

# HOUSE BILL 238

J1

(4lr0196)

## ENROLLED BILL

— *Economic Matters/Finance* —

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

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### 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; *requiring the Maryland Department of Health to convene a*  
8 *workgroup to study the issuance of alcoholic beverages licenses to tobacconists;*  
9 *prohibiting a local alcoholic beverages license from being issued to a tobacconist*  
10 *during a certain period of time;* and generally relating to the Clean Indoor Air Act.

11 BY repealing and reenacting, with amendments,

12 Article – Health – General

13 Section 24–501, 24–504, 24–505, 24–506, and 24–508(c)(2)

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#### 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.

*Italics indicate opposite chamber/conference committee amendments.*



1 Annotated Code of Maryland  
2 (2023 Replacement Volume)

3 BY repealing  
4 Article – Health – General  
5 Section 24–509  
6 Annotated Code of Maryland  
7 (2023 Replacement Volume)

8 BY repealing and reenacting, with amendments,  
9 Article – Labor and Employment  
10 Section 5–608(b)(1)  
11 Annotated Code of Maryland  
12 (2016 Replacement Volume and 2023 Supplement)

13 BY renumbering  
14 Article – Health – General  
15 Section 24–510 and 24–511  
16 to be Section 24–509 and 24–510, respectively  
17 Annotated Code of Maryland  
18 (2023 Replacement Volume)

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

21 **Article – Health – General**

22 24–501.

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

24 (b) “Cannabis” has the meaning stated in [§ 5–101 of the Criminal Law Article]  
25 **§ 1–101 OF THE ALCOHOLIC BEVERAGES AND CANNABIS ARTICLE.**

26 (c) **“ELECTRONIC SMOKING DEVICE” HAS THE MEANING STATED IN §**  
27 **16.7–101 OF THE BUSINESS REGULATION ARTICLE.**

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

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

32 [(e)] (F) “Environmental smoke” means [the]:

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

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

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

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

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

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

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

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

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

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

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

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

23 24–504.

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

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

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

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

3 (4) An indoor place of employment.

4 24–505.

5 This subtitle does not apply to:

6 (1) Private homes, residences, including residences used as a business or  
7 place of employment, unless being used by a person who is licensed or registered under  
8 Title 5, Subtitle 5 of the Family Law Article to provide child care, and private vehicles,  
9 unless being used for the public transportation of children, or as part of health care or child  
10 care transportation;

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

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

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

17 (ii) The sale of other products is incidental;

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

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

23 24–506.

24 (a) Signs that state “Smoking **OR VAPING** Permitted in This Room” shall be  
25 prominently posted and properly maintained where smoking **OR VAPING** is allowed under  
26 § 24–505(2) of this subtitle.

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

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

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

2 24–508.

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

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

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

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

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

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

15 **[24–509.**

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

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

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

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

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

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

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

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

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

5 **Article – Labor and Employment**

6 5-608.

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

10 **SECTION 2. AND BE IT FURTHER ENACTED, That:**

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

13 (b) The workgroup shall include:

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

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

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

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

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

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

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

25 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That Section(s) 24-510 and  
26 24-511 of Article – Health – General of the Annotated Code of Maryland be renumbered to  
27 be Section(s) 24-509 and 24-510, respectively.

28 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 July 1, 2024.