



MARYLAND Department of Health

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

October 20, 2017

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House, H-107
Annapolis, MD 21401-1991

The Honorable Michael E. Busch
Speaker of the House of Delegates
State House, H-101
Annapolis, MD 21401-1991

Re: Health-General §24-507(b), Annotated Code of Maryland, Chapter 502 of the Acts of 2007 – 2017 Annual Report on the Maryland Clean Indoor Air Act

Dear President Miller and Speaker Busch:

Pursuant to Health-General §24-507(b), Annotated Code of Maryland, the Department of Health (the Department) is submitting this report summarizing the enforcement efforts of the Department, in partnership with local health departments, to eliminate environmental tobacco smoke in indoor areas open to the public from September 2016 through August 2017.

The overall impact of Maryland's Clean Indoor Air Act has been positive. For the last ten years, the regulated establishments and advocates have been working together to keep indoor areas open to the public smoke-free. The Department feels strongly that important public health laws such as the Clean Indoor Air Act help to make Maryland a healthier place to live and work.

Thank you for your continued interest in the public health of the State. If you should have any questions or comments, please contact Webster Ye, Deputy Chief of Staff, at (410) 767-6480.

Sincerely,

Dennis R. Schrader
Secretary

Enclosure

cc: Jinlene Chan, Acting Deputy Secretary, Public Health Services
Donna Gugel, Director, Prevention and Health Promotion Administration
Webster Ye, Deputy Chief of Staff, Maryland Department of Health
Clifford Mitchell, Director, Environmental Health Bureau
Sarah Albert, MSAR #6090



MARYLAND
Department of Health

The Maryland Clean Indoor Air Act
2017 Annual Report
Health - General Article §24–507(b)

Larry Hogan
Governor

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Lieutenant Governor

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Introduction

The Clean Indoor Air Act (CIAA) was signed into law on May 17, 2007. Its purpose is to “preserve and improve the health, comfort, and environment of the people of the State by limiting exposure to environmental tobacco smoke.” The CIAA prohibits smoking in indoor areas open to the public except in limited circumstances. The CIAA specifically prohibits smoking in public meeting places, public transportation vehicles, and indoor places of employment. The CIAA is a key strategy to reduce the risk for respiratory illnesses among children, and heart disease and lung cancer among nonsmoking adults. Regulatory authority for the CIAA is vested with the Maryland Department of Health (the Department) for public areas and the Department of Labor, Licensing and Regulation (DLLR) for workplace areas not ordinarily open to the public.

Pursuant to Health-General Article §24-507(b), this report summarizes: (1) the enforcement efforts from September 1, 2016 through August 31, 2017 of the Department and its partners, the local health departments (LHDs), to eliminate environmental tobacco smoke in indoor areas open to the public; and (2) the results of these enforcement efforts.

New Legislation

In 2017, two pieces of legislation were enacted that address the sale and use of tobacco products within the State of Maryland:

- **HB 523 (Chapter 814)** requires that all businesses that manufacture, distribute, import, or sell electronic nicotine delivery systems (including e-cigarettes and vaping liquid) be licensed by the Comptroller or Clerk of Circuit Court in each county.
- **HB 185 (Chapter 773)** strengthens protections for children by creating Statewide penalties for anyone that sells tobacco or tobacco paraphernalia to minors. Enforcement is through LHDs. The local health officer or designee may issue citations.

Technical Assistance

Maryland Tobacco Quitline 1-800-QUIT-NOW

The Department continues to provide a number of resources related to the CIAA to citizens, businesses, and others. The Maryland Tobacco Quitline received over 29,000 calls, and more than 12,000 callers registered for cessation services. In total, 8,288 shipments of nicotine patches and nicotine gum were provided to residents in State Fiscal Year 2016 through the Quitline.

