

**Issuance of Alcoholic Beverages Licenses to Tobacconists
Workgroup Findings**

Chapter 754, Sec. 2, the Acts of 2024

Maryland Department of Health

July 2025

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Executive Summary

This report is a summary of the findings and recommendations of the Workgroup on the Issuance of Alcoholic Beverages Licenses to Tobacconists pursuant to Chapter 754 of the Acts of 2024, House Bill (HB) 238/Senate Bill (SB) 244. The Maryland Department of Health (MDH) convened the Workgroup to assess the tobacconist license requirements and current regulatory environment.

The Workgroup met monthly from September 2024 to May 2025; a total of ten times. At these meetings, the Workgroup discussed the public health and economic implications of issuing alcoholic beverage licenses to tobacconists. Major recommendations from the Workgroup include:

1. **Definitions and Scope**: The statutory definition of a tobacconist should specify that at least 70% of its revenues, measured by average daily receipts, are derived from the sale of premium cigars, pipe tobacco, and related accessories to align with the original legislative intentions of the license. In addition, MDH should define in its Clean Indoor Air Act (CIAA) regulations the term “incidental” products, which are supplemental to the primary sale of premium cigar and pipe tobacco, as no more than 30% of gross annual revenue to align with the tobacconist definition.
2. **Alcohol Licensing and Permitting**: Tobacconists should be permitted to obtain an on-site consumption alcoholic beverage license, as determined by the local liquor boards. For tracking purposes, a statewide bring-your-own (BYO) beverage license should be created for tobacconists that allow BYO, as it currently varies by jurisdiction, and there is no mechanism for tracking across the State.
3. **Regulation and Enforcement**: The State should create a registry of businesses operating under the CIAA exemption, to be managed by the Alcohol, Tobacco, and Cannabis Commission (ATCC). Existing tobacco retailers who are licensed to sell alcoholic beverages for on-site consumption should be given a two-year period to comply with the recommended tobacconist license requirements. This two-year period would begin after the updated tobacconist definition is adopted in statute. Properties adjacent to a healthcare or childcare/child-related facility should not be permitted to obtain a tobacconist license. Licensed tobacconist facilities that permit indoor smoking should be required to display signage indicating that smoking is allowed indoors.

Workgroup Members

The Maryland Department of Health (MDH) would like to thank each member of the Workgroup on the Issuance of Alcoholic Beverages Licenses to Tobacconists for their time and dedication to assuring clarity and consistency across the State in the regulation and enforcement of the CIAA.

The Workgroup was composed of the following members:

Two Senators designated by the President of the Senate	Clarence K. Lam, M.D. Ronald L. Watson, Ph.D.
Two Delegates designated by the Speaker of the House	Carl W. Jackson ¹ Steven J. Arentz
One Representative from the Alcohol, Tobacco, and Cannabis Commission	Jeffrey A. Kelly
One Representative from the Maryland Department of Health	Nilesh Kalyanaraman, MD, FACP
One Representative from a cigar retailers trade association	Finnie Pecunes Helmuth

The Workgroup would like to recognize the efforts of MDH staff on this group and report:

Deputy Director, Environmental Health Bureau	Suhba Chandar, MPH
Health Policy Analyst, Office of Support Services	Victoria Marte-Tiburcio
Health Policy Analyst, Office of Support Services	Christopher McGrath
Director, Environmental Health Bureau	Clifford Mitchell, MS, MD, MPH
Director, Center for Tobacco Prevention and Control	Dana Moncrief, MHS, CHES
Health Policy Analyst, Center for Tobacco Prevention and Control	Alexandra Nowalk, MPH, CPH
Director, Office of Support Services	Jody Sheely, MPH

¹ Delegate Jackson transitioned to the Senate in February 2025. As a result, his term on the Workgroup ended prior to the Workgroup's conclusion.

