

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

October 2, 2014

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 14-0371 – Electronic Smoking Devices

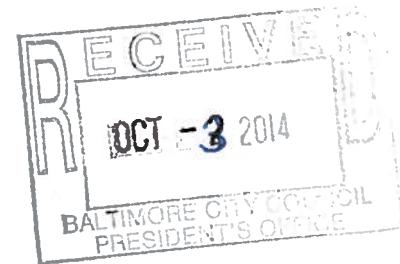
Dear President and City Council Members:

The Law Department has reviewed City Council Bill 14-0371 for form and legal sufficiency. The bill revises several sections of the Health Article of the Baltimore City Code to extend the prohibitions on tobacco smoking and sales to electronic smoking devices. It defines that device as any that delivers vapors for inhalation. It excludes any device approved by the United States Food and Drug Administration to treat disease. Additionally, it revises Sections 40-14 and 41-14 of Article 1 to include smoking devices in the sections that now include tobacco products.

Although state law prohibits the smoking of tobacco products in certain indoor areas, the law does not include electronic cigarettes. *But see* House Bill 1291 (2014)(if passed would have amended the Clean Indoor Air Act to include electronic cigarettes). City Council Bill 14-0371, which defines an electronic smoking device to include *any* vapors for inhalation without regard to tobacco or nicotine content, is stricter than the state law and is therefore expressly permitted by state law. *See* Md. Code, Health-Gen, §24-510. Additionally, the federal regulations on e-cigarettes that have been proposed by the Food and Drug Administration are not yet effective. *See* 79 CFR § 23141. Therefore, the Law Department approves City Council Bill 14-0371 for form and legal sufficiency.

Very truly yours,


Hilary Ruley
Chief Solicitor



Cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalá, Chief Solicitor
Jenny Landis, Assistant Solicitor

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