

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 3-24: LATE NIGHT ESTABLISHMENTS – HOURS OF OPERATION

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 3-24 will have a positive impact on racial equity and social justice (RESJ) in the County. While Black-owned hookah lounges may experience decreased revenues from reduced operating hours, Bill 3-24 appears to reflect the needs and priorities of BIPOC community members living in the area surrounding hookah lounges.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 3-24

Bill 3-24 proposes to define what a hookah lounge is and set restrictions on the operating hours for hookah lounges, tobacco shops, and vape shops to mirror the hours of operation of establishments where alcohol is consumed, such as bars. If enacted, Bill 3-24 would allow a hookah lounge, tobacco or vape shop in the County to operate only during the following hours:³

- Monday through Thursday, from 9 am to 2 am on the following day;
- Friday and Saturday, from 9 am to 3 am the following day; and
- Sunday from 9 am to 2 am the following day; however if the following day is a federal holiday, the hours are from 9 am to 3 am.

Any owner that operates after the permitted hours would be subject to a Class A penalty, which is \$500 for the initial offense and \$750 for each repeated offense.⁴

Bill 3-24 is intended to address public safety concerns, which has “increased significantly because of late night hookah establishments.”⁵ The Bill cites increased police presence in central business districts during overnight hours and excess overtime expenditure for MCPD in its legislative findings.⁶ The Bill’s legislative findings also note that other jurisdictions in Maryland, including Baltimore County and Prince George’s County, have passed similar legislation restricting the operating hours for hookah lounges.⁷

Bill 3-24, Late Night Establishments – Hours of Operation was introduced by the County Council on February 13, 2024.

In March 2023, OLO published a RESJIS for Bill 14-23, Police – Late Night Business Safety Plan.⁸ Please refer to this RESJIS for background on nightlife, policing, and racial equity.

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ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 3-24 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

To answer these questions, OLO considered the various stakeholders that would be impacted by a requirement for hookah lounges to close by 2 am or 3 am depending on the day week:

- **Owners of hookah lounges** may experience decreased revenues from reduced operating hours. OLO located thirteen hookah lounges operating throughout the County using Google search results. Based on the operating hours that are currently advertised, seven hookah lounges in the County would be subject to Bill 3-24 and they are all located in downtown Silver Spring, zip code 20910. OLO estimates the impacted hookah lounges could lose anywhere from one to twelve operating hours per week if Bill 3-24 is enacted. Anecdotal information suggests that most hookah lounges in downtown Silver Spring are Black immigrant-owned, which is consistent with the well-known hub of Ethiopian-owned businesses in this area.⁹
- **Employees of hookah lounges** may experience decreased income from changes to work hours resulting from reduced operating hours. However, this may be offset at least in part by health benefits from reduced exposure to secondhand hookah smoke. One study published in 2017 found that hookah lounges “have elevated concentrations of indoor air pollutants that appear to cause adverse health effects in employees.”¹⁰ There is not enough information to determine whether there are disproportionalities by race and ethnicity among hookah lounge employees.
- **Patrons of hookah lounges** will have less nightlife options after 2 am and 3 am. There is not enough information to determine whether there are disproportionalities by race and ethnicity among hookah lounge patrons. However, OLO assesses that reduced nightlife options for patrons in the early morning hours would have a minimal impact on RESJ.
- **Community members living near hookah lounges** may experience decreased disruptions related to the operation of hookah lounges beyond 2 am and 3 am. For several years, residents of downtown Silver Spring have voiced public safety concerns over bars and hookah lounges being open into the early morning hours and have pushed for restrictions to operating hours.¹¹ Table 1 below demonstrates that Black people are overrepresented among community members living in downtown Silver Spring, while White people are proportionately represented and Asian and Latinx people are underrepresented.

Table 1: Percent of Residents by Race and Ethnicity, Montgomery County, Downtown Silver Spring¹²

Race and Ethnicity	Montgomery County	Silver Spring, 20910
Asian	15.2	7.2
Black	18.2	30.1
Native American	0.1	0.0
Pacific Islander	0.0	0.0
White	41.4	43.8
Latinx	20.0	11.8

Source: Table DP05, 2022 American Community Survey 5-Year Estimates, Census Bureau.

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In communications with OLO staff, a lead sponsor for Bill 3-24 described that various stakeholders in downtown Silver Spring were engaged for over a year to develop the Bill. The sponsor noted:

“Councilmembers have met with nearly every civic association in the Silver Spring region, groups of concerned residents (not formally organized but more organic in nature) and condo associations in the Silver Spring Core, with about 4-5 meetings a month. These meetings reflected the demographics of downtown Silver Spring with diverse representation of age, race and income status.”

In March 2023, a lead sponsor of Bill 3-24 organized a public meeting to discuss the public safety concerns in downtown Silver Spring. The sponsor noted that, instead of the traditional town hall format, the event was structured to create an inclusive environment for participants to share input through providing trauma-informed facilitation, small group discussions, and translation services. According to the sponsor, the event was attended by over 250 community members and reflected the diversity of the downtown Silver Spring core.

OLO anticipates Bill 3-24 will have a positive impact on RESJ in the County. Black-owned hookah lounges may experience decreased revenues from reduced operating hours. However, the benefit to BIPOC community members likely outweighs this cost given apparent strong support for the policy among community members living in the surrounding area that is disproportionately Black. Further, OLO assesses Bill 3-24 likely reflects the needs and priorities of BIPOC community members given extensive community engagement for developing the Bill that was racially and ethnically representative, according to the Bill’s sponsor.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.¹³ OLO anticipates Bill 3-24 will have a positive impact on RESJ in the County. As such, OLO does not offer recommended amendments. However, should the Council seek to improve the RESJ impact of this Bill, OLO offers one policy option for Council consideration:

- **Monitor the impact of Bill 3-24 and address potential consequences.** The Council could consider monitoring the impact of Bill 3-24 on the financial sustainability of hookah lounges in downtown Silver Spring, as well as changes to public safety in the area. The Council could then consider options to mitigate any negative impacts that are found, such as funding small business support services for hookah lounge owners, considering other public safety measures for the area, or changing the enacted restrictions on operating hours.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

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¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid.

³ [Introduction Staff Report for Bill 3-24](#), Montgomery County Council, Introduced February 13, 2024.

⁴ Ibid.

⁵ Ibid.

⁶ Bill 3-24, Introduction Staff Report for Bill 3-24

⁷ Ibid.

⁸ [RESJ Impact Statement for Bill 14-23](#), Office of Legislative Oversight, March 17, 2023.

⁹ [Silver Spring Downtown and Adjacent Communities Plan](#), Montgomery Planning, June 2022, pg. 10.

¹⁰ Sherry Zhou, et. al., [“Secondhand Hookah Smoke: An Occupational Hazard for Hookah Bar Employees,”](#) Tobacco Control, January 2017.

¹¹ Dan Schere, [Downtown Silver Spring Condo Residents Press County for Limits on Bars, Hookah Lounges](#), MoCo360, March 18, 2022.

¹² Latinx ethnicity is not included in other racial groups for this data point. Demographic data is on based on U.S. Census Bureau’s Zip Code Tabulation Areas (ZCTA), which may have slightly different boundaries than USPS zip codes.

¹³ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council