



ATCC

Alcohol, Tobacco, and Cannabis Commission

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Governor

Aruna K. Miller
Lt. Governor

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Executive Director

March 4, 2026

BILL: HB1282 - Letter of Information – Tobacco Products, Other Tobacco Products, and Electronic Smoking Devices - Advertising to Minors – Prohibition
COMMITTEE: Economic Matters
POSITION: Letter of Information

RE: Letter of Information – HB1282 – Tobacco Products, Other Tobacco Products, and Electronic Smoking Devices - Advertising to Minors – Prohibition

Dear Chair Valderrama and Members of the Committee:

I write on behalf of the Alcohol, Tobacco, and Cannabis Commission to provide this Letter of Information to the Senate Finance Committee regarding HB1282 – Tobacco Products, Other Tobacco Products, and Electronic Smoking Devices - Advertising to Minors - Prohibition.

The ATCC is responsible for regulating the businesses which are licensed to manufacture, transport, and/or sell cigarettes, other tobacco products (OTP), and electronic smoking devices (ESD). Each of these products are restricted to individuals over 21, and the ATCC works with Maryland's Department of Health (MDH) and local health departments to monitor and discipline businesses that sell these products to minors and adults under 21. This is important not only to the health of Maryland's young people, but also to ensuring Maryland diligently enforces the laws as required by both our Master Settlement Agreement with cigarette manufacturers and the Federal Synar program that is tied to federal grant funding for our State's health and substance abuse programs.

HB1282 supports the State's strong interest in protecting minors by adding statutes to Business Regulations titles 16, 16.5, and 16.7 which prohibit licensed businesses from advertising products in a manner which may appeal to minors and restrict how they may create advertisements that will be printed in print and online publications and at public events. While the ATCC takes no position on the policy merits of these restrictions, we wish to bring to the Committee's attention both practical limitations on our ability to enforce these provisions, and legal considerations that may have implications for this legislation.

First, HB1282 would create Maryland advertising restrictions which overlap with existing federal tobacco advertising laws. The content of labels for cigarettes is governed by the Federal Cigarette Labeling and Advertising Act, which is the law which requires all packaging and advertising for cigarettes to contain specific health warnings for consumers. Advertising of cigarettes and other tobacco products is also prohibited by Federal law on any FCC governed electronic medium such as radio and television. FDA regulations also limit the ability of tobacco manufacturers to sponsor sporting and cultural events or sell branded merchandise. Each of these statutes and regulations serves as a first line of protection from mass advertising of these products or from certain elements of packaging which can attract minors.

However, under the legal doctrine of preemption, these federal statutes also limit the ability of individual States to create laws covering these areas. As a result, the State may face immediate litigation from major tobacco manufacturers or wholesalers challenging the provisions HB1282 that focus on cigarette and OTP labelling and advertising. Additionally, the State may be exposed to constitutional challenges under the first amendment to the extent the proposed legislation limits the content of protected commercial speech. While Maryland may prevail on certain challenges based on the compelling State interest in protecting the health of minors, this litigation process could be costly and could affect the ability to enforce these provisions.

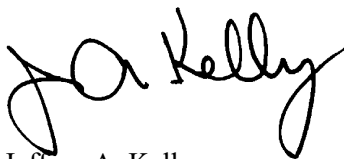
There are also operational challenges to the enforcement of the proposed legislation. The language in HB1282 only allows enforcement against the holders of one of Maryland's tobacco related manufacturing, wholesaling, and retailing licenses. Because most major brands of cigarettes, OTP, and ESDs are manufactured outside of Maryland and brought into the State by shippers and wholesale importers/distributors, very few manufacturers are required to be licensed in Maryland in order for their products to be sold here. These major manufacturers also control both the packaging of the products and the creation of any advertising materials tied to particular brands - this limits the ability of retailers for example to control these elements or to independently create product advertisements. As a result, the ATCC may be unable to effectively enforce elements of HB1282 against the entities which create the products, advertisements, and labels.

Finally, it should be noted that the ATCC does not currently have the staff expertise or infrastructure necessary to enforce the provisions of HB1282 that relate to public advertisements and the composition of the expected audience for those advertisements. The ATCC does not monitor concerts, stadium events, or sporting events to observe the advertising activity for regulated products, and is generally only involved in such events when there is a specific complaint or enforcement operation supported by local authorities. The ATCC would also need to employ additional staff with experience and expertise in analyzing advertisements and audience demographics to effectively enforce the proposed advertising restrictions.

On behalf of the ATCC, we would like to thank the Committee for their time and consideration of the ATCC's Letter of Information regarding HB1282 – Tobacco Products, Other Tobacco Products, and Electronic Smoking Devices - Advertising to Minors - Prohibition.

The ATCC remains committed to holding businesses accountable for unlawful sales of restricted products and ensuring that the State's regulatory framework is enforced in a manner that is consistent with federal and constitutional requirements. I am available to answer any questions or concerns that you may have related to this Letter of Information on this piece of legislation.

Respectfully submitted,



Jeffrey A. Kelly
Executive Director
Alcohol, Tobacco, and Cannabis Commission of Maryland