

**CITY OF BALTIMORE**  
**COUNCIL BILL 16-0290R**  
**(Resolution)**

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Introduced by: Councilmembers Holton, Middleton, Costello, Kraft, Stokes, Scott, Henry,  
Reisinger, Clarke, Welch, Curran, Mosby  
Introduced and adopted: February 8, 2016

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**A COUNCIL RESOLUTION CONCERNING**

**Request for State Action – Restore Local Authority to  
Enact and Enforce Tobacco Regulations**

FOR the purpose of calling on the Maryland General Assembly and Governor Hogan to abrogate the court of appeals decision in *Altadis U.S.A., Inc., et al. v. Prince George’s County*, Maryland, 431 Md. 307 (2013) and to declare the express intent of the general assembly to permit local jurisdictions to enact and enforce measures regulating the sale and distribution of tobacco products that are at least as stringent as measures enacted in state law.

**Recitals**

In 2013, the Maryland Court of Appeals held that state law preempts local regulation of minimum packaging requirements for cigars in *Altadis U.S.A., Inc., et al. v. Prince George’s County*, Maryland, 431 Md. 307 (2013). Although the holding turns on the existence of certain provisions in the State Business Regulation Article relating to cigar packaging, there is broad language in that decision concerning state preemption of local authority to enact and enforce laws regulating the sale and distribution of tobacco products. This language has resulted in local jurisdictions being threatened with lawsuits if they continue to enforce their reasonable local restrictions on tobacco sales, including prohibitions on the sale of single cigarettes, prohibitions on the sale of flavored cigars that are appealing to youth, and local laws prohibiting sales to minors.

Not only does this result cripple the ability of local jurisdictions to protect the health and welfare of their citizens, but it is in fact a misapplication of the law. The General Assembly is keenly aware of local tobacco control laws and has expressed support for such laws by mirroring state regulations after the tobacco control laws of some home rule counties. The volume, depth and breadth of local tobacco laws supports the fundamental conclusion that the State has not stripped local governments of their imperative and well-used power to regulate tobacco products and supports the long-standing principle that public health is an issue firmly within the province of local government.

Without the authority to enact and enforce local laws regulating the sale and distribution of tobacco, the overall health of Baltimore City residents, especially our youth, is in jeopardy. Baltimore City has the unfortunate distinction of having some of the highest mortality rates in the State for lung cancer, oral cancer, and cardiovascular disease. One out of three people who start smoking before age 18 will die prematurely from a tobacco-related illness. Restricting Baltimore City’s ability to enforce tobacco regulations has potentially deadly implications.

EXPLANATION: Underlining indicates matter added by amendment.  
~~Strike out~~ indicates matter deleted by amendment.

## Council Bill 16-0290R

1 Without local authority to enact and enforce tobacco control laws, our city government will  
2 not be able to respond to the unique drivers of tobacco use in its jurisdiction. It is estimated that  
3 each day 5,000 children under the age of 18 try smoking for the first time and more than 3,000  
4 children become new regular smokers. Unless smoking rates decline, 5.6 million kids alive  
5 today will ultimately die from smoking. To protect Baltimore City youth from the dangers of  
6 tobacco use, the local government must be able to enact and enforce tobacco laws that  
7 appropriately address the specific challenges of our community.

8 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the  
9 Council calls on the Maryland General Assembly and Governor Hogan to abrogate the court of  
10 appeals decision in *Altadis U.S.A., Inc., et al. v. Prince George's County*, Maryland, 431 Md. 307  
11 (2013) and declare the intent of the general assembly to enact and enforce local tobacco  
12 regulations empowering local authorities to enact and enforce measures regulating the sale and  
13 distribution of tobacco products that are at least as stringent as measures enacted in state law.

14 **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Governor, the  
15 Honorable Chairs and Members of the Baltimore City House and Senate Delegations to the  
16 Maryland General Assembly, the President of the Maryland Senate, the Maryland House  
17 Speaker, the Mayor, and the Mayor's Legislative Liaison to the City Council.