

# SENATE BILL 175

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By: **Senators Manno, Feldman, and Smith**

Introduced and read first time: January 18, 2017

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Use of Medical Oxygen in Residential Dwellings – Smoking and**  
3 **Open Flame Restrictions**

4 FOR the purpose of prohibiting an individual from lighting or smoking certain matters or  
5 substances that contain tobacco in a room of a residential dwelling in which medical  
6 oxygen is being used and within a certain number of feet of a certain room of a certain  
7 residential dwelling; prohibiting an individual from having an open flame in a room  
8 of a residential dwelling in which medical oxygen is being used and within a certain  
9 number of feet of a certain room of a certain residential dwelling; providing for the  
10 application of a certain provision of this Act; requiring a certain individual who uses  
11 or will begin to use medical oxygen to notify a certain person that the individual uses  
12 or will begin to use medical oxygen; requiring the individual to make a certain  
13 notification within a certain time period before beginning to reside in the residential  
14 dwelling or, under certain circumstances, within a certain time period before the  
15 individual begins to use medical oxygen; requiring a certain person to prominently  
16 post certain signs within a certain time period; requiring certain individuals to  
17 prominently post certain signs; requiring the Department of Health and Mental  
18 Hygiene to adopt certain regulations; establishing certain penalties; authorizing the  
19 Secretary of Health and Mental Hygiene to waive a certain penalty; defining a  
20 certain term; and generally relating to the use of medical oxygen in residential  
21 dwellings.

22 BY adding to  
23 Article – Health – General  
24 Section 24–1501 through 24–1505 to be under the new subtitle “Subtitle 15. Use of  
25 Medical Oxygen in Residential Dwellings – Smoking and Open Flame  
26 Restrictions”  
27 Annotated Code of Maryland  
28 (2015 Replacement Volume and 2016 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article – Health – General**

**SUBTITLE 15. USE OF MEDICAL OXYGEN IN RESIDENTIAL DWELLINGS – SMOKING  
AND OPEN FLAME RESTRICTIONS.**

**24–1501.**

(A) IN THIS SUBTITLE, “RESIDENTIAL DWELLING” MEANS A BUILDING OR  
PART OF A BUILDING THAT PROVIDES LIVING OR SLEEPING FACILITIES FOR ONE OR  
MORE INDIVIDUALS.

(B) “RESIDENTIAL DWELLING” INCLUDES:

- (1) AN APARTMENT;
- (2) A CONDOMINIUM;
- (3) A DUPLEX;
- (4) A TOWNHOUSE; AND
- (5) A SINGLE-FAMILY HOME.

(C) “RESIDENTIAL DWELLING” DOES NOT INCLUDE:

- (1) A HOTEL; OR
- (2) A MOTEL.

**24–1502.**

(A) AN INDIVIDUAL MAY NOT LIGHT OR SMOKE A CIGARETTE, CIGAR, PIPE,  
OR ANY OTHER MATTER OR SUBSTANCE THAT CONTAINS TOBACCO:

(1) IN A ROOM OF A RESIDENTIAL DWELLING IN WHICH MEDICAL  
OXYGEN IS BEING USED; OR

(2) WITHIN 20 FEET OF A ROOM OF A RESIDENTIAL DWELLING IN  
WHICH MEDICAL OXYGEN IS BEING USED.

(B) AN INDIVIDUAL MAY NOT HAVE AN OPEN FLAME:

1           (1) IN A ROOM OF A RESIDENTIAL DWELLING IN WHICH MEDICAL  
2 OXYGEN IS BEING USED; OR

3           (2) WITHIN 20 FEET OF A ROOM OF A RESIDENTIAL DWELLING IN  
4 WHICH MEDICAL OXYGEN IS BEING USED.

5 24-1503.

