

# HOUSE BILL 1159

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By: **Delegates Vitale, Eckardt, Haddaway–Riccio, Hogan, and O’Donnell**

Introduced and read first time: February 7, 2014

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Cigarettes – County Retail License Holder – Prohibited Sales**

3 FOR the purpose of prohibiting a person who holds a certain county license to sell  
4 cigarettes at retail from selling certain herbal incense or potpourri that includes  
5 a noncontrolled substance with a chemical structure that is substantially  
6 similar to the chemical structure of a controlled dangerous substance;  
7 authorizing the Comptroller to take certain disciplinary actions against certain  
8 license holders for a violation of this Act; establishing certain criminal penalties  
9 for a violation of this Act; and generally relating to prohibited sales by county  
10 retail cigarette license holders.

11 BY repealing and reenacting, with amendments,  
12 Article – Business Regulation  
13 Section 16–306 and 16–309  
14 Annotated Code of Maryland  
15 (2010 Replacement Volume and 2013 Supplement)

16 BY adding to  
17 Article – Business Regulation  
18 Section 16–308.1  
19 Annotated Code of Maryland  
20 (2010 Replacement Volume and 2013 Supplement)

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

23 **Article – Business Regulation**

24 16–306.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Subject to the hearing provisions of § 16–307 of this subtitle, the Comptroller  
2 may deny a county license to an applicant, reprimand a county licensee, or suspend or  
3 revoke a county license if the applicant or licensee:

4 (1) fraudulently or deceptively obtains or attempts to obtain a license  
5 for the applicant or licensee or for another person;

6 (2) fraudulently or deceptively uses a license; [or]

7 (3) VIOLATES § 16–308.1 OF THIS SUBTITLE; OR

8 [(3)] (4) fails to comply with the Maryland Cigarette Sales Below  
9 Cost Act and regulations adopted under it.

10 **16–308.1.**

11 **A PERSON WHO HOLDS A COUNTY LICENSE MAY NOT SELL HERBAL**  
12 **INCENSE OR POTPOURRI THAT INCLUDES A NONCONTROLLED SUBSTANCE WITH**  
13 **A CHEMICAL STRUCTURE THAT IS SUBSTANTIALLY SIMILAR TO THE CHEMICAL**  
14 **STRUCTURE OF A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5–101**  
15 **OF THE CRIMINAL LAW ARTICLE.**

16 16–309.

17 (A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A  
18 person who violates this subtitle is guilty of a misdemeanor and, on conviction, is  
19 subject to a fine of \$100.

20 (B) A PERSON WHO VIOLATES § 16–308.1 OF THIS SUBTITLE IS GUILTY  
21 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT  
22 EXCEEDING:

23 (1) EXCEPT AS PROVIDED IN ITEMS (2) AND (3) OF THIS  
24 SUBSECTION, \$300;

25 (2) FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS  
26 AFTER THE FIRST VIOLATION, \$1,000; AND

27 (3) FOR A THIRD OR SUBSEQUENT VIOLATION OCCURRING  
28 WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION, \$3,000.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2014.