Environmental Health Toll-Free Helpline

The Department continues to operate its toll-free helpline (1-866-703-3266) to assist business owners, employees, news media, elected officials, and the public with implementation of the CIAA. The Department still receives about two inquiries per month regarding the scope of the CIAA, as well as complaints regarding drifting smoke in multi-level condominiums and rental housing. Other persistent questions include how the law and regulations apply to hookah establishments, and whether these establishments are exempt under the tobacco retail exemption. Beginning in 2017, the Environmental Health Helpline is also receiving calls related to illegal

tobacco sales to minors. To date, one such complaint has been received and submitted to the Food and Drug Administration as is required.

Enforcement

Coordination with Local Health Departments

The Department works closely with LHDs on enforcement of the CIAA and related legislation. After a decade of experience, LHD enforcement of the CIAA across the State is consistent, thus making it easy for businesses to comply. The Department has also worked with LHDs to assist businesses with questions about compliance. For example, in one instance the Department was asked by both a business and the LHD about an enclosed porch that had been cited by the LHD as being in violation of the CIAA. The Department conducted an on-site visit and provided guidance related to the definition of an indoor area open to the public. The facility was allowed to correct the violation, then subsequently open the porch, so that it was no longer subject to the CIAA because it no longer met the criteria for an indoor area open to the public.

Each year the Department asks LHDs to provide the number of complaints received, investigated, and resolved by jurisdiction during the last fiscal year. While some counties did not record any complaints, some jurisdictions have received a significant number of complaints that result in investigations. However, most complaints are resolved without formal enforcement action, and the Department is aware of only one letter of reprimand issued by an LHD.

While unrelated to the CIAA, Chapter 773 of the Acts of 2017 (HB 185) creates civil money penalties effective in October of 2017 for the sale of tobacco or paraphernalia to minors throughout the State of Maryland. The Department will refer complaints received through the Environmental Health Help Line to LHDs in compliance with this legislation.

Coordination with the Department of Labor, Licensing and Regulation

The Department continues to work closely with DLLR and its Maryland Occupational Safety and Health (MOSH) program, which is responsible for the enforcement of the CIAA in workplaces that are generally not open to the public (for example, DLLR does not enforce the CIAA in bars and restaurants).

In 2016, MOSH remained active in investigating worker-related complaints of smoking in the work place. MOSH reports that it investigated five CIAA complaints and issued five letters of reprimand, but there were no repeat offenders. This marks a significant decrease in the number of letters of reprimand issued in previous years. For example, MOSH issued 29 letters of reprimand during State Fiscal Year 2015. In that year, there was one third-time offender and a citation was issued to the employer and a \$500 penalty was assessed in accordance with the CIAA.

Outcomes

One indication of the impact of the CIAA, as well as other Departmental efforts to reduce tobacco exposure, can be seen in Figure 1, which shows the percentage of public middle and high school youth (under age 18) who responded “0 days” when asked how many days out of the past seven they were in the same room with someone smoking cigarettes. These data show a

marked decrease in the percentage of youth exposed to secondhand smoke indoors between 2006 and 2008, when the CIAA was first enacted.