Introduction

The Clean Indoor Air Act (CIAA), enacted in 2007, prohibits smoking in indoor areas open to the public with limited exceptions. The purpose of the CIAA is to protect the public, employees, and consumers from involuntary exposure to environmental tobacco, cannabis, or hemp smoke in public indoor areas, indoor places of employment, and certain designated private areas. CIAA also allows local jurisdictions to enact and enforce “more stringent measures to reduce involuntary exposure to environmental smoke.”²

However, pursuant to Health-General §24-505(3), an exemption allows for tobacco smoking in a “retail tobacco business...in which (i) [t]he primary activity is the retail sale of tobacco products and accessories; and (ii) [t]he sale of other products is incidental.” The Maryland Department of Health (MDH) and local health departments (LHDs) are responsible under the law and regulation for the investigation of complaints and issuance of violations of the CIAA in indoor areas open to the public, while Maryland Occupational Safety and Health (MOSH) in the Department of Labor (DOL) is responsible for enforcement in indoor workplace areas that are not open to the public.

In Maryland, the retail sale of tobacco products requires cigarette, other tobacco products (OTP), tobacconist, or electronic smoking devices (ESD) licensure issued by the local clerks of the court. “Tobacconist” is defined in the Business Regulation Article §16.5-101(t) as “an other tobacco products business that derives at least 70% of its revenues, measured by average daily receipts, from the sale of other tobacco products and tobacco-related accessories.”³ As of January 2025, there are approximately 200 establishments holding a tobacconist license in Maryland.⁴ The Comptroller audits licensed businesses to ensure compliance with the statutory requirements in collaboration with the Alcohol, Tobacco, and Cannabis Commission (ATCC).

Retail alcohol licenses are issued by the local boards of license commissioners who regulate the sale of alcohol to consumers within their jurisdiction in accordance with State law and local regulation. Enforcement of licensed retailers is a shared responsibility of the issuing local board and the ATCC.

Chapter 755 of the Acts of 2024 (HB 238 / SB 244) required MDH to convene a workgroup to study the issuance of alcoholic beverages licenses to tobacconists, and issued a moratorium on

² “Health - General Article §24–509.” Maryland General Assembly, mgaleg.maryland.gov/mgawebbsite/Laws/StatuteText?article=ghg&ion=24-509&enactments=False&archived=False. Accessed 23 May 2025.

³ “Business Regulation Article §16.5-10.” Maryland General Assembly, <https://mgaleg.maryland.gov/mgawebbsite/Laws/StatuteText?article=gbr§ion=16.5-101&enactments=false>. Accessed 17 June 2025.

⁴ Tobacconist Business Audit. Reported by the Alcohol, Tobacco, and Cannabis Commission, January 2025.

the issuance of local alcoholic beverage licenses to tobacconists from July 1, 2024, to July 1, 2026.

Workgroup Meetings

The Workgroup on the Issuance of Alcoholic Beverages Licenses to Tobacconists (Workgroup) met monthly from September 2024 through May 2025 (see Figure 1). The Workgroup held its first meeting at the MDH offices in Baltimore, MD, with an option for virtual participation. The subsequent meetings were held virtually to ensure greater accessibility for the Workgroup members and the public. The Workgroup agendas, minutes, and recordings are publicly available on the MDH Workgroup on the Issuance of Alcoholic Beverages Licenses to Tobacconists webpage in compliance with the Maryland Open Meetings Act.⁵

Figure 1: Workgroup on the Issuance of Alcoholic Beverages Licenses to Tobacconists Meeting Dates and Descriptions - Summary Table

Meeting Date	Description of Meeting
09/18/2024	The Workgroup discussed the mandates of the legislation, background on the Clean Indoor Air Act of 2007, and Workgroup priorities.
10/17/2024	Jeff Kelly, Executive Director of the Alcohol, Tobacco, and Cannabis Commission; Lisa Laschalt, Director of Environmental Health, Charles County Health Department; and Kathleen Hoke, Professor at the University of Maryland Center for Public Health Law, presented on retail tobacco licensure, regulatory enforcement, and public health implications, respectively.
11/21/2024	The Workgroup discussed laws across the U.S. that permit cigar smoking indoors and considered various recommendation options.
12/12/2024	The Workgroup invited Connecticut Cigar Company owner, Nick Casinelli, to speak on his experience as a cigar retailer since the passing of Connecticut's CIAA exemption for cigar bars in June 2023. The Workgroup discussed the recommendation options including hours of alcohol sales, ventilation requirements, employee health insurance, and license quotas.

