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By: Delegate Mitchell

Introduced and read first time: February 8, 2002

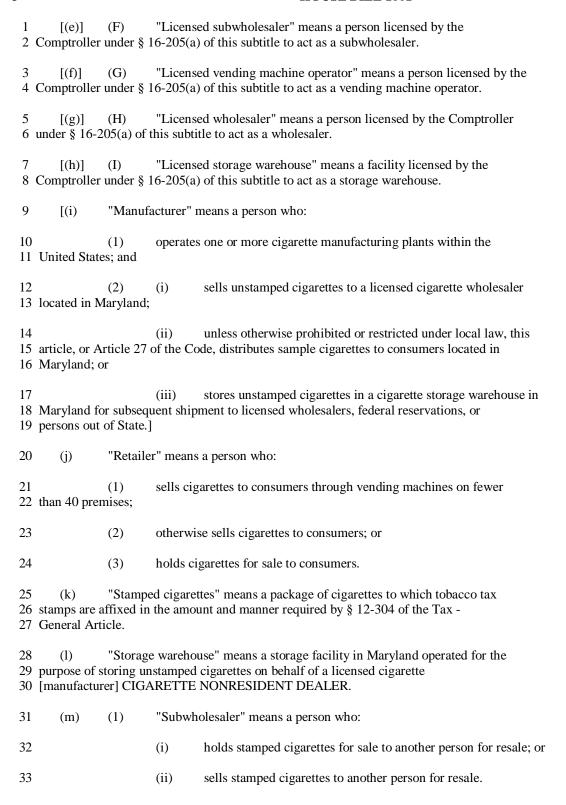
Assigned to: Economic Matters

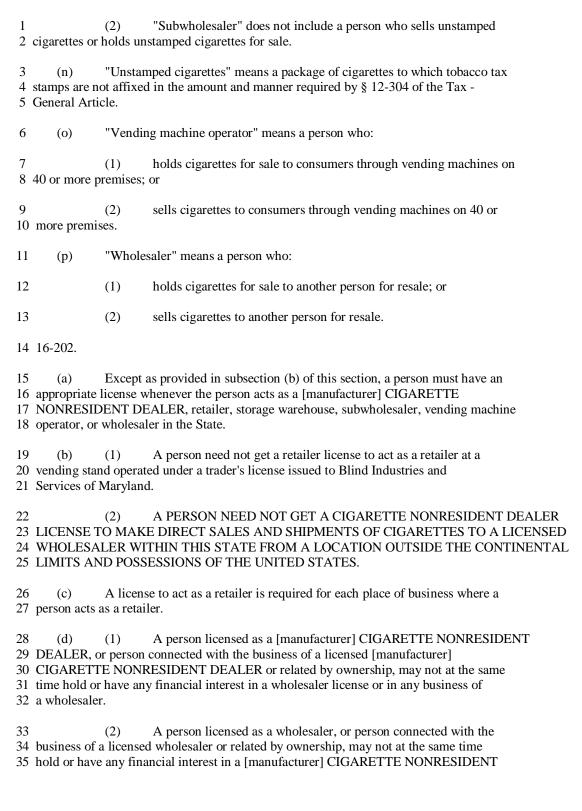
A BILL ENTITLED

2 Cigarette Business Licensing Law - Cigarette Nonresident Dealers

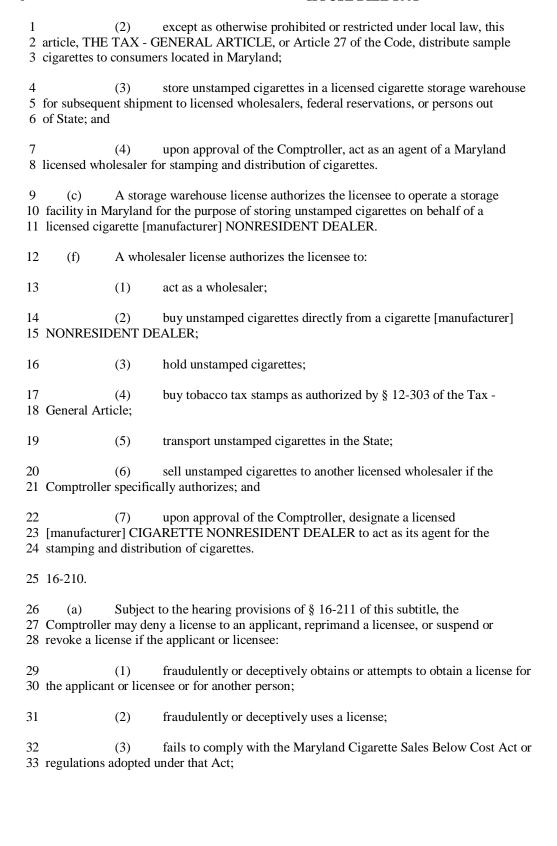
- 3 FOR the purpose of defining "cigarette nonresident dealer" for the cigarette business
- 4 licensing law; substituting the term "cigarette nonresident dealer" for the term
- 5 "manufacturer"; requiring a person who acts as a cigarette nonresident dealer in
- 6 the State to have a certain license; exempting certain persons from obtaining a
- 7 cigarette nonresident dealer license under certain circumstances; prohibiting a
- 8 licensed cigarette nonresident dealer from having certain interests in a
- 9 wholesaler; prohibiting a licensed wholesaler from having certain interests in a
- 10 cigarette nonresident dealer; prohibiting the issuance of a wholesaler license to
- certain persons; requiring an applicant for a cigarette nonresident dealer licence
- to maintain an established place of business for the sale of cigarettes;
- authorizing a cigarette nonresident dealer licensee to sell certain cigarettes to
- 14 certain wholesalers under certain circumstances; and generally relating to
- cigarette nonresident dealers under the cigarette business licensing law.
- 16 BY repealing and reenacting, with amendments,
- 17 Article Business Regulation
- 18 Section 16-201, 16-202, 16-203(a), 16-204(a), 16-205(a), 16-206(a), (c), and (f),
- 19 16-210(a), and 16-214
- 20 Annotated Code of Maryland
- 21 (1998 Replacement Volume and 2001 Supplement)
- 22 BY repealing and reenacting, with amendments,
- 23 Article Commercial Law
