

SENATE BILL 883

Q7, C2

EMERGENCY BILL
ENROLLED BILL

(11r2579)

— *Budget and Taxation and Finance/Ways and Means and Economic Matters* —

Introduced by **Senator Guzzone**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Tobacco Tax and Sales and Use Tax – Out-of-State Sales of Premium Cigars and**
3 **Pipe Tobacco and Tobacco Smoking Devices**

4 FOR the purpose of *altering the definition of “other tobacco products” to exclude a certain*
5 *item*; requiring a person located outside the State to have an appropriate license
6 whenever the person sells premium cigars or pipe tobacco to a consumer in the State;
7 authorizing the Executive Director of the Alcohol and Tobacco Commission to
8 delegate certain duties; authorizing the holder of a remote tobacco seller license to
9 sell premium cigars and pipe tobacco to consumers in the State; establishing the
10 requirements for an applicant for a remote tobacco seller license; providing for
11 license application procedures and fees; prohibiting a person from applying for a
12 license within a certain period of time after the person’s license was revoked;
13 requiring the Executive Director to issue remote tobacco seller licenses under certain
14 circumstances; providing for the renewal of a license; prohibiting the assignment of
15 a remote tobacco seller license; authorizing the Executive Director to deny an

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 application for a license for certain reasons; requiring the Executive Director to give
 2 certain notice of certain final actions; providing for a certain hearing process
 3 regarding a final decision; authorizing the Executive Director to revoke a license for
 4 certain reasons; requiring the Executive Director to give certain notice of a
 5 revocation; authorizing a licensee to make a certain offer of compromise in lieu of
 6 revocation of a license; authorizing the Executive Director to accept certain offers of
 7 compromise; providing for judicial review of a final decision of the Executive
 8 Director; prohibiting a person from acting, or attempting to act, as a licensed remote
 9 tobacco seller without a license; requiring the Executive Director to remit certain
 10 license fees to the General Fund of the State; stating the intent of the General
 11 Assembly; requiring the Executive Director to adopt certain regulations; providing
 12 for certain penalties; altering the sales and use tax rate imposed on sales of certain
 13 tobacco-related items; specifying that certain premium cigars and pipe tobacco are
 14 contraband; altering the price used to calculate the tobacco tax for certain premium
 15 cigars and pipe tobacco sold by an out-of-state seller; requiring an out-of-state
 16 seller to pay the tobacco tax in a certain manner; requiring an out-of-state seller to
 17 file certain tax returns and provide certain information; requiring an out-of-state
 18 seller to maintain certain records; requiring the Comptroller to adopt certain
 19 regulations; authorizing the Comptroller to require a certain bond from an
 20 out-of-state seller; authorizing the Comptroller to waive the requirement for the
 21 bond under certain circumstances; defining certain terms; altering a certain
 22 definition; providing for the application of certain provisions of this Act; requiring the
 23 Comptroller to issue a certain refund to certain persons on application; making this
 24 Act an emergency measure; providing for a delayed effective date for certain
 25 provisions of this Act; and generally relating to ~~out-of-state sales of premium cigars~~
 26 ~~and pipe tobacco~~. taxation of tobacco and tobacco smoking devices.

27 BY repealing and reenacting, without amendments,

28 Article – Business Regulation

29 Section 16.5–101(a)

30 Annotated Code of Maryland

31 (2015 Replacement Volume and 2020 Supplement)

32 BY repealing and reenacting, with amendments,

33 Article – Business Regulation

34 Section 16.5–101(i)

35 Annotated Code of Maryland

36 (2015 Replacement Volume and 2020 Supplement)

37 (As enacted by Chapter 37 of the Acts of the General Assembly of 2021)

38 BY repealing and reenacting, with amendments,

39 Article – Tax – General

40 Section 11–104(j) and 12–105(b)

41 Annotated Code of Maryland

42 (2016 Replacement Volume and 2020 Supplement)

43 (As enacted by Chapter 37 of the Acts of the General Assembly of 2021)

1 BY adding to
 2 Article – Business Regulation
 3 Section 16.9–101 through 16.9–214 to be under the new title “Title 16.9.
 4 Out-of-State Sales of Premium Cigars and Pipe Tobacco”
 5 Annotated Code of Maryland
 6 (2015 Replacement Volume and 2020 Supplement)

