

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 844 (Delegate Boaf0)
Economic Matters

Business Regulation - Cigarette, Other Tobacco Product, and Electronic Smoking Device Retailers - Nicotine Replacement Therapy Products (Make Quitting Convenient Act)

This bill requires a licensed cigarette retailer, other tobacco products (OTP) retailer, and electronic smoking devices (ESDs) retailer to stock and offer for sale at least one kind of “nicotine replacement therapy product” (a drug or device approved by the federal Food and Drug Administration for the sole purpose of aiding in the cessation of tobacco use or smoking). A retailer must display such products in a location behind the sales counter and post signage on the retail premises that states (1) that such products are available for purchase and (2) the telephone and website contact information for the Maryland Tobacco Quitline. The Executive Director of the Alcohol, Tobacco, and Cannabis Commission (ATCC) may adopt regulations regarding the requirement that retailers stock and offer for sale at least one nicotine replacement therapy product.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances. It is assumed that any enforcement can be handled with existing resources. However, Maryland Department of Health (MDH) expenditures may be affected, as discussed below.

Local Effect: The bill does not affect local government revenues or expenditures.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A licensee may determine (1) the kind and quantity of nicotine replacement therapy product to be stocked and offered for sale and (2) whether more than

one kind of product will be stocked and offered for sale. However, if a licensee fully depletes the stock of nicotine replacement therapy products, the licensee must (1) place an order for new stock within five business days and (2) refill its stock and offer for sale a nicotine replacement therapy product within 14 days after the date of the last sale of the nicotine replacement therapy product.

Current Law: Generally, the Business Regulation Article governs the licensing and operation of cigarette, OTP, and ESD manufacturers, wholesalers, retailers, storage warehouses, and vending machine operators. ATCC issues manufacturer, wholesaler, storage warehouse, and vending machine operator licenses. The clerks of the circuit courts issue retail licenses. With limited exception, a person may not act, attempt to act, or offer to act as (1) a cigarette manufacturer, retailer, storage warehouse, subwholesaler, vending machine operator, or wholesaler; (2) an OTP manufacturer, retailer, storage warehouse, wholesaler, or tobacconist; or (3) an ESD manufacturer, retailer, wholesaler distributor, wholesaler importer, or vape shop vendor without an appropriate license. A violation is a misdemeanor punishable by a fine of up to \$1,000 and/or imprisonment for up to 30 days. Each day that a violation continues is a separate offense. Federal legislation enacted in 2019 raised the minimum age for an individual to purchase or be sold tobacco products from ages 18 to 21.

Under current law, a retailer must post certain signage that is clearly visible to the consumer. For example, a licensee who sells cigarettes through a vending machine, OTP, or ESDs must display a sign indicating that no person younger than age 21 may be sold tobacco products without appropriate identification.

State Expenditures: MDH advises that, as a result of the bill, it must update its “Responsible Retailer Toolkit.” This update includes changes in signage that refer to the Maryland Tobacco Quitline and nicotine replacement therapy. MDH reports that it typically distributes this toolkit, which includes other free resources and information, to all licensed tobacco retailers across the State. MDH anticipates that it is able to absorb any potential costs related to updating the toolkit with existing budgeted resources. In addition, MDH advises that, to the extent that new signage results in an increase in call volume to the Quitline, operational expenditures increase. For example, MDH estimates that if there is a 10% increase in Quitline usage due to the increased awareness from signage required in the bill, expenditures for MDH increase by \$135,000 annually beginning in fiscal 2025.

Small Business Effect: Small business cigarette, OTP, and ESD retailers that do not currently offer nicotine replacement therapy products must stock and offer for sale such products, and they must post additional signage (although the signage would be available free from MDH). These small businesses may experience an increase in sales from nicotine replacement therapy products being offered as a result of the bill’s mandate.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 582 (Senator Gile) - Finance.

Information Source(s): Maryland Association of County Health Officers; Alcohol, Tobacco, and Cannabis Commission; Comptroller's Office; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

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