

SENATE BILL 244

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(PRE-FILED)

4lr0195
CF HB 238

By: **Chair, Finance Committee (By Request – Departmental – Health)**

Requested: September 13, 2023

Introduced and read first time: January 10, 2024

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 26, 2024

CHAPTER _____

1 AN ACT concerning

2 **Public Health – Clean Indoor Air Act – Revisions**

3 FOR the purpose of prohibiting vaping in certain indoor areas and places of employment
4 and certain mass transportation; requiring that certain signs be posted and
5 maintained in a certain manner in each indoor area open to the public and each
6 public entrance to an indoor area where smoking or vaping is prohibited under the
7 Clean Indoor Air Act; ~~altering the exemption from the Clean Indoor Air Act for~~
8 ~~certain retail tobacco businesses;~~ requiring the Maryland Department of Health to
9 convene a workgroup to study the issuance of alcoholic beverages licenses to
10 tobacconists; prohibiting a local alcoholic beverages license from being issued to a
11 tobacconist during a certain period of time; and generally relating to the Clean
12 Indoor Air Act.

13 BY repealing and reenacting, with amendments,
14 Article – Health – General
15 Section 24–501, 24–504, 24–505, 24–506, and 24–508(c)(2)
16 Annotated Code of Maryland
17 (2023 Replacement Volume)

18 BY repealing
19 Article – Health – General
20 Section 24–509
21 Annotated Code of Maryland
22 (2023 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 5–608(b)(1)
Annotated Code of Maryland
(2016 Replacement Volume and 2023 Supplement)

BY renumbering
Article – Health – General
Section 24–510 and 24–511
to be Section 24–509 and 24–510, respectively
Annotated Code of Maryland
(2023 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

24–501.

(a) In this subtitle the following words have the meanings indicated.

(b) “Cannabis” has the meaning stated in [§ 5–101 of the Criminal Law Article]
§ 1–101 OF THE ALCOHOLIC BEVERAGES AND CANNABIS ARTICLE.

(c) **“ELECTRONIC SMOKING DEVICE” HAS THE MEANING STATED IN § 16.7–101 OF THE BUSINESS REGULATION ARTICLE.**

~~[(c)]~~ (d) “Employee” has the meaning stated in § 5–101 of the Labor and
Employment Article.

~~[(d)]~~ (e) “Employer” has the meaning stated in § 5–101 of the Labor and
Employment Article.

~~[(e)]~~ (f) “Environmental smoke” means [the]:

(1) **THE** complex mixture formed from the escaping smoke of a burning
tobacco, cannabis, or hemp product or smoke exhaled by the smoker; **OR**

(2) **THE COMPLEX MIXTURE FORMED FROM THE ESCAPING AEROSOL
OF AN ELECTRONIC SMOKING DEVICE OR EXHALED AS ELECTRONIC SMOKING
DEVICE AEROSOL.**

(g) **“HEMP” HAS THE MEANING STATED IN § 14–101 OF THE AGRICULTURE
ARTICLE.**

1 **[(f)] (H)** “Indoor area open to the public” means:

2 (1) An indoor area or a portion of an indoor area accessible to the public by
3 either invitation or permission; or

4 (2) An indoor area of any establishment licensed or permitted under the
5 Alcoholic Beverages and Cannabis Article for the sale or possession of alcoholic beverages.

6 **[(g)] (I)** “Place of employment” has the meaning stated in § 5–101 of the Labor
7 and Employment Article.

8 **[(h)] (J)** “Smoking” means the burning of a lighted cigarette, cigar, pipe, or any
9 other matter or substance containing, wholly or in part, tobacco, cannabis, or hemp.

10 **(K)** **“TOBACCO PRODUCT” HAS THE MEANING STATED IN § 13–1001 OF THIS**
11 **ARTICLE.**

12 **(L)** **“VAPING” MEANS THE USE OF:**

13 **(1)** **AN ELECTRONIC SMOKING DEVICE; OR**

14 **(2)** **ANY DEVICE THROUGH WHICH THE USER INHALES AEROSOL**
15 **CONTAINING ~~HEMP OR CANNABIS~~ TOBACCO, CANNABIS, OR HEMP.**

16 24–504.

17 Except as provided in § 24–505 of this subtitle, beginning on February 1, 2008, a
18 person may not smoke **OR VAPE** in:

19 (1) An indoor area open to the public;

20 (2) An indoor place in which meetings are open to the public in accordance
21 with Title 3 of the General Provisions Article;

22 (3) A government–owned or government–operated means of mass
23 transportation including buses, vans, trains, taxicabs, and limousines; or

24 (4) An indoor place of employment.