7 BY repealing and reenacting, with amendments,
 8 Article – Tax – General
 9 Section 12–101(f), 12–103, ~~12–105(b)~~, 12–201, 12–302(e), and 13–825(h)
 10 Annotated Code of Maryland
 11 (2016 Replacement Volume and 2020 Supplement)

12 BY repealing and reenacting, without amendments,
 13 Article – Tax – General
 14 Section 12–101(g) and (h)
 15 Annotated Code of Maryland
 16 (2016 Replacement Volume and 2020 Supplement)

17 ~~BY repealing and reenacting, with amendments,~~
 18 ~~Article – Tax – General~~
 19 ~~Section 12–105(b)~~
 20 ~~Annotated Code of Maryland~~
 21 ~~(2016 Replacement Volume and 2020 Supplement)~~
 22 ~~(As enacted by Chapter 37 of the Acts of the General Assembly of 2021)~~

23 BY adding to
 24 Article – Tax – General
 25 Section 12–105(c) and 12–204
 26 Annotated Code of Maryland
 27 (2016 Replacement Volume and 2020 Supplement)

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

30 **Article – Business Regulation**

31 16.5–101.

32 (a) In this title the following words have the meanings indicated.

33 (i) (1) “Other tobacco products” means, except as provided in paragraph (3) of
 34 this subsection, a product that is:

1 (i) intended for human consumption or likely to be consumed,
 2 whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested in any other
 3 manner, and that is made of or derived from, or that contains:

4 1. tobacco; or

5 2. nicotine; or

6 (ii) a component or part used in a consumable product described
 7 under item (i) of this paragraph.

8 (2) “Other tobacco products” includes:

9 (i) cigars, premium cigars, pipe tobacco, chewing tobacco, snuff, and
 10 snus; and

11 (ii) filters, rolling papers, pipes, and hookahs.

12 (3) “Other tobacco products” does not include:

13 (i) cigarettes;

14 (ii) electronic smoking devices; [or]

15 (iii) drugs, devices, or combination products authorized for sale by the
 16 U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act; OR

17 (IV) TOBACCO PIPES, AS DEFINED UNDER § 11-104 OF THE TAX
 18 - GENERAL ARTICLE.

19 Article – Tax – General

20 11-104.

21 (i) (1) (i) In this subsection, the following words have the meanings
 22 indicated.

23 (ii) “Electronic smoking device” has the meaning stated in § 16.7-101
 24 of the Business Regulation Article.

25 (iii) “TOBACCO PIPE” MEANS A PIPE MADE PRIMARILY OF
 26 MEERSCHAUM, WOOD, OR PORCELAIN, WITH A BOWL DESIGNED TO BE USED WITHOUT
 27 A SCREEN OR FILTER.

28 (IV) “Vaping liquid” has the meaning stated in § 16.7-101 of the
 29 Business Regulation Article.

1 (2) Except as provided in paragraph (3) of this subsection, the sales and use
2 tax rate [for electronic smoking devices] is 12% of the taxable price **FOR:**

3 **(I) ELECTRONIC SMOKING DEVICES; AND**

4 **(II) TOBACCO PIPES.**

5 (3) The sales and use tax for vaping liquid sold in a container that contains
6 5 milliliters or less of vaping liquid is 60% of the taxable price.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
8 as follows:

9 **Article – Business Regulation**

10 **TITLE 16.9. OUT-OF-STATE SALES OF PREMIUM CIGARS AND PIPE TOBACCO.**

11 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

12 **16.9–101.**

13 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
14 **INDICATED.**

15 **(B) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE**
16 **ALCOHOL AND TOBACCO COMMISSION.**

17 **(C) “LICENSE” MEANS A REMOTE TOBACCO SELLER LICENSE ISSUED BY**
18 **THE EXECUTIVE DIRECTOR UNDER SUBTITLE 2 OF THIS TITLE.**