6           (A) (1) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO  
7 RESIDES IN A RESIDENTIAL DWELLING THAT IS:

8                   (I) OWNED BY ANOTHER PERSON; OR

9                   (II) SUBJECT TO THE RULES AND REGULATIONS OF A  
10 HOMEOWNERS ASSOCIATION OR OTHER SIMILAR ENTITY.

11           (2) AN INDIVIDUAL WHO USES OR WILL BEGIN TO USE MEDICAL  
12 OXYGEN SHALL NOTIFY THE OWNER OF THE RESIDENTIAL DWELLING, THE OWNER'S  
13 REPRESENTATIVE OR AGENT, OR THE HOMEOWNERS ASSOCIATION OR OTHER  
14 SIMILAR ENTITY THAT THE INDIVIDUAL USES OR WILL BEGIN TO USE MEDICAL  
15 OXYGEN.

16           (3) THE INDIVIDUAL SHALL MAKE THE NOTIFICATION REQUIRED  
17 UNDER PARAGRAPH (2) OF THIS SUBSECTION:

18                   (I) AT LEAST 5 DAYS BEFORE BEGINNING TO RESIDE IN THE  
19 RESIDENTIAL DWELLING; OR

20                   (II) IF THE INDIVIDUAL RESIDES IN THE RESIDENTIAL  
21 DWELLING AT THE TIME THE INDIVIDUAL WILL BEGIN TO USE MEDICAL OXYGEN, AT  
22 LEAST 5 DAYS BEFORE THE INDIVIDUAL BEGINS TO USE MEDICAL OXYGEN.

23           (4) WITHIN 5 DAYS AFTER A NOTIFICATION IS MADE UNDER  
24 PARAGRAPH (2) OF THIS SUBSECTION, THE OWNER OF THE RESIDENTIAL DWELLING,  
25 THE OWNER'S REPRESENTATIVE OR AGENT, OR THE HOMEOWNERS ASSOCIATION OR  
26 SIMILAR ENTITY SHALL PROMINENTLY POST SIGNS STATING THAT:

27                   (I) MEDICAL OXYGEN IS BEING USED IN THE RESIDENTIAL  
28 DWELLING; AND

29                   (II) THE RESTRICTIONS SPECIFIED IN § 24-1502(A)(2) AND  
30 (B)(2) OF THIS SUBTITLE ARE IN EFFECT.

(B) AN INDIVIDUAL WHO USES OR WILL BEGIN TO USE MEDICAL OXYGEN AND IS NOT SUBJECT TO SUBSECTION (A) OF THIS SECTION SHALL PROMINENTLY POST SIGNS STATING THAT:

(1) MEDICAL OXYGEN IS BEING USED IN THE INDIVIDUAL'S RESIDENTIAL DWELLING; AND

(2) THE RESTRICTIONS SPECIFIED IN § 24-1502(A)(2) AND (B)(2) OF THIS SUBTITLE ARE IN EFFECT.

24-1504.

(A) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

(B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE REGULATIONS GOVERNING THE PLACEMENT AND SIZE OF SIGNS REQUIRED TO BE POSTED UNDER § 24-1503(A)(4) OR (B) OF THIS SUBTITLE.

24-1505.

(A) A PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER § 24-1504(A) OF THIS SUBTITLE:

(1) FOR A FIRST VIOLATION, SHALL BE ISSUED A WRITTEN REPRIMAND BY THE SECRETARY OR THE SECRETARY'S DESIGNEE;

(2) FOR A SECOND VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF \$100; AND

(3) FOR EACH SUBSEQUENT VIOLATION, IS SUBJECT TO A CIVIL PENALTY NOT LESS THAN \$250.

(B) THE SECRETARY MAY WAIVE A PENALTY ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION, GIVING CONSIDERATION TO FACTORS THAT INCLUDE:

(1) THE SERIOUSNESS OF THE VIOLATION; AND

(2) ANY DEMONSTRATED GOOD FAITH MEASURES TO COMPLY WITH THE PROVISIONS OF §§ 24-1502 AND 24-1503 OF THIS SUBTITLE.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2017.