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**BALTIMORE CITY COUNCIL
HEALTH, ENVIRONMENT AND TECHNOLOGY
COMMITTEE**

Mission Statement

On behalf of the Citizens of Baltimore City, the mission of the Health, Environment, and Technology (HET) Committee is to study, review, and recommend policies to improve overall public health and welfare, achieve environmental justice and sustainability, and promote the adoption of, and equitable access to, technology to better meet the needs of all City residents.

**The Honorable Danielle McCray
Chair**

PUBLIC HEARING

**WEDNESDAY, JANUARY 24, 2024
10:01 AM**

COUNCIL CHAMBERS

Council Bill 23-0418

Tobacco Products – Tobacco Product Use in Stadiums

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BILL SYNOPSIS

Committee: Health, Environment, and Technology

Bill: 23-0418

Tobacco Products – Tobacco Product Use in Stadiums

Sponsor: Councilmembers Bullock, Cohen & Torrence

Introduced: August 21, 2023

Purpose:

For the purpose of prohibiting the use of tobacco products in stadiums; defining certain terms; establishing certain penalties; and providing for a special effective date.

Effective: The 30th day after the date it is enacted

Agency Reports

City Solicitor	Comments
Department of Health	Favorable

Analysis

Changes to Current Law

Council bill 23-0418 introduces a new subtitle, titled "Subtitle 10. Tobacco Product Use in Stadiums," within the existing Article - Health of the Baltimore City Revised Code. The bill includes amendments with the addition of Sections 12-1001 to 12-1004, which provide definitions for terms like "Electronic Smoking Device," "Professional Sporting Event," "Tobacco Product," and "Stadium."

Background

The primary focus of this bill is to prohibit the use of tobacco products in any manner within stadiums. Enforcement mechanisms are outlined, allowing for citations issued by the Environmental Control Board or civil citations. Importantly, the issuance of a citation does not preclude the pursuit of other civil or criminal remedies. The bill establishes civil penalties of up to \$500 for each violation, with varying penalties for non-professional and professional sporting events. This proposed legislation aims to regulate and restrict tobacco product use in stadiums, promoting a healthier environment in these public spaces.

Additional Information

Fiscal Note: None.

Information Source(s): Reporting Agencies, Bill 23-0418, Baltimore City Code

Deontre Hayes

Analysis by: Deontre Hayes
Analysis Date: January 19, 2024

Direct Inquiries to: (410) 396-1260

HEALTH, ENVIRONMENT, AND TECHNOLOGY COMMITTEE

AGENCY REPORTS

SEE ATTACHED

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
EBONY M. THOMPSON, ACTING SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

November 3, 2023

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 23-0418 – Tobacco Products – Tobacco Product Use in
Stadiums – Prohibition

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 23-0418 for form and legal sufficiency. The bill would add a Subtitle 10 Tobacco Product Use in Stadiums to Title 12 Tobacco Products and Smoking Devices of the Health Article of the Baltimore City Code. It defines stadium and tobacco products and prohibits the use of those products in stadia.

The Mayor and City Council of Baltimore’s express powers granted by the General Assembly include the power to pass laws that promote the general welfare and expressly to “provide for the preservation of the health of all persons within the City.” City Charter, Art. II, §§ (11)(a), (27), (47). Although “State law comprehensively regulates the packaging, sale and distribution of tobacco products, including cigars, and thus preempts this field,” this does not preclude local government restrictions on places acceptable for smoking. *Altadis USA, Inc. v. Prince George’s County*, 431 Md. 307, 316 (2013). In fact, the state’s Clean Indoor Air Act explicitly provides that local governments may enact more strict measures. Md. Code, Health Gen., § 24-510.


Subtitles 7 and 8 of the Health Article of the City Code already prohibit smoking in certain areas. In fact, this bill’s provisions overlap with existing prohibitions in Subtitle 8 for smoking within 50 feet of any athletic facility. City Code, Health Art., § 12-801. The bill would also overlap with any indoor facilities to the extent that those are already covered under the state’s Clean Indoor Air Act. Md. Code, Health Gen., § 24-510. However, because this bill would not conflict with these existing laws, amendments are not needed, and the Law Department can approve the bill for form and legal sufficiency.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Ebony M. Thompson".