19 **(D) “PIPE TOBACCO” HAS THE MEANING STATED IN § 16.5–101 OF THIS**
20 **ARTICLE.**

21 **(E) “PREMIUM CIGARS” HAS THE MEANING STATED IN § 16.5–101 OF THIS**
22 **ARTICLE.**

23 **(F) “REMOTE TOBACCO SELLER” MEANS THE HOLDER OF A REMOTE**
24 **TOBACCO SELLER LICENSE ISSUED UNDER THIS TITLE.**

25 **(G) “SELL” MEANS TO EXCHANGE OR TRANSFER, OR TO AGREE TO**
26 **EXCHANGE OR TRANSFER, TITLE OR POSSESSION OF PROPERTY, IN ANY MANNER OR**
27 **BY ANY MEANS, FOR CONSIDERATION.**

28 **16.9–102.**

1 **THE EXECUTIVE DIRECTOR MAY DELEGATE ANY POWER OR DUTY OF THE**
2 **EXECUTIVE DIRECTOR.**

3 **16.9–103.**

4 **THIS TITLE APPLIES ONLY TO A PERSON LOCATED OUTSIDE THE STATE WHEN**
5 **SELLING PREMIUM CIGARS OR PIPE TOBACCO TO A CONSUMER IN THE STATE.**

6 **SUBTITLE 2. REMOTE TOBACCO SELLER LICENSES.**

7 **16.9–201.**

8 **(A) A PERSON LOCATED OUTSIDE THE STATE MUST HAVE A REMOTE**
9 **TOBACCO SELLER LICENSE BEFORE THE PERSON MAY SELL PREMIUM CIGARS OR**
10 **PIPE TOBACCO TO A CONSUMER IN THE STATE.**

11 **(B) A REMOTE TOBACCO SELLER LICENSE AUTHORIZES THE LICENSEE TO**
12 **SELL PREMIUM CIGARS AND PIPE TOBACCO THROUGH A COMMON CARRIER OR**
13 **PRIVATE DELIVERY SERVICE TO A CONSUMER IN THE STATE BY RECEIVING AND**
14 **FILLING ORDERS THAT THE CONSUMER TRANSMITS BY ELECTRONIC OR OTHER**
15 **MEANS.**

16 **16.9–202.**

17 **AN APPLICANT FOR A REMOTE TOBACCO SELLER LICENSE SHALL:**

18 **(1) IDENTIFY THE PREMIUM CIGARS AND PIPE TOBACCO THAT THE**
19 **REMOTE TOBACCO SELLER INTENDS TO SELL AND SHIP INTO THE STATE;**

20 **(2) UTILIZE THIRD–PARTY AGE VERIFICATION FOR PURCHASES AND**
21 **DELIVERIES; AND**

22 **(3) CONSENT TO BEING SUBJECT TO THE TOBACCO TAX UNDER TITLE**
23 **12 OF THE TAX – GENERAL ARTICLE.**

24 **16.9–203.**

25 **(A) AN APPLICANT FOR A REMOTE TOBACCO SELLER LICENSE SHALL:**

26 **(1) SUBMIT AN APPLICATION TO THE EXECUTIVE DIRECTOR ON THE**
27 **FORM AND CONTAINING THE INFORMATION THAT THE EXECUTIVE DIRECTOR**
28 **REQUIRES; AND**

1 **(2) PAY TO THE EXECUTIVE DIRECTOR A FEE OF:**

2 **(I) \$25; OR**

3 **(II) AN AMOUNT SET BY REGULATION.**

4 **(B) IF A PERSON HAS HAD A LICENSE REVOKED UNDER § 16.9–207 OF THIS**
5 **SUBTITLE, THE PERSON MAY NOT REAPPLY FOR A LICENSE WITHIN 1 YEAR AFTER**
6 **THE DATE WHEN THE PRIOR LICENSE WAS REVOKED.**

7 **16.9–204.**

8 **THE EXECUTIVE DIRECTOR SHALL ISSUE A REMOTE TOBACCO SELLER**
9 **LICENSE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE**
10 **FOR A LICENSE TO ACT AS A REMOTE TOBACCO SELLER.**

11 **16.9–205.**

12 **(A) UNLESS A LICENSE IS RENEWED FOR A 1–YEAR TERM AS PROVIDED IN**
13 **THIS SECTION, THE LICENSE EXPIRES ON THE FIRST JUNE 30 AFTER ITS EFFECTIVE**
14 **DATE.**

