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**By: Delegate Ciliberti**

Introduced and read first time: January 31, 1997

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Cigarette Vending Machines - Use of Tokens**

3 FOR the purpose of requiring licensed cigarette vending machine operators, in a manner  
4 specified by the State Comptroller, to ensure that each vending machine of the  
5 operator may be operated only by the use of a token and not cash; requiring an  
6 applicant for a certain license to submit certain proof; authorizing the Comptroller  
7 to deny certain licenses or to take certain disciplinary actions against certain  
8 applicants or licensees that fail to ensure that cigarette vending machines may be  
9 operated only by the use of a token; requiring the Comptroller to seal a vending  
10 machine under certain circumstances; delaying the applicability of this Act to  
11 certain vending machine operators for a certain period of time as determined by the  
12 Comptroller; prescribing a certain penalty for a certain violation of this Act; and  
13 generally relating to the use of tokens in cigarette vending machines.

14 BY repealing and reenacting, without amendments,

15 Article - Business Regulation  
16 Section 16-101(a) and (e), 16-201(a), (b)(1)(iii), (f), and (o), 16-202, 16-205,  
17 16-309, and 16-401  
18 Annotated Code of Maryland  
19 (1992 Volume and 1996 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - Business Regulation  
22 Section 16-204(e), 16-209, 16-210, 16-220, and 16-306  
23 Annotated Code of Maryland  
24 (1992 Volume and 1996 Supplement)

25 BY adding to

26 Article - Business Regulation  
27 Section 16-309.1  
28 Annotated Code of Maryland  
29 (1992 Volume and 1996 Supplement)

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

2

1 **Article - Business Regulation**

2 16-101.

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

4 (e) (1) "Sell cigarettes at retail" means to sell cigarettes to a consumer.

5 (2) "Sell cigarettes at retail" includes selling cigarettes through a vending  
6 machine.

7 16-201.

8 (a) In this subtitle the following words have the meanings indicated.

9 (b) "License" means:

10 (1) a license issued by the Comptroller under § 16-205(a) of this subtitle to:

11 (iii) act as a vending machine operator;

12 (f) "Licensed vending machine operator" means a person licensed by the  
13 Comptroller under § 16-205(a) of this subtitle to act as a vending machine operator.

14 (o) "Vending machine operator" means a person who:

15 (1) holds cigarettes for sale to consumers through vending machines on 40  
16 or more premises; or

17 (2) sells cigarettes to consumers through vending machines on 40 or more  
18 premises.

19 16-202.

20 (a) Except as provided in subsection (b) of this section, a person must have an  
21 appropriate license whenever the person acts as a manufacturer, retailer, storage  
22 warehouse, subwholesaler, vending machine operator, or wholesaler in the State.

23 (b) A person need not get a retailer license to act as a retailer at a vending stand  
24 operated under a trader's license issued to Blind Industries and Services of Maryland.

25 (c) A license to act as a retailer is required for each place of business where a  
26 person acts as a retailer.

27 16-204.

28 (e) An applicant for a license to act as a vending machine operator shall:

29 (1) obtain the county license required under § 16-301 of this title;

30 (2) submit an application to the Comptroller on the form and containing the  
31 information that the Comptroller requires; [and]

32 (3) SUBMIT PROOF THAT EACH VENDING MACHINE OF THE VENDING  
33 MACHINE OPERATOR MAY BE OPERATED ONLY BY THE USE OF A TOKEN AND NOT  
34 CASH, AS REQUIRED BY § 16-209(B)(2)(III) OF THIS SUBTITLE; AND

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1                    [(3)] (4) pay to the Comptroller a fee of \$500.

2 16-205.

3                    (a) The Comptroller shall issue an appropriate license to each applicant who  
4 meets the requirements of this subtitle for a license to act as a manufacturer, storage  
5 warehouse, subwholesaler, vending machine operator, or wholesaler.

6                    (b) The clerk shall issue to each applicant who meets the requirements of this  
7 subtitle a license to act as a retailer.

8 16-209.

9                    (a) A licensee shall display a license in the way that the Comptroller requires by  
10 regulation.

11                    (b) A licensee who sells cigarettes through a vending machine:

12                    (1) shall place each package of cigarettes in the machine so that when the  
13 package is visible the tax stamps required by § 12-304 of the Tax - General Article are  
14 also visible; and

15                    (2) in the way that the Comptroller requires by regulation, shall:

16                    (i) identify each vending machine with a conspicuous label that states  
17 the licensee's name, address, and telephone number; [and]

18                    (ii) display on a conspicuous label applicable prohibitions and  
19 penalties under Article 27, §§ 404 and 405 of the Code; AND

20                    (III) ENSURE THAT EACH VENDING MACHINE MAY BE OPERATED  
21 ONLY BY THE USE OF A TOKEN AND NOT CASH.