- 24 Section 11-501 and 11-505
- 25 Annotated Code of Maryland
- 26 (2000 Replacement Volume and 2001 Supplement)
- 27 BY repealing and reenacting, with amendments,
- 28 Article Tax General
- 29 Section 12-101
- 30 Annotated Code of Maryland

1 (1997 Replacement Volume and 2001 Supplement) 2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 3 MARYLAND, That the Laws of Maryland read as follows: 4 **Article - Business Regulation** 5 16-201. In this subtitle the following words have the meanings indicated. 6 (a) "CIGARETTE NONRESIDENT DEALER" MEANS A PERSON LOCATED 7 (b) 8 OUTSIDE OF THE STATE WHO: (1) SELLS UNSTAMPED CIGARETTES TO A LICENSED CIGARETTE 10 WHOLESALER LOCATED IN MARYLAND; UNLESS OTHERWISE PROHIBITED OR RESTRICTED UNDER LOCAL 12 LAW, THIS ARTICLE, THE TAX - GENERAL ARTICLE, OR ARTICLE 27 OF THE CODE, 13 DISTRIBUTES SAMPLE CIGARETTES TO CONSUMERS LOCATED IN MARYLAND; OR 14 STORES UNSTAMPED CIGARETTES IN A CIGARETTE STORAGE 15 WAREHOUSE IN MARYLAND FOR SUBSEQUENT SHIPMENT TO LICENSED WHOLESALERS, FEDERAL RESERVATIONS, OR PERSONS OUT OF STATE. "License" means: 17 (C) 18 (1) a license issued by the Comptroller under § 16-205(a) of this subtitle 19 to: 20 (i) act as a [manufacturer] CIGARETTE NONRESIDENT DEALER; 21 (ii) act as a subwholesaler; 22 act as a vending machine operator; (iii) act as a wholesaler; or 23 (iv) 24 (v) act as a storage warehouse; or 25 a license issued by the clerk under § 16-205(b) of this subtitle to act (2) 26 as a retailer. "Licensed [manufacturer] CIGARETTE NONRESIDENT DEALER" 27 28 means a person licensed by the Comptroller under § 16-205(a) of this subtitle to act as a [manufacturer] CIGARETTE NONRESIDENT DEALER. 30 [(d)](E) "Licensed retailer" means a person licensed by the clerk under § 31 16-205(b) of this subtitle to act as a retailer.