15 **(B) AT LEAST 1 MONTH BEFORE A LICENSE ISSUED UNDER THIS SUBTITLE**
16 **EXPIRES, THE ISSUING OFFICIAL SHALL MAIL TO THE LICENSEE, AT THE LAST**
17 **KNOWN ADDRESS OF THE LICENSEE, A RENEWAL NOTICE THAT STATES:**

18 **(1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES; AND**

19 **(2) THE DATE BY WHICH THE ISSUING OFFICIAL MUST RECEIVE THE**
20 **RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE**
21 **LICENSE EXPIRES.**

22 **(C) BEFORE A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES, THE**
23 **LICENSEE MAY RENEW IT FOR AN ADDITIONAL 1–YEAR TERM, IF THE LICENSEE:**

24 **(1) OTHERWISE IS ENTITLED TO BE LICENSED;**

25 **(2) SUBMITS TO THE ISSUING OFFICIAL A RENEWAL APPLICATION ON**
26 **THE FORM THAT THE ISSUING OFFICIAL REQUIRES; AND**

27 **(3) PAYS TO THE ISSUING OFFICIAL THE LICENSE FEE REQUIRED**
28 **UNDER § 16.9–203 OF THIS SUBTITLE.**

1 **(D) THE ISSUING OFFICIAL SHALL RENEW THE LICENSE OF EACH LICENSEE**
2 **WHO MEETS THE REQUIREMENTS OF THIS SECTION.**

3 **16.9–206.**

4 **A REMOTE TOBACCO SELLER LICENSEE MAY NOT ASSIGN THE LICENSE.**

5 **16.9–207.**

6 **(A) SUBJECT TO THE HEARING PROVISIONS OF § 16.9–208 OF THIS**
7 **SUBTITLE, THE EXECUTIVE DIRECTOR MAY DENY A LICENSE TO AN APPLICANT,**
8 **REPRIMAND A LICENSEE, OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:**

9 **(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO**
10 **OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER PERSON;**

11 **(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;**

12 **(3) IS CONVICTED, UNDER THE LAWS OF THE UNITED STATES OR OF**
13 **ANY OTHER STATE, OF:**

14 **(I) A FELONY; OR**

15 **(II) A MISDEMEANOR THAT IS A CRIME OF MORAL TURPITUDE**
16 **AND IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE**
17 **APPLICANT OR LICENSEE;**

18 **(4) IS CONVICTED OF A VIOLATION UNDER § 10–107 OF THE**
19 **CRIMINAL LAW ARTICLE;**

20 **(5) VIOLATES TITLE 12 OF THE TAX – GENERAL ARTICLE OR**
21 **REGULATIONS ADOPTED UNDER THAT TITLE;**

22 **(6) FAILS TO UTILIZE THIRD–PARTY AGE VERIFICATION FOR**
23 **PURCHASES AND DELIVERIES; OR**

24 **(7) VIOLATES THIS TITLE OR REGULATIONS ADOPTED UNDER THIS**
25 **TITLE.**

26 **(B) SUBJECT TO THE HEARING PROVISIONS OF § 16.9–208 OF THIS**
27 **SUBTITLE, THE EXECUTIVE DIRECTOR SHALL DENY A LICENSE TO ANY APPLICANT**
28 **WHO HAS HAD A LICENSE REVOKED UNDER THIS SECTION UNTIL:**

29 **(1) 1 YEAR HAS PASSED SINCE THE LICENSE WAS REVOKED; AND**

1 **(2) IT SATISFACTORILY APPEARS TO THE EXECUTIVE DIRECTOR**
2 **THAT THE APPLICANT WILL COMPLY WITH THIS TITLE AND ANY REGULATIONS**
3 **ADOPTED UNDER THIS TITLE.**

4 **(C) BEFORE THE ISSUANCE OR RENEWAL OF ANY LICENSE, THE EXECUTIVE**
5 **DIRECTOR SHALL CONDUCT AN INVESTIGATION WITH REGARD TO:**

6 **(1) THE APPLICANT;**

7 **(2) THE BUSINESS TO BE OPERATED; AND**

8 **(3) THE FACTS SET FORTH IN THE APPLICATION.**

9 **16.9-208.**

10 **(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE**
11 **GOVERNMENT ARTICLE, BEFORE THE EXECUTIVE DIRECTOR TAKES ANY FINAL**
12 **ACTION UNDER § 16.9-207 OF THIS SUBTITLE, THE EXECUTIVE DIRECTOR SHALL**
13 **GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN**
14 **OPPORTUNITY FOR A HEARING BEFORE THE EXECUTIVE DIRECTOR.**

