

HOUSE BILL 238

J1
SB 273/21 – FIN

(PRE-FILED)

4lr0196
CF SB 244

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

Requested: September 13, 2023

Introduced and read first time: January 10, 2024

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 2, 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 certain mass
4 transportation; requiring that certain signs be posted and maintained in a certain
5 manner in each indoor area open to the public and each public entrance to an indoor
6 area where smoking or vaping is prohibited under the Clean Indoor Air Act; and
7 generally relating to the Clean Indoor Air Act.

8 BY repealing and reenacting, with amendments,
9 Article – Health – General
10 Section 24–501, 24–504, 24–505, 24–506, and 24–508(c)(2)
11 Annotated Code of Maryland
12 (2023 Replacement Volume)

13 BY repealing
14 Article – Health – General
15 Section 24–509
16 Annotated Code of Maryland
17 (2023 Replacement Volume)

18 BY renumbering
19 Article – Health – General
20 Section 24–510 and 24–511
21 to be Section 24–509 and 24–510, respectively

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.



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.**

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

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

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

[(g)] (I) “Place of employment” has the meaning stated in § 5–101 of the Labor

and Employment Article.

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

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

(L) “VAPING” MEANS THE USE OF:

(1) AN ELECTRONIC SMOKING DEVICE; OR

(2) ANY DEVICE THROUGH WHICH THE USER INHALES AEROSOL CONTAINING HEMP OR CANNABIS.

24–504.

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

(1) An indoor area open to the public;

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

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

(4) An indoor place of employment.

24–505.

This subtitle does not apply to:

(1) Private homes, residences, including residences used as a business or 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.]

SECTION 2. 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. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.