⁵ “Workgroup on Issuance of Alcoholic Beverages Licenses to Tobacconists.” Maryland.gov, 2024, health.maryland.gov/phpa/OEHFP/EH/Pages/Workgroup-on-Issuance-of-Alcoholic-Beverages-Licenses-to-Tobacconists.aspx. Accessed 8 May 2025.

01/17/2025	The Workgroup discussed the health risks associated with the co-consumption of alcohol and tobacco.
02/10/2025	The Workgroup refined its recommendations and discussed other legislative considerations.
03/24/2025	The Workgroup discussed whether local authorities should determine the number of licenses permitted by jurisdiction. Members also explored issues related to ventilation and stand-alone buildings requirements.
04/28/2025	The Workgroup reviewed scientific literature on ventilation in indoor smoking environments and discussed final recommendations.
5/19/2025	The Workgroup reviewed the draft report and finalized recommendations.
5/28/2025	The Workgroup voted to adopt the final report.

Findings

Cigar Lounge Exemptions in Other States

Twenty-eight states and Washington D.C. have passed comprehensive state clean indoor air laws, creating smoke-free environments in bars, restaurants, and workplaces. Twenty-five of these states allow exemptions for smoking cigars indoors, with incidental rates ranging from 10% (DC, IN, MI, NY, and SD) to 60% (CT).⁶

Incidental rates refer to the percentage of gross annual revenue, measured by average daily receipts, that is derived from products that are supplemental to the business’ primary sale of cigars. In several states, including Delaware, Illinois, New Jersey, and Ohio, efforts to pass similar legislation have failed. An estimated nine states, including Colorado, Connecticut, Massachusetts, Michigan, Nebraska, New Hampshire, New Mexico, North Carolina, Pennsylvania, and Rhode Island, along with the District of Columbia, allow on-site alcohol consumption in certain licensed indoor smoking facilities, with some restricting alcohol licensing for facilities opened after a specific date.⁷ In 2023, Connecticut and North Dakota became the

⁶ Cigar Bar Statute in Other States. Reported by the Legal Resource Center for Public Health Policy, University of Maryland Francis King Carey School of Law, December 2024.

⁷ Ibid.

only states in recent years to successfully pass legislation creating an exemption for cigar bars.^{8,9} Several municipalities, including Louisville, Kentucky, have passed ordinances allowing cigar smoking in cigar bars as defined by state law.¹⁰

Ambiguities in Maryland's Clean Indoor Air Act

Maryland's CIAA statute and pursuant regulations do not define the terms “retail tobacco business,” “primary activity,” “accessories,” or “incidental” in the tobacco retailer exemption for indoor smoking. Additionally, while there is no specific prohibition against tobacco retailers selling alcoholic beverages in the CIAA, Health-General §24-501(h)(2) specifically defines an “indoor area open to the public” as “[a]n indoor area of any establishment licensed or permitted under the Alcoholic Beverages and Cannabis Article for the sale or possession of alcoholic beverages,” to prohibit smoking and vaping in bars, restaurants, and other indoor public places that serve alcohol.

MDH's Center for Tobacco Prevention and Control informed the Workgroup that, as of July 2024, there are approximately 13 tobacco retailers in the State known to be operating under the CIAA exemption with an alcoholic beverage license for on-site consumption.¹¹ Some jurisdictions have interpreted the CIAA to permit the sale of alcohol as an “incidental” product under the tobacco retailers exemption (§24-505(3)), while other jurisdictions have not. As noted above, Business Regulation §16.5-101(t) defines a “tobacconist” as one in which a minimum of 70% of the sales are from other tobacco products and tobacco-related accessories. Although the Workgroup discussed whether alcohol could be considered a tobacco-related accessory, that view was not endorsed by a majority of the Workgroup.

In contrast to the 70% revenue requirement for “tobacconists,” there is no numerical definition of “incidental” sales in the CIAA. The only working definition of “incidental” exists within the local jurisdiction of Baltimore City, which has adopted a requirement that a retail tobacco establishment must “derive[s] at least 75% of its revenues, measured by average daily receipts, from the sale of non-cigarette tobacco products.”¹²

The Workgroup initially explored the practice of BYO as an alternative to alcohol licensure for CIAA-exempt facilities. This practice is currently observed in some tobacco retailer

⁸ Public Act No. 23-103. Vol. Substitute Senate Bill No. 905, 2023, www.cga.ct.gov/2023/act/pa/pdf/2023PA-00103-R00SB-00905-PA.pdf. Accessed 12 Mar. 2025.