15 **(B) THE EXECUTIVE DIRECTOR SHALL GIVE NOTICE AND HOLD THE**
16 **HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE**
17 **GOVERNMENT ARTICLE.**

18 **(C) THE EXECUTIVE DIRECTOR MAY ADMINISTER OATHS IN A PROCEEDING**
19 **UNDER THIS SECTION.**

20 **(D) THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED MAY BE**
21 **REPRESENTED AT THE HEARING BY COUNSEL.**

22 **(E) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS**
23 **CONTEMPLATED DOES NOT APPEAR, NEVERTHELESS THE EXECUTIVE DIRECTOR**
24 **MAY HEAR AND DETERMINE THE MATTER.**

25 **16.9-209.**

26 **(A) SUBJECT TO THE NOTICE REQUIREMENT UNDER SUBSECTION (B) OF**
27 **THIS SECTION, THE EXECUTIVE DIRECTOR MAY REVOKE A LICENSE IF A LICENSEE:**

28 **(1) ENGAGES IN AN ACT OR OMISSION THAT IS A GROUND FOR**
29 **DISCIPLINE UNDER § 16.9-207(A) OF THIS SUBTITLE; OR**

1 **(2) VIOLATES THIS TITLE OR TITLE 12 OF THE TAX – GENERAL**
2 **ARTICLE OR REGULATIONS ADOPTED UNDER THESE TITLES.**

3 **(B) IF A LICENSE IS REVOKED UNDER THIS SECTION:**

4 **(1) THE EXECUTIVE DIRECTOR SHALL GIVE THE LICENSEE NOTICE**
5 **OF THE REVOCATION; AND**

6 **(2) THE REVOCATION MAY NOT TAKE EFFECT UNTIL AT LEAST 5**
7 **BUSINESS DAYS FOLLOWING NOTICE OF THE REVOCATION.**

8 **(C) THE RENEWAL OR EXPIRATION OF A LICENSE WILL NOT BAR OR ABATE**
9 **A DISCIPLINARY ACTION UNDER THIS SECTION.**

10 **(D) (1) EXCEPT FOR A VIOLATION OF § 10–107 OF THE CRIMINAL LAW**
11 **ARTICLE, WHENEVER ANY LICENSE ISSUED UNDER THE PROVISIONS OF THIS**
12 **SUBTITLE IS REVOKED BY THE EXECUTIVE DIRECTOR, THE LICENSEE MAY, BEFORE**
13 **THE EFFECTIVE DATE OF THE REVOCATION, PETITION THE EXECUTIVE DIRECTOR**
14 **FOR PERMISSION TO MAKE AN OFFER OF COMPROMISE CONSISTING OF A SUM OF**
15 **MONEY IN LIEU OF SERVING THE REVOCATION.**

16 **(2) MONEY PAID IN LIEU OF REVOCATION SHALL BE PAID INTO THE**
17 **GENERAL FUND OF THE STATE.**

18 **(3) AN OFFER OF COMPROMISE MAY NOT EXCEED AN AMOUNT SET BY**
19 **REGULATION.**

20 **(4) THE EXECUTIVE DIRECTOR MAY ACCEPT THE OFFER OF**
21 **COMPROMISE IF:**

22 **(I) THE PUBLIC WELFARE AND MORALS WOULD NOT BE**
23 **IMPAIRED BY ALLOWING THE LICENSEE TO OPERATE DURING THE PERIOD SET FOR**
24 **THE REVOCATION; AND**

25 **(II) THE PAYMENT OF THE SUM OF MONEY WILL ACHIEVE THE**
26 **DESIRED DISCIPLINARY PURPOSES.**

27 **(5) THE EXECUTIVE DIRECTOR SHALL ADOPT REGULATIONS TO**
28 **CARRY OUT THIS SUBSECTION.**

29 **16.9–210.**

30 **A PARTY TO A PROCEEDING BEFORE THE EXECUTIVE DIRECTOR WHO IS**
31 **AGGRIEVED BY A FINAL DECISION OF THE EXECUTIVE DIRECTOR IN A CONTESTED**

1 CASE, AS DEFINED IN § 10–202 OF THE STATE GOVERNMENT ARTICLE, IS ENTITLED
2 TO JUDICIAL REVIEW AS PROVIDED IN §§ 10–222 AND 10–223 OF THE STATE
3 GOVERNMENT ARTICLE.

