



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

Larry Hogan, Governor - Boyd Rutherford, Lt. Governor - Van Mitchell, Secretary

October 27, 2015

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: Clean Indoor Air Act – 2015 Annual Report – Health-General § 24-507(b), Annotated Code of Maryland, Chapter 502 of the Acts of 2007

Dear President Miller and Speaker Busch:

Pursuant to Health-General §24-507(b), Annotated Code of Maryland, the Department of Health and Mental Hygiene (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 2014 through August 2015.

The overall impact of the Clean Indoor Air Act has been positive in Maryland. For the last eight 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 our State a healthier place to live.

Thank you for your continued interest in the public health of the State. If you should have any questions or comments, please do not hesitate to contact Ms. Allison Taylor, Director of Governmental Affairs at 410-767-6481.

Sincerely,

Van T. Mitchell
Secretary

Enclosure

cc: Allison Taylor, Director, Office of Governmental Affairs
Howard Haft, Deputy Secretary, Public Health Services
Michelle Spencer, Director, Prevention and Health Promotion Administration
Clifford Mitchell, Director, Environmental Health Bureau
Sarah Albert, MSAR #6090



**THE MARYLAND CLEAN INDOOR AIR ACT OF 2007
2015 ANNUAL REPORT
HEALTH - GENERAL ARTICLE § 24-507(b)**

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Van Mitchell
Secretary
Department of Health and Mental Hygiene

Introduction

Maryland has made significant progress in decreasing smoking and smoking-related health outcomes since the passage of the Clean Indoor Air Act of 2007 (CIAA). However, recent trends emphasize the need for continued and vigorous tobacco control efforts, especially with the proliferation of tobacco products and delivery vehicles other than cigarettes, and in particular the increasing use of electronic cigarettes (e-cigarettes).

Although cigarette use by adults has declined, the use of non-cigarette tobacco products has increased among youth, and nearly half of tobacco users use two or more products. Below are some of the highlights from the 2015 National Youth Tobacco Survey, conducted by the U.S. Food and Drug Administration and the Centers for Disease Control and Prevention:

- In 2014, one in four high school students and one in 13 middle school students used one or more tobacco products in the last 30 days.
- Current e-cigarette use among middle and high school students tripled from 2013 to 2014.
- In 2014, for the first time, current e-cigarette use surpassed current use of every other tobacco product, including cigarettes.
- Hookah smoking roughly doubled for middle and high school students, while cigarette use declined among high school students and remained unchanged for middle school students.

This report summarizes the enforcement efforts and the continued accomplishments of the Department of Health and Mental Hygiene (Department), in partnership with local health departments (LHDs), from September 2014 through August 2015, including the most recent Department initiative, the “Responsible Tobacco Retailer Campaign.”

Implementation and Enforcement Efforts

Technical Assistance

The Department continues to provide a number of resources to citizens, businesses, and others related to the CIAA. The Maryland Tobacco Quitline (1-800-QUIT-NOW) (Quitline) is available to individuals who wish to quit smoking. In addition, the Department operates a toll free environmental health helpline (1-866-703-3266) that is available to anyone with questions or concerns related to the CIAA. LHDs have smoking cessation classes available and offer outreach materials.

Maryland Tobacco Quitline: 1-800-QUIT-NOW

For fiscal year (FY) 2015, the Quitline received over 9,469 calls with over 8,400 callers registering for cessation services. Forty percent (3,374 or 40.7%) of the callers were Medicaid participants, and 1,121 or 13.5% were uninsured. A total of 392 were referred to additional

LHD/community resources, and a total of 7,524 shipments of nicotine patches and nicotine gum were provided to Maryland residents in FY 2015 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, State Agencies, LHDs, and the public with implementation of the CIAA. Inquiries continue to come in regarding the scope of the CIAA. Most complaints relate to secondhand smoke in residences, particularly apartments and condominiums. Some of these concerns are related to smoking in the common areas of housing while others are regarding secondhand smoke infiltrating from balconies, sidewalks, or other outdoor areas.