⁹ House Bill 1229. North Dakota Legislative Branch, 2025, ndlegis.gov/assembly/68-2023/regular/bill-overview/bo1229.html. Accessed 21 May 2025.

¹⁰ “Metro Council Meeting Highlights for Thursday, March 27.” LouisvilleKY.gov, 2025, louisvilleky.gov/news/metro-council-meeting-highlights-thursday-march-27. Accessed 21 May 2025.

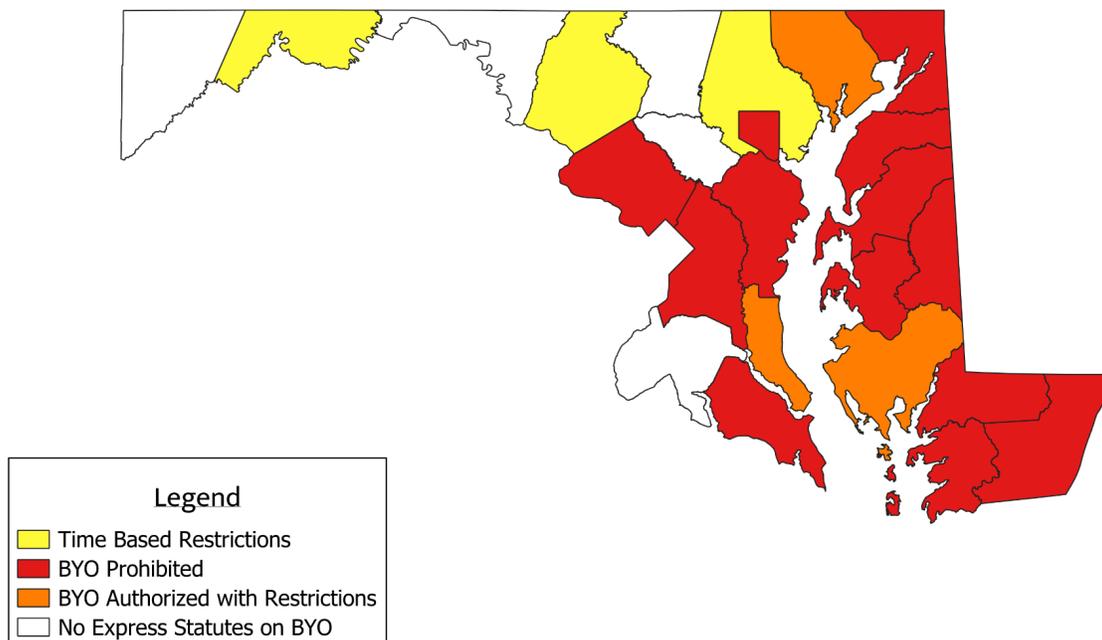
¹¹ Cigar Bars. Reported by the Maryland Department of Health, July 2024.

¹² Baltimore City Health Code § 12-106. Exceptions – General. | City of Baltimore Law Library. Baltimorecity.gov, 2025, [codes.baltimorecity.gov/us/md/cities/baltimore/code/health/12-106#\(7\)](http://codes.baltimorecity.gov/us/md/cities/baltimore/code/health/12-106#(7)). Accessed 8 May 2025.

establishments. The Alcoholic Beverages and Cannabis Article §§6–308, 6-319, and 6-402 prohibit licensed businesses from permitting an individual to consume alcoholic beverages that were not purchased on the premise from the license holder; however Maryland statute does not explicitly address the allowance of BYO in non-licensed facilities.

BYO statute varies by jurisdiction (see Figure 2). BYO is prohibited in Anne Arundel, Caroline, Cecil, Kent, Montgomery, Prince George’s, Queen Anne’s, Somerset, St. Mary’s, Talbot, Wicomico, and Worcester counties, and Baltimore City. Time-based restrictions are enforced in Allegany, Baltimore, and Fredrick counties, limiting the hours in which alcohol consumption is allowed for certain facilities. BYO is permitted with restrictions based on other criteria in Calvert, Dorchester, and Harford counties. Carroll, Charles, Garrett, Howard, and Washington counties have no statute pertaining to BYO.