22 16-210.

23                    (a) Subject to the hearing provisions of § 16-211 of this subtitle, the Comptroller  
24 may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license  
25 if the applicant or licensee:

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

28                    (2) fraudulently or deceptively uses a license;

29                    (3) fails to comply with the Maryland Cigarette Sales Below Cost Act or  
30 regulations adopted under that Act; [or]

31                    (4) buys cigarettes for resale:

32                    (i) in violation of a license; or

33                    (ii) from a person who is not a cigarette manufacturer, licensed  
34 subwholesaler, licensed vending machine operator, or licensed wholesaler; OR

35                    (5) IS A VENDING MACHINE OPERATOR WHO FAILS TO ENSURE THAT  
36 EACH VENDING MACHINE OF THE APPLICANT OR LICENSEE MAY BE OPERATED

4  
1 ONLY BY THE USE OF A TOKEN AND NOT CASH, AS REQUIRED BY § 16-209(B)(2)(III) OF  
2 THIS SUBTITLE.

3 (b) Subject to the hearing provisions of § 16-211 of this subtitle, the Comptroller  
4 may suspend or revoke a license if the licensee violates:

5 (1) Title 12 of the Tax - General Article, or regulations adopted under that  
6 title; or

7 (2) Title 16 of [the Business Regulation Article] THIS ARTICLE, or  
8 regulations adopted under that title.

9 (c) Subject to the hearing provisions of § 16-211 of this subtitle, the Comptroller  
10 shall deny a license to any applicant who has had a license revoked under this section  
11 until:

12 (1) 1 year has passed since the license was revoked; and

13 (2) it satisfactorily appears to the Comptroller that the applicant will comply  
14 with this title and any regulations adopted under this title.

15 16-220.

16 (a) The Comptroller shall seal a vending machine to prevent the sale or removal  
17 of cigarettes from the machine if:

18 (1) a tax stamp is not visible on each visible package of cigarettes in the  
19 machine, as required by § 16-209(b)(1) of this subtitle; [ or]

20 (2) the machine is not labeled as required by § 16-209(b)(2) of this subtitle;  
21 OR

22 (3) THE MACHINE MAY BE OPERATED BY ANY MEANS OTHER THAN BY  
23 THE USE OF A TOKEN, AS REQUIRED BY § 16-209(B)(2)(III) OF THIS SUBTITLE.

24 (b) If the violation for which a vending machine is sealed has been corrected in  
25 the presence of the Comptroller or the Comptroller's designee, the Comptroller shall  
26 remove the seal.

27 16-306.

28 Subject to the hearing provisions of § 16-307 of this subtitle, the Comptroller may  
29 deny a county license to an applicant, reprimand a county licensee, or suspend or revoke  
30 a county license if the applicant or licensee:

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

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

34 (3) fails to comply with the Maryland Cigarette Sales Below Cost Act and  
35 regulations adopted under it; OR

36 (4) IS A VENDING MACHINE OPERATOR WHO FAILS TO ENSURE THAT  
37 EACH VENDING MACHINE OF THE APPLICANT OR LICENSEE MAY BE OPERATED

5  
1 ONLY BY THE USE OF A TOKEN AND NOT CASH, AS REQUIRED BY § 16-209(B)(2)(III) OF  
2 THIS SUBTITLE.

3 16-309.

4 A person who violates this subtitle is guilty of a misdemeanor and, on conviction, is  
5 subject to a fine of \$100.

6 16-309.1.

7 A VENDING MACHINE OPERATOR, OR AN EMPLOYEE OF THE VENDING  
8 MACHINE OPERATOR, WHO FAILS TO INSURE THAT EACH VENDING MACHINE OF  
9 THE VENDING MACHINE OPERATOR MAY BE OPERATED ONLY BY THE USE OF A  
10 TOKEN AND NOT CASH, AS REQUIRED BY § 16-209(B)(2)(III) OF THIS SUBTITLE, IS  
11 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF \$250.00.

12 16-401.

13 (a) A person may not violate a regulation adopted by the Comptroller that applies  
14 to a person who sells cigarettes at retail.

15 (b) A person who violates this section is guilty of a misdemeanor and, on  
16 conviction, is subject to a fine of \$100.

17 SECTION 2. AND BE IT FURTHER ENACTED, That, subject to Section 3 of  
18 this Act, Section 1 of this Act does not apply to a vending machine operator that is  
19 licensed to operate a vending machine on the effective date of this Act.

20 SECTION 3. AND BE IT FURTHER ENACTED, That the Comptroller by  
21 regulation shall specify a reasonable period of time within which a vending machine  
22 operator, which is licensed to operate a vending machine on the effective date of this Act,  
23 shall be required after the effective date of this Act to comply with Section 1 of this Act.

24 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
25 Section 2 of this Act, this Act shall take effect October 1, 1997.