

SENATE BILL 6

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14

2000 Regular Session
(01r0249)

ENROLLED BILL

-- Judicial Proceedings/Environmental Matters --

Introduced by **Senators Green, Van Hollen, Frosh, Ruben, Kelley, Forehand,
and Teitelbaum**

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

3 FOR the purpose of prohibiting the purchase *by certain persons* from tobacco product
4 manufacturers and the sale, dispensing, distribution, and giving away of
5 cigarettes in packages of less than a certain number per package; *prohibiting*
6 *wholesalers from selling, reselling, distributing, dispensing, or giving away to*
7 *any person in this State cigarettes in packages of less than a certain number per*
8 *package*; providing that the State Comptroller shall enforce the provisions of
9 this Act; providing for the definition of certain terms; ~~requiring the denial,~~
10 ~~suspension, or revocation of~~ *authorizing the Comptroller to deny, suspend, or*
11 *revoke* a cigarette license for violations of this Act; and relating generally to the
12 sale and distribution of cigarettes in packages of less than a certain number per
13 package.

14 BY adding to
15 Article - Commercial Law

1 Section 11-5A-01 through ~~11-5A-04~~ 11-5A-03, inclusive, to be under the new
2 subtitle "Subtitle 5A. Cigarette Sales of Less Than 20 Per Package"
3 Annotated Code of Maryland
4 (1990 Replacement Volume and 1999 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Business Regulation
7 Section 16-210(a)
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 1999 Supplement)

10 Preamble

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

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

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

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

21 WHEREAS, While the passage of legislation providing for an ongoing ban on
22 small packages of cigarettes is not a requirement of the tobacco settlement
23 agreement, such a ban would have a very positive impact on discouraging youth
24 access to cigarettes and would be in the best interest of the State; now, therefore,

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

27 **Article - Commercial Law**

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

29 11-5A-01.

30 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

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

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

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

4 (E) "WHOLESALE" HAS THE MEANING STATED IN § 11-501(M) OF THIS
5 ARTICLE.

6 11-5A-02.

7 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A RETAILER, OR
8 VENDING MACHINE OPERATOR, OR WHOLESALE MAY NOT PURCHASE FROM A
9 TOBACCO PRODUCT MANUFACTURER OR SELL, RESELL, DISTRIBUTE, DISPENSE, OR
10 GIVE AWAY TO ANY PERSON A PACKAGE OF CIGARETTES CONTAINING LESS THAN 20
11 CIGARETTES.

12 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A WHOLESALE
13 RETAILER, VENDING MACHINE OPERATOR, OR WHOLESALE MAY
14 NOT SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE AWAY TO ANY PERSON IN THIS
STATE A PACKAGE OF CIGARETTES CONTAINING LESS THAN 20 CIGARETTES.

15 11-5A-03.

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

17 (B) THE STATE COMPTROLLER SHALL:

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

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

22 ~~11-5A-04.~~

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

25 ~~(i) TO ENJOIN A RETAILER OR WHOLESALE~~
26 ~~COMMISSION OF ANY ACT PROHIBITED BY THIS SUBTITLE; AND~~

27 ~~(ii) TO AWARD DAMAGES AND COSTS.~~

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

31 ~~(B) IF INJUNCTIVE RELIEF IS NOT SOUGHT OR REQUIRED, AN INJURED~~
32 ~~PERSON MAY INSTITUTE AN ACTION FOR DAMAGES IN ANY COURT OF COMPETENT~~
33 ~~JURISDICTION.~~

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

5

Article - Business Regulation

6 16-210.

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

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

12 (2) fraudulently or deceptively uses a license;

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

15 (4) FAILS TO COMPLY WITH THE PROVISIONS OF TITLE 11, SUBTITLE 5A
16 OF THE COMMERCIAL LAW ARTICLE; OR

17 [(4)] (5) buys cigarettes for resale:

18 (i) in violation of a license; or

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 ~~June~~ October 1, 2000.