There continues to be inquiries relating to the legal requirements for opening a hookah establishment, with requests to explain the CIAA's tobacco retailer exemption definition of "incidental," its application and enforcement by the Department, and the Department's policies regarding serving food and beverages at hookah establishments.

More recently, the Department has received a number of inquiries related to e-cigarettes and the requirements to open a vaping lounge.

The Department of Labor, Licensing, and Regulation (DLLR)

The Department continues to work closely with DLLR and its Maryland Occupational Safety and Health (MOSH) program, which has responsibility for implementation of the CIAA in workplaces not open to the public. In FY 2015, MOSH continued to be active in investigating worker-related complaints of smoking in the workplace. MOSH issued 29 letters of reprimand during FY 2015. 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.

LHD Enforcement Efforts

LHDs have, in most cases, been able to enforce the CIAA consistently. One exception involves hookah and indoor secondhand smoke and the application of the tobacco retailer's exemption. Businesses also request information regarding the legal requirements for outdoor smoking areas, often found in casinos, restaurants, and clubs. The Department and LHDs worked closely with several businesses to help them design and build facilities that would comply with the law and therefore avert potential violations.

As part of the "Responsible Tobacco Retailer Campaign," the Department has encouraged LHDs to incentivize at least two non-governmental partners to conduct face-to-face vendor education in addition to LHD vendor education activities to address the rising concern about youth access to tobacco products from tobacco sales outlets.

As Table 1 shows, the number of complaints remains relatively low, compared with previous years (there were 42 complaints in 2014, 74 in 2013, 55 in 2012, and 77 in 2011). There were no fines levied for any violations of the Clean Indoor Air Act received by the Department in the past year.

**Table 1: Enforcement Activity for the Clean Indoor Air Act
by Jurisdiction, 9/1/2014-8/31/2015**

Jurisdiction	Number of Complaints	Number of Investigations	Number of Complaints Successfully Resolved
Allegany	1	1	1
Anne Arundel	5	5	5
Baltimore City	15	15	14*
Baltimore	0	0	0
Calvert	0	0	0
Caroline	0	0	0
Carroll	3	3	3
Cecil	1	1	1
Charles	1	1	1
Dorchester	1	1	1
Frederick	2	2	2
Garrett	1	1	1
Harford	7	7	7
Howard	0	0	0
Kent	0	0	0
Montgomery	7	7	7
Prince George's	3	3	3
Queen Anne's	1	1	1
Saint Mary's	0	0	0
Somerset	0	0	0
Talbot	1	1	1
Washington	0	0	0
Wicomico	1	1	1
Worcester	1	1	1
Total:	51	51	50

*One outcome still under investigation

Outcomes Related to the CIAA

There have been some noteworthy advances and setbacks in implementation of the CIAA in the past year:

- Tobacco use among youth in public high schools has decreased by 40% from 2000-2013, showing reduced cigarette use.
- Use of smokeless tobacco products among youth in public high schools has increased by 5% in 2015.

- The use of smokeless tobacco by youth is three times greater than adult usage and cigar use is also 2.5 times greater among youth.
- While no significant change is evident for youth cigar use overall, there was a notable decrease since cigar use peaked in 2008. Noted declines are likely influenced by State and national campaigns, prevention programs supported at the local level, regulatory initiatives, and cessation intervention programs like the Quitline.

Conclusion and Future Challenges

There remain challenges in state efforts to fully implement the legislative intent of eliminating exposure to secondhand smoke in indoor areas open to the public, and the State's goal of further reducing smoking rates. In particular, recent innovations in electronic delivery of aerosolized nicotine, the continued efforts by some businesses to use the tobacco retailers exemption to claim that they are not subject to the CIAA (including some hookah establishments), and the persistent issue of smoke infiltrating from non-regulated spaces into spaces that would be regulated under the CIAA, all remain challenges for the Department and the State.

February 1, 2015 marked the seventh anniversary of the effective date of the Maryland CIAA regulations. Seven years later, it is clear that the CIAA has been a success. Maryland businesses have made the transition to smoke-free environments, and Maryland citizens have the benefits of tobacco-free indoor environments throughout the State.