4 **16.9–211.**

5 (A) A PERSON MAY NOT ACT, ATTEMPT TO ACT, OR OFFER TO ACT AS A
6 LICENSED REMOTE TOBACCO SELLER UNLESS THE PERSON HAS AN APPROPRIATE
7 LICENSE.

8 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
9 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
10 OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.

11 (2) EACH DAY THAT A VIOLATION OF THIS SECTION CONTINUES IS A
12 SEPARATE OFFENSE.

13 **16.9–212.**

14 (A) THE EXECUTIVE DIRECTOR SHALL PAY INTO THE GENERAL FUND OF
15 THE STATE ALL LICENSE FEES COLLECTED UNDER THIS TITLE.

16 (B) THE GENERAL ASSEMBLY INTENDS THAT THESE LICENSE FEES BE
17 USED TO ADMINISTER THIS TITLE.

18 **16.9–213.**

19 (A) THE EXECUTIVE DIRECTOR SHALL ADOPT REGULATIONS TO
20 IMPLEMENT THIS TITLE.

21 (B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION
22 SHALL INCLUDE:

23 (1) MINIMUM STANDARDS FOR THIRD–PARTY AGE VERIFICATION
24 SERVICES A REMOTE TOBACCO SELLER IS REQUIRED TO USE; AND

25 (2) MINIMUM STANDARDS FOR THE TYPES OF DELIVERY SERVICES A
26 REMOTE TOBACCO SELLER IS AUTHORIZED TO USE.

27 **16.9–214.**

28 UNLESS OTHERWISE SPECIFIED IN THIS TITLE, A PERSON WHO VIOLATES ANY
29 PROVISION OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS

1 **SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 30**
 2 **DAYS OR BOTH.**

3 **Article – Tax – General**

4 12–101.

5 (f) “Out-of-state seller” means a person:

6 (1) located outside the State that sells, holds for sale, ships, or delivers
 7 premium cigars or pipe tobacco to consumers in the State ~~if~~, during the previous calendar
 8 year or the current calendar year:

9 ~~(1)~~ (I) the person’s gross revenue from the sale of premium cigars or
 10 pipe tobacco in the State exceeds \$100,000; or

11 ~~(2)~~ (II) the person sold premium cigars or pipe tobacco into the State in
 12 200 or more separate transactions; **AND**

13 (2) **WHO IS REQUIRED TO HOLD A REMOTE TOBACCO SELLER LICENSE**
 14 **UNDER TITLE 16.9 OF THE BUSINESS REGULATION ARTICLE.**

15 (g) “Pipe tobacco” has the meaning stated in § 16.5–101 of the Business
 16 Regulation Article.

17 (h) “Premium cigars” has the meaning stated in § 16.5–101 of the Business
 18 Regulation Article.

19 12–103.

20 (a) A rebuttable presumption exists that any cigarette or other tobacco product in
 21 the State is subject to the tobacco tax.

22 (b) Cigarettes or other tobacco products are contraband tobacco products if they:

23 (1) are possessed or sold in the State in a manner that is not authorized
 24 under this title or under Title 16 [or], Title 16.5, **OR TITLE 16.9** of the Business Regulation
 25 Article; or

26 (2) are transported by vehicle in the State by a person who does not have,
 27 in the vehicle, the records required by § 16–219 or § 16.5–215 of the Business Regulation
 28 Article for the transportation of cigarettes or other tobacco products.

29 (c) A person who possesses cigarettes or other tobacco products has the burden of
 30 proving that the cigarettes or other tobacco products are not subject to the tobacco tax.

1 12-105.

