

**Maryland Department of Health**  
**Issuance of Alcoholic Beverages Licenses to Tobacconists Workgroup Meeting**  
**Thursday, October 17, 2024**  
**11:00 - 12:30 pm**

**MINUTES**

**Attendees:**

Members:

Steven Arentz  
Finnie Pecunes Helmuth  
Carl Jackson  
Nilesh Kalyanaraman  
Jeffrey Kelly  
Ronald Watson

Staff:

Subha Chandar  
Victoria Marte-Tiburcio  
Christopher McGrath  
Clifford Mitchell  
Dana Moncrief  
Jody Sheely

Public:

Matt Bohle  
Sarah Case-Herron  
Aleks Casper  
Jocelyn Collins  
Nancy Crawford  
Mignonne C. Guy  
Eric Gally  
Jeffrey Hann  
Isai Hernandez  
Kathleen Hoke  
Blair Inniss  
Kristin Jimison  
Lance Kilpatrick  
Lisa Laschalt  
Glynn Loope  
Mr. C's Cigar Lounge  
Michael Lyles  
Meghan Lynch  
Aravind Muthukrishnan  
Leticia Nketiah  
Bobby Oler  
Abbey Rubeling  
Raj Singh  
Jane Springer  
Scott Tiffin  
Brooke Torton  
Jacki Wobser

**Meeting Notes:**

**Welcome & General Business**

- Nilesh Kalyanaraman opened the meeting and conducted roll call.
- Nilesh Kalyanaraman provided an overview of the Open Meetings Act, and future meeting dates.

- The Workgroup members adopted the September 18, 2024 meeting minutes.

## **Speaker Presentations**

### *Structure of Retail Tobacco Licensure in Maryland*

- Jeffrey Kelly, executive director of the Alcohol, Tobacco, and Cannabis Commission (ATCC), defined cigarettes, other tobacco products (OTP), and electronic smoking devices (ESD) and explained how the products are taxed. Niles Kalyanaraman asked Jeffrey Kelly for the distinction between premium and regular cigars. Jeffrey Kelly explained that premium cigars are hand rolled in whole leaf tobacco while mass-produced cigars are rolled in compressed, homogenized tobacco. He emphasized that there are exceptions, the most common being smaller machine rolled cigars with the same ingredients as premium cigars.
- Jeffrey Kelly described the retailer licensing process for cigarettes, OTP, and ESD. He explained how the ATCC issues manufacturer and wholesaler licenses for cigarettes, OTP, and ESD products.
- Jeffrey Kelly defined tobacconists as specialty OTP retailers who derive at least 70% of their sales from OTP or OTP-related products. He highlighted that the tobacconist license offers special privileges considering the product is not widely available in the standard OTP market.
- Jeffrey Kelly shared how tobacconists who allow smoking indoors typically cite Health-General Article §24-505(3)(i) as no Maryland law explicitly prohibits the issuance of retail alcohol licenses to tobacconists. He stated that as of October 16, 2024, there are 6,500 OTP retailers and 197 tobacconists operating in the state of Maryland.

### *Regulatory Enforcement by Local Health Departments*

- Lisa Laschalt, representing the Conference of Environmental Health Directors and the Charles County Health Department, provided general statistics on the indoor smoking facilities and CIAA violations. She stated that 8 jurisdictions have facilities that allow indoor smoking and alcohol consumption with most receiving less than 5 complaints in the last 5 years. She highlighted that Charles County has reported an increase in complaints since the 2024 CIAA Revisions.
- Lisa Laschalt emphasized that the lack of definition for incidental in the CIAA revisions is causing enforcement issues. To remedy this, she suggested that the term “incidental” would need to be quantified and an auditing protocol and timeline of sales must be established. The current auditing protocol is complaint driven and requires multi-agency cooperation.
- Lisa Laschalt identified key enforcement challenges related to auditing and the inspections of facilities violating their terms of use and occupancy.

### *Public Health Implications*

- Kathleen Hoke, executive director of the Legal Resource Center for Public Health Policy, provided clarification on the CIAA tobacco retailer exception passed in 2007. She explained that the exception applies to all retail tobacco businesses including cigarette, OTP, and ESD licensees. The terms primary activity, accessories, and incidental are not defined in statute.
- Kathleen Hoke highlighted how the General Assembly passed the tobacconist provision in 2010 Business Regulation §16.5-101(t), exclusive to OTP businesses. She clarified that tobacconists are not characterized by the sale of premium cigars.
- Kathleen Hoke emphasized that the CIAA does not prohibit tobacco retailers allowing on-site smoking from selling alcohol as long as the business fits the definition within the exception and alcohol sales are incidental. She states that to serve the public health CIAA protections must remain intact and recommends any efforts to define terms to aid in enforcement.

