




## **Testimony in Support of House Bill 918, with Amendments** Baltimore City - Cigarettes, Other Tobacco Products, and Electronic Smoking Devices – Local Laws Authorization *Before the House Economic Matters Committee: March 4, 2026*

House Bill 918 would give Baltimore City the authority to enact and enforce laws regulating the sale of tobacco products. Prior to 2013, Baltimore City passed local laws regulating tobacco products, including prohibiting the sale of loose cigarettes and flavored blunt wraps, and the City Health Commissioner promulgated regulations on minimum pack sizes for little cigars. This local power was curtailed by the Maryland Supreme Court decision, *Altadis U.S.A. v. Prince George's County*, 431 Md. 307 (2013), which held that 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 broadly. As a result, Baltimore City has been unable to enforce existing tobacco regulations or to pass new legislation that responds to the changing dynamics of tobacco use in the City.

Preemption is the constitutional doctrine that federal law may be supreme over state or local law and state law may be supreme over local law. 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 the state or federal government has heavily regulated a particular field, suggesting an intent to occupy the entire subject area). Often state preemption of local regulation is detrimental to a local government's ability to nimbly and specifically address local public health concerns. That is certainly true with the impact of the *Altadis* decision's finding of implied preemption of local tobacco regulatory power.

Local control is integral to addressing myriad issues in tobacco regulation, including youth use of conventional and emerging products and restrictions at the retail level that curtail youth access. Baltimore City was quick to respond to youth-focused products in the early 2000's, passing an ordinance banning the sale of flavored blunt wraps and another prohibiting the sale of unpackaged cigarettes, commonly referred to as loosies. Then-Baltimore City Health Commissioner Sharfstein promulgated a regulation in 2008 that would have imposed minimum pack sizes on small cigars,



commonly called blunts, that had become popular among Baltimore City teens. That regulation was consistent with the Prince George’s County ordinance that was challenged in *Altadis*. These efforts to reduce the negative public health impacts of youth smoking were dismantled by the *Altadis* decision. House Bill 918 is an effort to restore local power to Baltimore City.

For these reasons, the Legal Resource Center for Public Health Policy supports passage of House Bill 918. However, a somewhat technical amendment is necessary to clear potential confusion between the bill and current law.

We suggest an amendment that would repeal current Business Regulation Article §6-308.2, which relates to Baltimore City’s process for citing a retailer for selling unpackaged cigarettes. No other local jurisdictions are implicated in BR §16-308.2. If House Bill 918 were to pass without repealing BR §16-308.2, there would be a potential conflict. The broader grant of power in House Bill 918 would mean that Baltimore City could start to enforce its Health Code on loosies (Baltimore City Health Code Title 12, Subtitle 2). But the existence of BR §16-308.2—a more specific provision—may mean the City Health Department cannot do so. The relevant difference between the City Code provision and BR §16-308.2 is that the City Code allows for the City Health Department to do the enforcement via an environmental infraction (that will be heard by the Environmental Control Board (ECB)) or a civil citation (that will be heard in District Court) while BR §16-308.2 allows the City Health Department to conduct inspections for violations but the Department must report violations to the State’s Attorney for prosecution. The Health Department cannot issue a citation to proceed before the ECB or District Court under BR §16-308.2. The decision to prosecute is vested in the State’s Attorney. As a result, the City Health Department has not been conducting loosies enforcement—fearing the local code provision is preempted by *Altadis* and that the State’s Attorney is not going to pursue referred charges under BR §16-308.2. Leaving that section in the state code will create confusion and interfere with full implementation of House Bill 918.

For these reasons, we urge a favorable with amendments vote on House Bill 918. We understand that the bill sponsor, Senator Hayes, and the Baltimore City Health Department agree fully with the amendment to repeal BR §16-308.2.

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*This testimony is submitted on behalf of the Legal Resource Center for Public Health Policy and the Public Health Law Clinic at the University of Maryland Carey School of Law and not by the School of Law; the University of Maryland, Baltimore; or the University of Maryland System.*