
By: **Senators Green, Forehand, Kelley, Frosh, Van Hollen, Ruben,
Teitelbaum, and Hollinger**

Introduced and read first time: February 5, 1999

Assigned to: Finance

Reassigned: Judicial Proceedings, February 10, 1999

A BILL ENTITLED

1 AN ACT concerning

2 **Cigarette Sales in Packages of Less Than 20 Cigarettes**

3 FOR the purpose of prohibiting the purchase from tobacco product manufacturers
4 and the sale, dispensing, distribution, and giving away of cigarettes in packages
5 of less than a certain number per package; providing that the State Comptroller
6 shall enforce the provisions of this Act; providing for the definition of certain
7 terms; requiring the denial, suspension, or revocation of a cigarette license for
8 violations of this Act; and relating generally to the sale and distribution of
9 cigarettes in packages of less than a certain number per package.

10 BY adding to

11 Article - Commercial Law
12 Section 11-5A-01 through 11-5A-04, inclusive, to be under the new subtitle
13 "Subtitle 5A. Cigarette Sales of Less than 20 Per Package"
14 Annotated Code of Maryland
15 (1990 Replacement Volume and 1998 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article - Business Regulation
18 Section 16-210(a)
19 Annotated Code of Maryland
20 (1998 Replacement Volume)

21 Preamble

22 WHEREAS, The Master Tobacco Settlement Agreement entered into by 46
23 states, including Maryland, on November 23, 1998 with the five largest tobacco
24 manufacturers in the United States, among its many provisions, prohibits the sale
25 and manufacture of cigarettes in packages of less than 20 cigarettes; and

26 WHEREAS, This prohibition terminates on December 31, 2001; and

1 WHEREAS, The settlement agreement also prohibits tobacco manufacturers
2 from opposing state legislation prohibiting the sale of small cigarette packages; and

3 WHEREAS, If the State of Maryland wishes to continue the ban on small
4 cigarette packages, it is necessary for the State to pass separate legislation on the
5 matter; and

6 WHEREAS, While the passage of legislation providing for an on-going ban on
7 small packages of cigarettes is not a requirement of the tobacco settlement
8 agreement, such a ban would have a very positive impact on discouraging youth
9 access to cigarettes and would be in the best interest of the State; now, therefore,

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

12 **Article - Commercial Law**

13 **SUBTITLE 5A. CIGARETTE SALES OF LESS THAN 20 PER PACKAGE.**

14 11-5A-01.

15 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) "RETAILER" HAS THE MEANING STATED IN § 11-501(H) OF SUBTITLE 5 OF
18 THIS ARTICLE.

19 (C) "SELL" HAS THE MEANING STATED IN § 11-501(J) OF THIS ARTICLE.

20 (D) "VENDING MACHINE OPERATOR" HAS THE MEANING STATED IN § 11-501 (K)
21 OF THIS ARTICLE.

22 (E) "WHOLESALER" HAS THE MEANING STATED IN § 11-501(M) OF THIS
23 ARTICLE.

24 11-5A-02.

25 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A RETAILER, VENDING
26 MACHINE OPERATOR, OR WHOLESALER MAY NOT PURCHASE FROM A TOBACCO
27 PRODUCT MANUFACTURER OR SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE AWAY
28 TO ANY PERSON A PACKAGE OF CIGARETTES CONTAINING LESS THAN 20
29 CIGARETTES.

30 11-5A-03.

31 (A) THE STATE COMPTROLLER SHALL ENFORCE THIS SUBTITLE.

32 (B) THE STATE COMPTROLLER SHALL:

1 (1) EMPLOY AND DETERMINE THE DUTIES AND COMPENSATION OF THE
2 INSPECTORS AND OTHER PERSONNEL NECESSARY TO ENFORCE THIS SUBTITLE; AND

3 (2) ADOPT REASONABLE REGULATIONS NECESSARY TO EFFECTUATE
4 AND ENFORCE THE PROVISIONS OF THIS SUBTITLE.

5 11-5A-04.

6 (A) (1) ON COMPLAINT OF THE STATE COMPTROLLER OR ANY PERSON
7 AFFECTED, A CIRCUIT COURT HAS JURISDICTION:

8 (I) TO ENJOIN A RETAILER OR WHOLESALER FROM THE
9 COMMISSION OF ANY ACT PROHIBITED BY THIS SUBTITLE; AND

10 (II) TO AWARD DAMAGES AND COSTS.

11 (2) IN AN ACTION FOR INJUNCTIVE RELIEF, IT IS NOT NECESSARY FOR
12 THE COMPLAINANT TO ALLEGE OR PROVE THAT AN ADEQUATE REMEDY AT LAW
13 DOES NOT EXIST OR THAT THE COMPLAINANT HAS SUFFERED ACTUAL DAMAGES.

14 (B) IF INJUNCTIVE RELIEF IS NOT SOUGHT OR REQUIRED, AN INJURED
15 PERSON MAY INSTITUTE AN ACTION FOR DAMAGES IN ANY COURT OF COMPETENT
16 JURISDICTION.

17 (C) IF A VIOLATION OF THIS SUBTITLE IS PROVEN AS PROVIDED IN THIS
18 SECTION, THE STATE COMPTROLLER SHALL SUSPEND OR REVOKE THE CIGARETTE
19 LICENSE OF THE OFFENDER AS REQUIRED BY § 16-210 OF THE BUSINESS
20 REGULATION ARTICLE.

21 **Article - Business Regulation**

22 16-210.

23 (a) Subject to the hearing provisions of § 16-211 of this subtitle, the
24 Comptroller may deny a license to an applicant, reprimand a licensee, or suspend or
25 revoke a license 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) FAILS TO COMPLY WITH THE PROVISIONS OF TITLE 11, SUBTITLE 5A
32 OF THE COMMERCIAL LAW ARTICLE; OR

33 [(4)] (5) buys cigarettes for resale:

34 (i) in violation of a license; or

1 (ii) from a person who is not a cigarette manufacturer, licensed
2 subwholesaler, licensed vending machine operator, or licensed wholesaler.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 June 1, 1999.