## **Discussion**

- Ronald Watson asked for clarification on which parties are issuing complaints against tobacconists. Kathleen Hoke explained that tobacconists are a type of OTP seller in the business regulation unrelated to the definition of a tobacco retailer in the CIAA exception. She reiterated that enforcement is complaint-driven which can come from a variety of sources including members of the community, employees, or adjacent businesses.
- Steven Arentz asked for further clarification on complaint-driven enforcement. Kathleen Hoke reiterates her previous point. She explains that the State and local health department verify the complaints and issue citations accordingly. Steven Arentz believes the efforts were led by the Maryland Department of Health (MDH) for cigarettes. Kathleen Hoke highlights the efforts of the public health community in the advocacy for CIAA revisions to prohibit smoking in places with full alcohol service.
- Steven Arentz asked for MDH's position on workforce protections. Niles Kalyanaraman emphasized that the core concern of the public health mission is to spread information and protect the public from second-hand smoke exposure, including workers.
- Clarence Lam underscored the importance of state involvement to ensure adults are making responsible choices. He highlights that, in this case, there are broader implications such as increasing costs for state healthcare programs outside of individual harm.
- Kathleen Hoke agreed, sharing that Maryland data shows comprehensive CIAA protection resulted in acute and overall, long-term health improvements. She mentioned how other jurisdictions nationally adopted provision to only allow smoking for tobacco retailers with freestanding buildings to protect adjacent businesses from second-hand smoke exposure.

- Clarence Lam reiterated the costs to the state. Kathleen Hoke added that CIAA has also helped decouple alcohol consumption from cigarette smoking and the reduction in consumption of both products. Clarence Lam asked whether incidental alcohol sales are permitted under the current CIAA. Kathleen Hoke confirmed that incidental sales are permitted.
- Finnie Helmuth highlighted her work with Jeffrey Kelly in establishing the tobacconist license to protect the 15% tax rate for existing businesses. She mentioned how states like Connecticut are rolling back CIAA restrictions.
- Jeffrey Kelly reiterated that the tobacconists license was created to allow tobacconists to purchase premium products that traditional Maryland wholesalers can not properly store.
- Clarence Lam asked Kathleen Hoke how bring-your-own (BYO) would interact with the definition of incidental. Kathleen Hoke specified that incidental refers to the sale of alcohol. Jeffrey Kelly explained how some jurisdictions allow BYO while others strictly prohibit the practice. He added that, generally, licensed alcohol establishments do not allow BYO, with exceptions for wine.
- Ronald Watson shared that employees of cigar lounges sign waivers acknowledging the risks of secondhand-smoke. He recommended the creation of a new license to protect existing cigar businesses with liquor licenses.

### **Public Comment**

- Nilesh Kalyanaraman opened the public comment period.
- Bobby Oler agreed with the need for a definition of incidental. He shared that sale receipts are separated between alcohol and non-alcohol which can be used to measure incidental sales.
- Mignonne Guy warned against the roll back of CIAA protections and Occupational Safety Health Act of 1970. She shared that the tobacco industry often perpetuates the argument that adults have the right to choose for themselves. She emphasized that risk communication to employees in smoking establishments is not always effective and prompts the question of how one could thoroughly examine the risks with no knowledge of potential underlying conditions or risk.
- Ronald Watson disagreed stating that he does not believe limiting the amount of cigar lounges serving alcohol in the state would exacerbate these health concerns. He highlighted that cigarette boxes include warning labels and adults are capable of acknowledging the risks.
- Mignonne Guy explained that the warning label is meant for the individual consumer.. She reiterates her primary concern which is the health of the workers, their families, and the general public.
- Lance Kilpatrick, representing the American Cancer Society Cancer Action Network, stated that cigar bars violate the intent of CIAA. He urged the Workgroup to stop the effort from moving forward.
- Matt Bohle of Rifkin Weiner Livingston, representing Cigar Retailers Association, suggested further exploration of cigar lounge and cigar bar activity in neighboring states.

## **Closing Remarks**

- Nilesh Kalyanaraman closed the public comment period and discussed next steps. He thanked the Workgroup members and the public for their participation.