25 24–505.

26 This subtitle does not apply to:

27 (1) Private homes, residences, including residences used as a business or
28 place of employment, unless being used by a person who is licensed or registered under

Title 5, Subtitle 5 of the Family Law Article to provide child care, and private vehicles, unless being used for the public transportation of children, or as part of health care or child care transportation;

(2) A hotel or motel room rented to one or more guests as long as the total percent of hotel or motel rooms being so used does not exceed 25%;

(3) A retail tobacco business that is a sole proprietorship, limited liability company, corporation, partnership, or other enterprise, in which:

(i) The primary activity is the retail sale of tobacco products and accessories; and

(ii) The sale of other products is incidental;

(4) Any facility of a manufacturer, importer, wholesaler, or distributor of tobacco products or of any tobacco leaf dealer or processor in which employees of the manufacturer, importer, wholesaler, distributor, or processor work or congregate; or

(5) A research or educational laboratory for the purpose of conducting scientific research into the health effects of [tobacco] **ENVIRONMENTAL** smoke.

24–506.

(a) Signs that state “Smoking **OR VAPING** Permitted in This Room” shall be prominently posted and properly maintained where smoking **OR VAPING** is allowed under § 24–505(2) of this subtitle.

(B) SIGNS THAT STATE “NO SMOKING OR VAPING” SHALL BE CONSPICUOUSLY POSTED AND PROPERLY MAINTAINED IN EACH INDOOR AREA OPEN TO THE PUBLIC AND EACH PUBLIC ENTRANCE TO AN INDOOR AREA WHERE SMOKING OR VAPING IS PROHIBITED UNDER THIS SUBTITLE.

[(b)] (C) The signs shall be posted and maintained by the owner, operator, manager, or other person having control of the area.

[(c)] (D) The letters on the signs shall be at least 1 inch in height.

24–508.

(c) (2) It is an affirmative defense to a complaint brought against a person for a violation of a provision of this subtitle or a regulation adopted under this subtitle that the person or an employee of the person:

(i) Posted a “No [Smoking]” **SMOKING OR VAPING** sign as required under § 24–506 of this subtitle;

(ii) Removed all ashtrays and other smoking **OR VAPING** paraphernalia from all areas where smoking is prohibited; and

(iii) If the violation occurred in a bar, tavern, or restaurant:

1. Refused to seat or serve any individual who was smoking **OR VAPING** in a prohibited area; and

2. If the individual continued to smoke **OR VAPE** after an initial warning, asked the individual to leave the establishment.

[24–509.

(a) Within 90 days from the receipt of an application for a waiver and the date that all conditions for the application for a waiver required in the regulations adopted by the Secretary have been satisfied, the health officer of a county may grant a waiver from the application of a specific provision of this subtitle, if prior to the granting of the waiver, the applicant for a waiver establishes in writing:

(1) Compliance with a specific provision of this subtitle would cause undue financial hardship; or

(2) The existence of other factors that would render compliance unreasonable.

(b) The Secretary may impose conditions or restrictions on a waiver granted under subsection (a) of this section to:

(1) Minimize the adverse effects of the waiver on individuals involuntarily exposed to secondhand smoke; and

(2) Ensure that the waiver is consistent with the purposes of this subtitle.

(c) The Secretary shall adopt regulations necessary to implement this section.

(d) (1) A waiver may not be granted under subsection (a) of this section on or after January 31, 2011.

(2) A waiver granted under subsection (a) of this section terminates on January 31, 2011.]

Article – Labor and Employment

5–608.

(b) (1) The Department shall adopt regulations that prohibit environmental [tobacco] smoke, as defined in § 24–501 of the Health – General Article, in indoor places of employment not normally open to the general public.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Department of Health shall convene a workgroup to study the issuance of alcoholic beverages licenses to tobacconists.

(b) The workgroup shall include:

(1) two Senators designated by the President of the Senate;

(2) two Delegates designated by the Speaker of the House;

(3) one representative from the Alcohol, Tobacco, and Cannabis Commission;

(4) one representative from the Maryland Department of Health; and

(5) one representative from a cigar retailers trade association.

(c) On or before July 1, 2025, the workgroup shall report its findings and recommendations to the General Assembly in accordance with § 2–1257 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That a local alcoholic beverages license may not be issued to a tobacconist from July 1, 2024, to July 1, 2026, both inclusive.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That Section(s) 24–510 and 24–511 of Article – Health – General of the Annotated Code of Maryland be renumbered to be Section(s) 24–509 and 24–510, respectively.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.