2 ~~(b) (1) Except as provided in paragraph (2) of this subsection, the tobacco tax~~
 3 ~~rate for other tobacco products is 30% of:~~

4 ~~(I) the wholesale price of the tobacco products; OR~~

5 ~~(II) FOR PIPE TOBACCO SOLD BY AN OUT-OF-STATE SELLER,~~
 6 ~~THE PRICE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION.~~

7 ~~(2) (i) In this paragraph, “premium cigars” has the meaning stated in §~~
 8 ~~16.5-101 of the Business Regulation Article.~~

9 ~~(ii) Except as provided in subparagraph (iii) of this paragraph, the~~
 10 ~~tobacco tax rate for cigars is 70% of the wholesale price of the cigars.~~

11 ~~(iii) The tobacco tax rate for premium cigars is 15% of:~~

12 ~~1. the wholesale price of the premium cigars; OR~~

13 ~~2. FOR PREMIUM CIGARS SOLD BY AN OUT-OF-STATE~~
 14 ~~SELLER, THE PRICE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION.~~

15 (b) (1) Except as provided in paragraph (2) of this subsection, the tobacco tax
 16 rate for other tobacco products is 53% of the wholesale price of the tobacco products.

17 (2) (i) In this paragraph, “pipe tobacco” and “premium cigars” have the
 18 meanings stated in § 16.5-101 of the Business Regulation Article.

19 (ii) 1. Except as provided in subsubparagraph 2 of this
 20 subparagraph, the tobacco tax rate for cigars is 70% of the wholesale price of the cigars.

21 2. The tobacco tax rate for premium cigars is 15% of:

22 A. the wholesale price of the premium cigars; OR

23 B. FOR PREMIUM CIGARS SOLD BY AN OUT-OF-STATE
 24 SELLER, THE PRICE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION.

25 (iii) The tobacco tax rate for pipe tobacco is 30% of:

26 1. the wholesale price of the pipe tobacco; OR

27 2. FOR PIPE TOBACCO SOLD BY AN OUT-OF-STATE
 28 SELLER, THE PRICE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION.

1 **(C) (1) FOR PREMIUM CIGARS AND PIPE TOBACCO SOLD BY AN**
2 **OUT-OF-STATE SELLER, THE TOBACCO TAX RATE APPLIES TO:**

3 **(I) THE ACTUAL PRICE PAID BY AN OUT-OF-STATE SELLER FOR**
4 **A STOCK KEEPING UNIT; OR**

5 **(II) IF THE ACTUAL PRICE PAID BY AN OUT-OF-STATE SELLER**
6 **FOR A STOCK KEEPING UNIT IS NOT AVAILABLE, THE AVERAGE OF THE ACTUAL**
7 **PRICE PAID BY AN OUT-OF-STATE SELLER FOR A STOCK KEEPING UNIT OVER THE**
8 **12 CALENDAR MONTHS BEFORE JANUARY 1 OF THE YEAR IN WHICH THE SALE**
9 **OCCURS.**

10 **(2) THE COMPTROLLER SHALL ADOPT REGULATIONS TO IMPLEMENT**
11 **THIS SUBSECTION.**

12 **12-201.**

13 (a) A manufacturer shall complete and file with the Comptroller a tobacco tax
14 return:

15 (1) on or before the 15th day of the month that follows the month in which
16 the manufacturer distributes in the State free sample cigarettes of the manufacturer; and

17 (2) if the Comptroller so specifies, by regulation, on other dates for each
18 month in which the manufacturer does not distribute any sample cigarettes.

19 (b) A licensed other tobacco products manufacturer shall file the information
20 return that the Comptroller requires.

21 (c) A licensed storage warehouse operator and a licensed other tobacco products
22 storage warehouse operator shall file the information return that the Comptroller requires.

23 **(D) AN OUT-OF-STATE SELLER SHALL FILE THE INFORMATION RETURN**
24 **THAT THE COMPTROLLER REQUIRES.**

25 **12-204.**

26 **(A) THE COMPTROLLER SHALL ADOPT REGULATIONS THAT:**

27 **(1) REQUIRE AN OUT-OF-STATE SELLER TO MAINTAIN RECORDS OF**
28 **THE COST OF PREMIUM CIGARS AND PIPE TOBACCO ACQUIRED FOR SALE INTO THE**
29 **STATE; AND**

1 **(2) SPECIFY THE PERIOD FOR WHICH AN OUT-OF-STATE SELLER**
2 **MUST MAINTAIN THE RECORDS REQUIRED UNDER ITEM (1) OF THIS SUBSECTION.**

3 **(B) AN OUT-OF-STATE SELLER SHALL ALLOW THE COMPTROLLER TO**
4 **EXAMINE THE RECORDS MAINTAINED IN ACCORDANCE WITH SUBSECTION (A) OF**
5 **THIS SECTION.**

6 12-302.