Hilary Ruley
Chief Solicitor

cc: Ebony M. Thompson, Acting City Solicitor
Nina Themelis, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Ashlea Brown, Chief Solicitor
Jeffery Hochstetler, Chief Solicitor
Teresa Cummings, Assistant Solicitor
Michelle Toth, Assistant Solicitor

F R O M	Name & Title	Mary Beth Haller, Esq., Acting Commissioner	Health Department AGENCY REPORT	
	Agency Name & Address	Health Department 1001 E. Fayette Street Baltimore, Maryland 21201		
	Subject/ Position	23-0418 – Tobacco Products - Tobacco Product Use in Stadiums - Prohibition FAVORABLE		

To: President and Members
of the City Council
c/o 409 City Hall

September 22, 2023

The Baltimore City Health Department (BCHD) is pleased to have the opportunity to review Council Bill 23-0418, entitled “Tobacco Products - Tobacco Product Use in Stadiums - Prohibition.” This ordinance would prohibit the use of tobacco or nicotine products in stadiums, including but not limited to cigarettes, electronic smoking devices, and chewing tobacco. The ordinance would apply to all professional sporting events, including collegiate sporting and athletic events. The ordinance would not apply to high school or amateur sporting events for which the athletes do not receive payment.

BCHD recognizes the harmful health impacts of nicotine and tobacco use and supports efforts to discourage anyone – especially youth – from using tobacco and nicotine. BCHD’s Tobacco Use Prevention and Cessation Program provides smoking cessation services, community education, school-based projects, and enforcement of retailer compliance with tobacco control ordinances. Additionally, our Bureau of Maternal and Child Health educates birthing parents and families about the importance of not smoking while pregnant and the harms of secondhand smoke on all family members, particularly infants and children.

While enforcement of this bill might be challenging, we believe that signage in the stadiums and other relevant locations will be an effective deterrent. Tobacco and nicotine use are harmful to public health, and young people in particular should be discouraged from using tobacco and should be protected from secondhand smoke. This ordinance would bring Baltimore City into accordance with other jurisdictions that have already taken similar measures. As such, BCHD requests a **favorable** position on Council Bill 23-0418.

**CITY OF BALTIMORE
COUNCIL BILL 23-0418
(First Reader)**

Introduced by: Councilmembers Burnett, Porter, Dorsey, Middleton, Ramos, Bullock, Cohen,
Torrence

Introduced and read first time: August 21, 2023

Assigned to: Health, Environment, and Technology Committee

Referred to the following agencies: City Solicitor, Health Department

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Tobacco Products – Tobacco Product Use in Stadiums – Prohibition**

3 FOR the purpose of prohibiting the use of tobacco products in stadiums; defining certain terms;
4 establishing certain penalties; and providing for a special effective date.

5 BY adding

6 Article - Health

7 Sections 12-1001 to 12-1004, to be under the new subtitle designation

8 “Subtitle 10. Tobacco Product Use in Stadiums”

9 Baltimore City Revised Code

10 (Edition 2000)

11 BY repealing and re-ordaining, with amendments

12 Article 1 - Mayor, City Council, and Municipal Agencies

13 Sections 40-14(e)(7) and 41-14(6)

14 Baltimore City Code

15 (Edition 2000)

16 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
17 Laws of Baltimore City read as follows:

18 **Baltimore City Revised Code**

19 **Article – Health**

20 **SUBTITLE 10. TOBACCO PRODUCT USE IN STADIUMS**

21 **§ 12-1001. DEFINITIONS.**

22 (A) *IN GENERAL.*

23 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 23-0418

1 (B) *ELECTRONIC SMOKING DEVICE.*

2 "ELECTRONIC SMOKING DEVICE" HAS THE MEANING STATED IN § 12-101 {"DEFINITIONS"}
3 OF THIS TITLE.

4 (C) *PROFESSIONAL SPORTING EVENT.*

5 (1) *IN GENERAL.*

6 "PROFESSIONAL SPORTING EVENT" MEANS ANY SPORTING OR ATHLETIC EVENT FOR
7 WHICH THE COMPETING ATHLETES RECEIVE MONETARY PAYMENT FOR PARTICIPATION.

8 (2) *INCLUSIONS.*

9 "PROFESSIONAL SPORTING EVENT" INCLUDES:

- 10 (I) A COLLEGIATE SPORTING OR ATHLETIC EVENT;
- 11 (II) AN OLYMPIC OR INTERNATIONAL SPORTING OR ATHLETIC EVENT; OR
- 12 (III) A MOTOR RACE EVENT.

13 (3) *EXCLUSIONS.*

14 "PROFESSIONAL SPORTING EVENT" EXCLUDES:

- 15 (I) A HIGH SCHOOL SPORTING OR ATHLETIC EVENT; AND
- 16 (II) AN AMATEUR SPORTING OR ATHLETIC EVENT FOR WHICH THE COMPETING
17 ATHLETES DO NOT RECEIVE MONETARY PAYMENT FOR PARTICIPATION.