Figure 2: County-Level BYO Alcohol Restrictions in the Alcoholic Beverages and Cannabis Article



Data Source: BYO Statute by County. ATCC, Nov. 2024.

The Workgroup considered the economic implication of BYO as an alternative to alcohol licensure, and recognized that the prohibition of alcohol licensure could have a negative impact on local business activity for licensed tobaccoists who have built their business models around the sale of alcohol.

Secondhand Smoke Exposure and Associated Health Risks

The Workgroup also explored the public health implications associated with alcohol and tobacco co-use. Alcohol sales and on-site consumption may prolong smoking activities or exposure to secondhand smoke (SHS) for both customer and employee concerns, which raised concerns about the effects of prolonged exposure. SHS exposure occurs in these environments when an individual inhales smoke that is a byproduct of cigars or pipes being lit, smoked, and exhaled by others. When a cigar or pipe is smoked, high concentrations of cancer-causing agents are released into the air. According to the Centers for Disease Control and Prevention (CDC), eliminating indoor smoking is the only safe way to prevent SHS exposure.¹³

Regulatory Concerns

Currently, tobacconists are defined in Business Regulation §16.5-101(t) as a tobacco business that derives at least 70% of its revenues from the sale of OTP, which includes cigars, premium cigars, pipe tobacco, chewing tobacco, snuff, snus, filters, rolling papers, pipes, and hookahs. Originally, the tobacconist license was intended for premium cigar and pipe tobacco retailers to obtain products difficult to source in the standard OTP market. The changes in the type, variety, and prevalence of OTP in recent years have expanded the types and numbers of tobacco businesses that qualify for a tobacconist license in ways that diverge from the original legislative intentions.

Ventilation and Building Characteristics of Retail Tobacco Establishments

The Workgroup also discussed ventilation as a possible means to limit exposures, while acknowledging that ventilation could not completely prevent exposures to SHS in indoor areas where smoking was taking place. MDH's Environmental Health Bureau conducted a review of studies and identified none that specifically evaluated the effectiveness of improved ventilation on SHS exposure in retail tobacco facilities. However, a 2023 position statement by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE) concluded:

- “The building and its systems can reduce only odor and discomfort but cannot eliminate exposure when smoking is allowed inside or near a building.”
- “Even when all practical means of separation and isolation of smoking areas are employed, adverse health effects from exposure in non-smoking spaces in the same building cannot be eliminated.”

¹³ Centers for Disease Control and Prevention. “Secondhand Smoke.” www.cdc.gov, 15 May 2024, www.cdc.gov/tobacco/secondhand-smoke/index.html. Accessed 7 May 2025.

- “Neither dilution ventilation, air distribution (e.g., “air curtains”) nor air cleaning can be relied upon to control ETS exposure.”¹⁴

The lack of studies on the effectiveness of ventilation in indoor smoking environments prompted a Workgroup discussion about limiting alcohol sales to tobacconist facilities located in stand-alone buildings, in order to minimize the possibility of SHS exposure to other occupants of shared facilities. Members of the Workgroup highlighted that the limitation would impose a burden on tobacconists who had entered into multi-year leases in retail facilities, and does not fully consider the challenges of acquiring suitable or available stand-alone facilities.

Tobacco and Alcohol License Enforcement Authority and Penalties for Violations

Retail tobacco licenses, while they are State licenses, are issued by the clerks of local courts upon submission of an application and the payment of the current fee of \$300. There are no specific licensing criteria or requirements that must be met to obtain a retail tobacco license, nor are there any pre-approval inspections prior to issuing a license. For the enforcement of the requirements of the license, ATCC conducts inspections of these facilities. If ATCC suspects the retailer is in violation of the requirements of their tobacco license, the ATCC agent may issue a criminal citation to the offender and may refer the business for an ATCC administrative hearing. For findings of fact that a violation did occur, the ATCC hearing officer issues a warning, a reprimand, a license suspension, or a license revocation. Complaints about potential CIAA violations in publicly accessible locations are referred to and investigated by LHDs. Penalties for violations under the CIAA range from a written reprimand for an initial violation, up to a civil penalty of \$1,000 for repeated violations.¹⁵

