



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

January 28, 2021

The Honorable Delores G. Kelley  
Chair, Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, MD 21401-1991

**RE: Senate Bill 273 – “Electronic Smoking Device Regulation Act of 2021” – Letter of Information**

Dear Chair Kelley and Committee members:

The Maryland Department of Health (MDH) submits this letter of information for Senate Bill 273 (SB 273) titled: “Electronic Smoking Device Regulation Act of 2021.” SB 273 changes the licensing requirements and fees for electronic smoking device (ESD) retailers and manufacturers by limiting ESD sales to “vape shop vendors,” businesses that exclusively sell ESDs and accessories. The bill also requires such vendors to register and pay a fee at the local level in addition to license fees paid to the county clerk, requires vape shop vendors to scan a government issued ID at the time of purchase, and bans the sale of flavored disposable ESDs. Finally, SB 273 amends the Clean Indoor Air Act (CIAA) by prohibiting use of ESDs in indoor public areas and changes the definition of environmental tobacco smoke to include ESD “vapor.” The bill authorizes the Department to set standards for permissible ingredients and components for ESDs and to test product samples for compliance.

Limiting ESD sales to vape shops could decrease the number of retailers who are able to sell ESDs in Maryland. In 2018, the U.S. Surgeon General declared youth vaping an epidemic.<sup>1</sup> Research indicates that youth are more likely to try flavored ESDs and that youth are unaware that nearly all ESDs contain nicotine.<sup>2,3</sup> Additionally, ESDs were the sole cause of the 2019-2020 E-cigarette or Vaping Associated Lung Injury (EVALI) outbreak, with over 2,700 hospitalizations nationally and nearly 60 reported cases in Maryland alone.

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<sup>1</sup> <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.

<sup>2</sup> Willett JG, Bennett M, Hair EC, *et al* Recognition, use and perceptions of JUUL among youth and young adults *Tobacco Control* 2019;28:115-116. <https://tobaccocontrol.bmj.com/content/28/1/115.info>.

<sup>3</sup> Kristy L. Marynak, Doris G. Gammon, Todd Rogers, Ellen M. Coats, Tushar Singh, and Brian A. King, 2017: [Sales of Nicotine-Containing Electronic Cigarette Products: United States, 2015](https://doi.org/10.2105/AJPH.2017.303660) *Am J Public Health* 107, 702\_705, <https://doi.org/10.2105/AJPH.2017.303660>.

Prohibiting ESD use in indoor public areas under the CIAA has the potential to reduce public exposure to cancer-causing chemical aerosols found in ESD vapor.<sup>4,5</sup> If MDH was required to set permissible standards for ESD ingredients and components by law, there would be a significant fiscal and operational impact. MDH relies on the federal level expertise at the FDA for these types of standards. It is difficult to predict what specific costs would be associated with this change with the language currently provided in the bill. MDH would also be tasked with setting the cost of an additional license application fee in “the amount necessary for MDH to carry out its duties under this title,” with no allocation of the generated revenue to MDH. The assigned fees that are collected by local health departments are directed for the enforcement of vape shop vendors and proposed changes to the CIAA.

This bill would have a fiscal and operational impact, requiring one-time expenditures in state fiscal year 2022 totaling \$182,600 to develop materials and provide outreach notifying all retailers, business owners, and the public about changes in the laws that would impact how they operate.

I hope this information is useful. If you would like to discuss this further, please contact me or Emily Berg, Assistant Director, Office of Governmental Affairs at (410) 260-3190 or [webster.ye@maryland.gov](mailto:webster.ye@maryland.gov), [Emily.berg@maryland.gov](mailto:Emily.berg@maryland.gov).

Sincerely,



Webster Ye  
Assistant Secretary, Health Policy

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<sup>4</sup> Higham, A., Rattray, N. J. W., Dewhurst, J. A., Trivedi, D. K., Fowler, S. J., Goodacre, R., & Singh, D. (2016). Electronic cigarette exposure triggers neutrophil inflammatory responses. *Respiratory Research*, 17(56), 1–11. <https://doi.org/10.1186/s12931-016-0368-x>

<sup>5</sup> Fetterman, J. L., Weisbrod, R. M., Feng, B., Bastin, R., Tuttle, S. T., Holbrook, M., Baker, G., Robertson, R. M., Conklin, D. J., Bhatnagar, A., & Hamburg, N. M. (2018). Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction. *Arteriosclerosis, Thrombosis, and Vascular Biology*, 38(7), 1607–1615. <https://doi.org/10.1161/atvbaha.118.311156>