18 (D) *TOBACCO PRODUCT.*

19 (1) *IN GENERAL.*

20 "TOBACCO PRODUCT" MEANS A PRODUCT THAT IS:

- 21 (I) INTENDED FOR HUMAN CONSUMPTION OR LIKELY TO BE CONSUMED, WHETHER
22 INHALED, CHEWED, ABSORBED, DISSOLVED, SMOKED, OR INGESTED IN ANY
23 OTHER MANNER, AND THAT IS MADE OR DERIVED FROM, OR THAT CONTAINS:
 - 24 (A) TOBACCO; OR
 - 25 (B) NICOTINE; OR
- 26 (II) AN ACCESSORY OR A COMPONENT USED IN ANY MANNER OF CONSUMPTION
27 DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

Council Bill 23-0418

1 (2) *INCLUSIONS.*

2 “TOBACCO PRODUCT” INCLUDES:

3 (I) CIGARETTES;

4 (II) CIGARS;

5 (III) PIPE TOBACCO;

6 (IV) CHEWING TOBACCO;

7 (V) SNUFF;

8 (VI) SNUS;

9 (VII) ELECTRONIC SMOKING DEVICES;

10 (VIII) FILTERS;

11 (IX) ROLLING PAPERS;

12 (X) PIPES; AND

13 (XI) LIQUIDS USED IN ELECTRONIC SMOKING DEVICES, REGARDLESS OF NICOTINE
14 CONTENT.

15 (3) *EXCLUSIONS.*

16 “TOBACCO PRODUCT” DOES NOT INCLUDE DRUGS, DEVICES, OR COMBINATION
17 PRODUCTS APPROVED FOR SALE BY THE UNITED STATES FOOD AND DRUG
18 ADMINISTRATION, AS DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

19 (D) *STADIUM.*

20 (1) *IN GENERAL.*

21 “STADIUM” MEANS A STRUCTURE WITH TIERS OF SEATS RISING AROUND A FIELD OR
22 COURT, OR ANOTHER AREA WHERE SPORTING EVENTS OCCUR, INTENDED TO BE USED:

23 (I) PRIMARILY FOR THE VIEWING OF ATHLETIC EVENTS; AND

24 (II) SECONDARILY, FOR ENTERTAINMENT AND OTHER PUBLIC GATHERING
25 PURPOSES.

26 (2) *INCLUSIONS.*

27 “STADIUM” INCLUDES:

Council Bill 23-0418

(I) ANY “ATHLETIC FACILITY”, AS DEFINED IN § 12-801 {“DEFINITIONS”} OF THIS TITLE; AND

(II) ANY SWIMMING POOL OR OTHER BODY OF WATER THAT IS USED:

(A) TO TRAIN OR PRACTICE FOR COMPETITIVE SWIMMING OR DIVING; OR

(B) FOR SPORTING EVENTS.

§ 12-1002. USE PROHIBITION - STADIUMS.

USE OF A TOBACCO PRODUCT IN ANY MANNER IS PROHIBITED IN ANY STADIUM.

§ 12-1003. ENFORCEMENT BY CITATION.

(A) *IN GENERAL.*

IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE, THIS SUBTITLE MAY BE ENFORCED BY ISSUANCE OF:

(1) AN ENVIRONMENTAL CITATION AS AUTHORIZED BY CITY CODE ARTICLE 1, SUBTITLE 40 {“ENVIRONMENTAL CONTROL BOARD”}; OR

(2) A CIVIL CITATION AS AUTHORIZED BY CITY CODE ARTICLE 1, SUBTITLE 41 {“CIVIL CITATIONS”}.

(B) *PROCESS NOT EXCLUSIVE.*

THE ISSUANCE OF A CITATION TO ENFORCE THIS SUBTITLE DOES NOT PRECLUDE PURSUING ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

§ 12-1004. CIVIL PENALTIES: \$500.

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$500 FOR EACH VIOLATION.

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-14. Violations to which this subtitle applies.

(e) *Provisions and penalties enumerated.*

(7) *Health Code*

...

Council Bill 23-0418

1	Title 12: Tobacco Products and Smoking Devices	
2	...	
3	Subtitle 9: Nicotine Replacement Therapy Products	\$100
4	SUBTITLE 10: TOBACCO PRODUCT USE IN STADIUMS	
5	NON-PROFESSIONAL SPORTING EVENT	\$50
6	PROFESSIONAL SPORTING EVENT	\$500

Subtitle 41. Civil Citations

§ 41-14. Offenses to which subtitle applies – Listing.

(6) Health Code

10	...	
11	Title 12: Tobacco Products and Smoking Devices	
12	...	
13	Subtitle 9: Nicotine Replacement Therapy Products	\$100
14	SUBTITLE 10: TOBACCO PRODUCT USE IN STADIUMS	
15	NON-PROFESSIONAL SPORTING EVENT	\$50
16	PROFESSIONAL SPORTING EVENT	\$500

SECTION 2. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is enacted.