For tobacco retailers who are licensed to sell alcohol, local liquor boards and the ATCC are jointly responsible for enforcing the statutory requirements of the alcohol license. When a retailer applies for an alcohol license, the retailer must meet the criteria outlined in statute and regulations which is then verified by the local liquor board prior to the issuance. When the ATCC, which is further granted warrantless access to licensed alcohol retail facilities to conduct inspections and ensure compliance with the requirements of the license, identifies suspected violations, the agent will submit a detailed report to the issuing authority and serve as a witness in court proceedings if a hearing is held. As the issuing authority, local liquor boards may provide a warning to the tobacco retailer, revoke their license, or deny renewal.

¹⁴ ASHRAE Position Document on Environmental Tobacco Smoke. 28 June 2023, www.ashrae.org/file%20library/about/position%20documents/pd_environmental-tobacco-smoke-2023-06-28.pdf. Accessed 7 May 2025.

¹⁵ Prohibition of Smoking in Indoor Areas Open to the Public | Code of Maryland Regulations (COMAR) 10.19.04.07 - 10.19.04.10.

Recommendations

After extensive consideration and deliberation, the Workgroup proposes the following recommendations:

Definitions and Scope

1. Adopt in statute a definition of tobacconist that specifies at least 70% of its revenues are derived from the sale of premium cigars, pipe tobacco, and related products (not including cigarettes, other tobacco products, or electronic smoking devices) to align license requirements with its original legislative intentions. Alcohol sales should not be considered in the category of “related products.”
2. Direct MDH to define the term “incidental” in Code of Maryland Regulations (COMAR) 10.19.04.02 as no more than 30% of revenues based on average daily receipts of tobacco retailers to align with the tobacconist definition.
3. Clarify that only products sold by the retailer can be smoked on-site in licensed tobacconist facilities. The smoking of cigarettes and vaping would be prohibited within the facility.

Alcohol Licensing and Permitting

4. Create a statewide BYO license for tobacconists issued by the local liquor boards to track the number of tobacconists operating with BYO. The local liquor boards should notify the ATCC of any issuance.
5. Clarify that licensed tobacconists are allowed to obtain an on-site consumption alcoholic beverage license or BYO license without contravening the existing indoor smoking ban for bars and restaurants.
6. Prohibit tobacco retailers from receiving an on-site consumption alcoholic beverage license if they do not meet the new definition of a tobacconist, which requires at least 70% of its revenues are derived from the sale of premium cigars, pipe tobacco, and related products.

Regulation and Enforcement

7. Allow existing tobacco retailers who are licensed to sell alcohol for on-site consumption but do not meet the proposed tobacconist requirements to:
 - a. Be given a two-year period to comply with the tobacconists requirements; or
 - b. Be subject to the revocation or denied renewal of their tobacconist license.

8. Create a registry of licensed tobacconists operating lawfully under the CIAA exemption managed by ATCC. New businesses applying for a license and existing businesses using the two-year compliance period to meet the new license criteria should be required to register immediately with the ATCC.
9. Require licensed facilities operating under the CIAA exemption to display signage indicating that smoking is allowed indoors.
10. Prohibit individuals under the age of 21 to enter licensed tobacconist facilities.
11. Prohibit tobacconist licensing for properties directly adjacent to a healthcare or childcare/child-related facility.

Conclusion

Clarifying definitions in Maryland statute and regulations is essential to the effective and consistent enforcement of tobacconist license requirements. Clear licensing criteria and tracking mechanisms for retail businesses operating under the CIAA exemption would ensure consistent and uniform enforcement across the State. The Workgroup's recommendations support this objective by reconciling the CIAA with the statutory definition of a tobacconist, and introducing methods to track CIAA-exempt businesses. Additionally, the Workgroup proposes clear signage to notify the public that smoking is occurring, prohibiting tobacconists from operating near health and child-related facilities, and prohibiting individuals under the age of 21 from entering tobacconist establishments. These measures would strengthen enforcement by establishing clear criteria and protecting public health, while minimizing the impact on existing tobacconists.