control. The Department supports many of the provisions of HB 1180, including: (1) increasing licensing fees; (2) increasing civil penalties for tobacco retailers who are found out of compliance; (3) requiring retailers to keep cigarettes, other tobacco products, and electronic smoking devices (ESDs) behind-the-counter and to verify all purchasers are at least 21 years old with a government-issued identification; (4) restricting the sale of all ESD products to the premises of licensed vape shop vendors; and (5) prohibiting the sale of all tobacco products in Maryland pharmacies. The Maryland Comptroller,¹ and several organizations, including the Centers for Disease Control and Prevention (CDC), the American Heart Association, the American Lung

¹ <https://www.marylandtaxes.gov/forms/etaskforce/final-e-facts-report02172020.pdf>

Association, and the Campaign for Tobacco-Free Kids recommend implementing such retailer strategies to address health equity and reduce youth tobacco use.^{2,3,4,5}

The popularity of ESDs with Maryland youth is concerning as nicotine adversely affects adolescent brain development and mental health.⁶ Youth who start using ESDs are more likely to completely transition to cigarettes or use both ESDs and cigarettes, putting them at risk for a lifelong addiction to nicotine and other substances.⁷ Restricting ESD sales to licensed vape shop vendors will further limit youth access to ESDs as convenience stores and gas stations are common sources of tobacco products for youth, including ESDs. As written, HB 1180 would also restrict sales of ESDs to in-person on the premises of a vape shop, effectively eliminating online sales. HB 1180 also prohibits tobacco product sales in pharmacies. At least two other states and hundreds of US jurisdictions have also banned tobacco sales in pharmacies to the benefit of public health.⁸ Professional organizations, pharmacists, pharmacy chains, and the public overwhelmingly support policies like HB 1180.⁹

HB 1180 would have a fiscal and operational impact on the Department as written. The bill requires the Department to conduct at least two unannounced inspections of tobacco retailers each year (about 13,000 inspections/year). Currently, instead of doing them directly, the Department provides funding to local health departments to conduct tobacco retailer enforcement (approximately 7,000 inspections per year), and the Department separately conducts statewide Synar and statewide Food and Drug Administration (FDA) inspections (approximately 4,000 inspections per year combined). The bill's inspection requirement would be in addition to the already existing inspections.

HB 1180 increases licensing fees for tobacco retailers from \$25 to \$300. The funds are allocated to the ATCC (\$25), and local jurisdictions (\$100). The remaining \$175 is not accounted for in the bill as written. As HB 1180 does not provide funding to the Department to offset costs to conduct the required additional inspections, the Department respectfully requests the \$175 portion of the licensing fee be allocated to the Department. The proposed increased licensing fees would yield about \$650,000 in revenue for counties (\$100 from each of the 6,500 retailers), and potentially \$1.14 million to the Department. HB 1180 also requires the Department, in conjunction with the ATCC, to conduct a one-time study of tobacco retailers and statewide tobacco enforcement efforts by December 31, 2024. The Department will need to hire additional staff to conduct retailer inspections and the one-time study. The Department proposes several

² Centers for Disease Control and Prevention, "Tobacco Where You Live: Retail Strategies to Promote Health Equity," Office on Smoking and Health, 2022, Accessed 13 Feb 2024 at <<https://www.cdc.gov/tobacco/stateandcommunity/guides/pdfs/best-practices-retail-user-guide-508.pdf>>.

³ American Heart Association, "Tobacco Retailer Licensure: Maryland," Accessed 14 Feb 2024 at <<https://tobaccoretaillicensure.heart.org/states-pods/maryland/>>.

⁴ American Lung Association, "Public Policy Position - Tobacco and Health," 25 Jun 2021, Accessed 14 Feb 2024 at <<https://www.lung.org/policy-advocacy/public-policy-positions/public-policy-position-tobacco>>.

⁵ Campaign for Tobacco-Free Kids, "U.S. STATE AND LOCAL ISSUES PREVENTION AND CESSATION PROGRAMS," 27 Jan 2021, Accessed 14 Feb 2024 at <<https://www.tobaccofreekids.org/what-we-do/us/prevention-cessation>>.

⁶ US Department of Health and Human Services, "E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General," 2016, Accessed 13 Feb 2024 at <https://www.cdc.gov/tobacco/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf>.

⁷ Ibid fn 3.

⁸ <https://countertobacco.org/policy/tobacco-free-pharmacies/>

⁹ Ibid

technical amendments to help offset some of these expenditures, which the Department would like the opportunity to discuss.

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.

Sincerely,

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

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