

Expedited Bill No. 3-24
Concerning: Late Night Establishments
– Hours of Operation
Revised: 03/18/2024 Draft No. 5
Introduced: February 13, 2024
Enacted: April 2, 2024
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Council Vice President Stewart and Councilmembers Alborno and Glass
Co-Sponsors: Councilmembers Luedtke, Katz, Fani-González, and Balcombe and Council
President Friedson

AN EXPEDITED ACT to:

- (1) define hookah lounge;
- (2) limit the hours of operation for a hookah lounge, tobacco shop, and vape shop;
- (3) establish penalties for violation of this Chapter; and
- (4) generally amend the law governing certain establishments in the County.

By adding

Montgomery County Code
Chapter 32, Offenses - Victim Advocate
Section 32-19D

Boldface	<i>Heading or a defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland, approves the following act:

1 **Sec 1. Section 32-19D is added as follows:**

2 **Sec. 32-19D. Hookah lounge, vape shop, and tobacco shop - hours of operation.**

3 (a) Legislative Findings.

4 (1) The County has a responsibility to address public safety issues in an
5 effective and rapid manner. There has been a rise in certain crimes,
6 including armed robberies, carjackings, drug use, drunk driving, and
7 car rallies, especially in central business districts (CBD) in
8 Montgomery County with heightened risks during the early morning
9 hours.

10 (2) The Montgomery County Police Department have responded to these
11 challenges by deploying more police officers in CBDs; however, the
12 increased police presence during overnight hours has led to significant
13 overtime cost for the Department, reaching tens of thousands of dollars
14 per month with a high point of \$70,000 in overtime expenses. In
15 addition, because of the concentration of police officers in CBDs there
16 are also opportunity costs that have led to longer police response times
17 during late nights for incidents outside of the CBD areas.

18 (3) The number of police calls received as a result of late night
19 establishments operating in the downtown Silver Spring area between
20 2 a.m. and 7 a.m. increased by 16 percent from 2022 to 2023, with the
21 highest overall count of 2,974 service calls when compared to other
22 areas in the County.

23 [(3) In *Baddock, et al., v. Baltimore County*, 239 Md. App. 467 (2018), the
24 Court of Special Appeals held that requiring hookah lounges in the
25 County to close at midnight was rationally related to public safety
26 concerns, as well as to public health concerns about exposure to tobacco
27 smoke, and therefore did not violate due process; and that “requiring

28 hookah lounges - but not similar businesses [...] to close at midnight
29 was not an arbitrary distinction that violated [the] Equal Protection
30 Clause and the Maryland Declaration of Rights.” *Id.* at 480.

31 (4) There are neighboring jurisdictions that have implemented certain
32 restrictions on the operation of hours, including:

33 (A) Baltimore County require hookah lounges close between the
34 hours of 12 p.m. and 6 a.m.; and

35 (B) Prince George’s County has limited the operation of tobacco and
36 electronic cigarette shops to close at 8 p.m. seven days a week
37 and has made changes to its zoning law to require certain related
38 business operate only in light industrial areas due to public safety
39 concerns.

40 (5) Jurisdictions across the country and region routinely require restaurants
41 and bars that serve alcohol to stop serving or close its operation late at
42 night in recognition of the public safety and health benefits.]]

43 (b) Definitions. As used in this Section:

44 Hookah lounge means any facility, establishment, or place whose business
45 operation, whether as its primary use or as an ancillary use, includes the
46 smoking of tobacco, flavored tobacco, nicotine, or other substances, including
47 vaping liquid, through one or more hookah pipes (also known as a hookah,
48 electronic hookah, waterpipe, shisha or narghile). A hookah lounge may
49 include a hookah bar or hookah cafe.

50 Tobacco shop has the same meaning as in Section 24-9 and includes an area
51 or room that allows for onsite smoking of tobacco products or other related
52 substances.

53 Vape shop has the same meaning as in Section 24-9 and includes an area or
54 room that allows for onsite smoking of tobacco products or other related

55 substances.

56 (c) Hours of operation - limited. A hookah lounge, tobacco shop, or vape shop
57 may operate:

58 (1) on Monday through Thursday, from 9 a.m. to 2 a.m. the following day;

59 (2) on Friday and Saturday, from 9 a.m. to 3 a.m. the following day; and

60 (3) on Sunday:

61 (A) from 9 a.m. to 2 a.m. the following day; or

62 (B) from 9 a.m. to 3 a.m. the following day, if the federal government
63 has designated the following day as a public holiday.

64 (d) A hookah lounge, tobacco shop, or vape shop that operates outside of the
65 hours permitted under subsection (c) is in violation of this Section.

66 (e) Penalty. A violation of this Section is a Class A violation. Each day a violation
67 occurs is a separate offense.

68 (f) Enforcement.

69 (1) The Executive may, under Method (2), adopt regulations to designate
70 an agency or department for the implementation, administration, and
71 enforcement this Chapter.

72 (2) The County Attorney may file an action in a court with jurisdiction to
73 enjoin a violation of this Section.

74 **Sec. 2. Effective date.** The Council declares that this legislation is necessary
75 for the immediate protection of the public interest. This Act takes effect on the date
76 on which it becomes law.

Approved:



April 2, 2024

Andrew Friedson, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Sara R. Tenenbaum, Clerk of the Council

Date