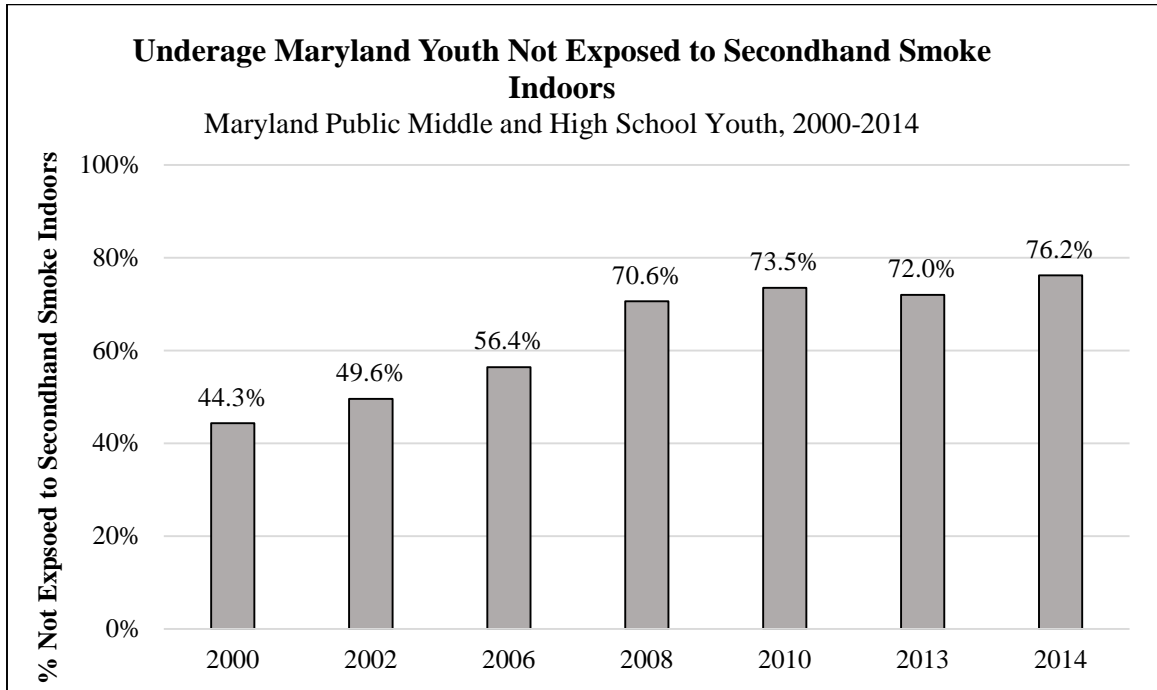


Figure 1. Underage Maryland Youth Reporting No Exposure in the Past Week to Secondhand Smoke Indoors. Data from 2016 were not available at the time this report was published. Source: Maryland Department of Health and Mental Hygiene. Monitoring Changing Tobacco Use Behaviors: 2000-2014, accessed at: <http://phpa.dhmh.maryland.gov/ohpetup/Documents/Legislative%20Report%20May%202016-%20Biennial%20Tobacco%20Study.pdf>.

Conclusion

As the CIAA enters its second decade, it continues to protect the health of Marylanders across the State. Indoor exposure to environmental tobacco smoke has substantially declined over the past 10 years. Overall, the law has been implemented and enforced consistently across the State, with modest efforts by LHDs and at little cost to businesses. While the Department continues to receive occasional questions, especially related to issues such as clarifying the definition of a tobacco retailer, for the most part the law is now well-established and understood. The Department will continue to monitor emerging issues such as electronic smoking devices and carry out the General Assembly's intentions to protect the public from involuntary exposure to environmental tobacco smoke in indoor areas open to the public.

Table 1. Enforcement Activity for the Clean Indoor Air Act by Jurisdiction, 7/1/2016 – 6/30/2017

Jurisdiction	Number of Complaints Received, Investigated, and Successfully Resolved
Allegany County	0
Anne Arundel County	0
Baltimore City	27
Baltimore County	0
Calvert County	1
Caroline County	0
Carroll County	1
Cecil County	0
Charles County	0
Dorchester County	0
Frederick County	5
Garrett County	1
Harford County	1
Howard County	0
Kent County	0
Montgomery County	15*
Prince George’s County	3/2**
Queen Anne’s County	0
St. Mary’s County	0
Somerset County	0
Talbot County	0
Washington County	0
Wicomico County	1
Worcester County	0
Totals	55/54**

Data were compiled by the Department from LHD records.

*Montgomery County had seven complaints that fall strictly under the CIAA, but there are eight additional complaints due to new smoking restrictions in their county. The county now has smoking restriction in playgrounds and county parks.

**One constituent in discussion with county regarding what constitutes legal definition of a tobacconist.