7 (e) **(1)** An out-of-state seller shall pay the tobacco tax on pipe tobacco or
8 premium cigars on which the tobacco tax has not been paid.

9 **(2) AN OUT-OF-STATE SELLER SHALL PAY THE TOBACCO TAX ON PIPE**
10 **TOBACCO AND PREMIUM CIGARS BY FILING A TAX RETURN, WITH ANY SUPPORTING**
11 **SCHEDULES, ON FORMS PROVIDED BY THE COMPTROLLER:**

12 **(I) ON OR BEFORE THE 21ST DAY OF THE MONTH AFTER A SALE**
13 **OF PREMIUM CIGARS OR PIPE TOBACCO IS MADE; OR**

14 **(II) ON DATES SPECIFIED BY THE COMPTROLLER BY**
15 **REGULATION.**

16 **(3) FOR THE PERIOD THAT THE RETURN COVERS, THE RETURN SHALL**
17 **STATE:**

18 **(I) THE STOCK KEEPING UNIT NUMBER FOR ANY PREMIUM**
19 **CIGARS AND PIPE TOBACCO SOLD; AND**

20 **(II) FOR EACH STOCK KEEPING UNIT:**

21 **1. THE QUANTITY OF PREMIUM CIGARS AND PIPE**
22 **TOBACCO SOLD DURING THE RETURN PERIOD; AND**

23 **2. THE PRICE OF THE PREMIUM CIGARS AND PIPE**
24 **TOBACCO SOLD, AS DETERMINED UNDER § 12-105(C) OF THIS TITLE.**

25 13-825.

26 (h) **(1)** The Comptroller may require a person subject to the tobacco tax to post
27 security for the tax in the following amounts:

28 (i) for a manufacturer or wholesaler:

29 1. \$10,000; plus

1 (iii) otherwise violated any of the provisions of this title, Title 12 of
2 this article, or Title 16 [or], Title 16.5, **OR TITLE 16.9** of the Business Regulation Article.

3 (4) (i) An exemption granted under paragraph (2) of this subsection is
4 effective only to the extent that a person's potential tobacco tax liability does not exceed an
5 amount determined by the Comptroller based on the person's experience during the 5-year
6 compliance period under paragraph (2) of this subsection.

7 (ii) The Comptroller may revoke an exemption granted to a person
8 under paragraph (2) of this subsection if the person at any time fails to be in continuous
9 compliance with the tobacco tax laws, as described in paragraph (3) of this subsection.

10 (iii) The Comptroller may reinstate an exemption revoked under
11 subparagraph (ii) of this paragraph if the person meets the requirements of paragraph (2)(i)
12 and (ii) of this subsection for a period of 2 years following the revocation.

13 (5) The Comptroller may not exempt a person from posting a bond or other
14 security for the tobacco tax unless the Comptroller determines that the person is solvent
15 and financially able to pay the person's potential tobacco tax liability.

16 (6) If a corporation is granted an exemption from posting a bond or other
17 security for the tobacco tax, any officer of the corporation who exercises direct control over
18 its fiscal management is personally liable for any tobacco tax, interest and penalties owed
19 by the corporation.

20 ***SECTION 3. AND BE IT FURTHER ENACTED, That:***

21 *(a) Section 1 of this Act shall be construed to apply retroactively and shall be*
22 *applied to and interpreted to affect any tax imposed on other tobacco products under Title*
23 *12 of the Tax – General Article on or after March 14, 2021; and*

24 *(b) On application by a person who paid the tobacco tax on tobacco pipes sold on*
25 *or after March 14, 2021, but before the effective date of Section 1 of this Act, the Comptroller*
26 *shall issue a refund of that amount to the person.*

27 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That *Section 2* of this Act shall
28 take effect July 1, 2022.

29 ***SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency***
30 ***measure, is necessary for the immediate preservation of the public health or safety, has been***
31 ***passed by a yea and nay vote supported by three-fifths of all the members elected to each of***
32 ***the two Houses of the General Assembly, and, except as provided in Section 4 of this Act,***
33 ***shall take effect from the date it is enacted.***