

SENATE BILL 6

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SB 643/99 - JPR

2000 Regular Session  
0lr0249

(PRE-FILED)

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

Requested: June 29, 1999  
Introduced and read first time: January 12, 2000  
Assigned to: Judicial Proceedings

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Committee Report: Favorable  
Senate action: Adopted  
Read second time: February 23, 2000

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CHAPTER \_\_\_\_\_

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 1999 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 and 1999 Supplement)

1

## Preamble

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

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

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

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

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

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

18

**Article - Commercial Law**

19

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

20 11-5A-01.

21 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

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

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

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

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

30 11-5A-02.

31 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A RETAILER, VENDING  
32 MACHINE OPERATOR, OR WHOLESALE MAY NOT PURCHASE FROM A TOBACCO

1 PRODUCT MANUFACTURER OR SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE AWAY  
2 TO ANY PERSON A PACKAGE OF CIGARETTES CONTAINING LESS THAN 20  
3 CIGARETTES.

4 11-5A-03.

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

6 (B) THE STATE COMPTROLLER SHALL:

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

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

11 11-5A-04.

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

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

16 (II) TO AWARD DAMAGES AND COSTS.

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

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

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

27 **Article - Business Regulation**

28 16-210.

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

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

34 (2) fraudulently or deceptively uses a license;

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

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

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

6 (i) in violation of a license; or

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 June 1, 2000.