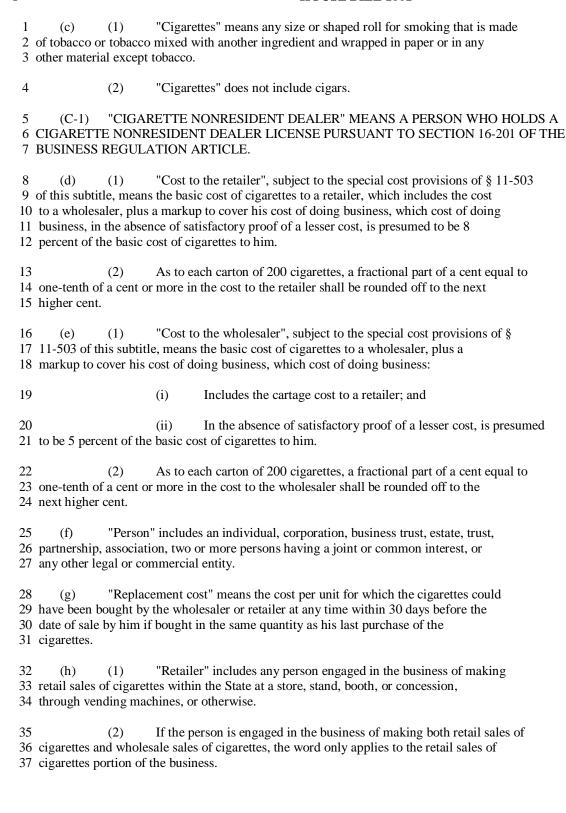




| | DEALER lice DEALER. | ense or ir | any bus | iness of a | n [manufacturer] CIGARETTE NONRESIDENT |
|----------|------------------------|--------------------|----------------------|------------|--|
| 3 | | (3) | A WHO | LESALE | R LICENSE MAY NOT BE ISSUED TO ANY PERSON WHO: |
| 4 | | | (I) | OPERA | TES A CIGARETTE MANUFACTURING PLANT; OR |
| 5 6 | NONRESIDE | ENT DE | (II) ALER. | HAS A | FINANCIAL INTEREST IN THE BUSINESS OF A CIGARETTE |
| 7 | 16-203. | | | | |
| | | ENT DEA | ALER sh | all maint | to act as a [manufacturer] CIGARETTE ain an established place of business for the arettes. |
| 11 | 16-204. | | | | |
| 12 13 | (a) NONRESID | | | | to act as a [manufacturer] CIGARETTE |
| 14 15 | the informati | | | | ation to the Comptroller on the form and containing quires; and |
| 16 | | (2) | pay to th | ne Compt | roller a fee of \$25. |
| 17 | 16-205. | | | | |
| 20 | meets the rec | quiremen E NONR | ts of this ESIDEN | subtitle f | te an appropriate license to each applicant who for a license to act as a [manufacturer] ER, storage warehouse, subwholesaler, vending |
| 22 | 16-206. | | | | |
| 23 24 | (a) the licensee t | - | ıfacturer] | CIGARI | ETTE NONRESIDENT DEALER license authorizes |
| 25 26 | | (1) THE CI | | | garettes to a licensed cigarette wholesaler located in RESIDENT DEALER[;]: |
| 27 | | | (I) | IS THE | OWNER OF THE BRAND; |
| 28 | | | (II) | IS THE | UNITED STATES IMPORTER OF THE BRAND; OR |
| 29 | | | (III) | IS A DE | SIGNATED AGENT IN MARYLAND OF: |
| 30 | | | | 1. | THE OWNER OF THE BRAND; OR |
| 31 | | | | 2. | THE UNITED STATES IMPORTER OF THE BRAND. |



| 1 2 | 1 (4) fails to comply with the provisions 2 Commercial Law Article; | of Title 11, Subtitle 5A of the |
|----------|--|---|
| 3 | 3 (5) buys cigarettes for resale: | |
| 4 | 4 (i) in violation of a license; or | |
| | 5 (ii) from a person who is not a 6 NONRESIDENT DEALER, licensed subwholesaler, licen 7 or licensed wholesaler; | |
| 8 9 | 8 (6) is convicted, under the laws of the U 9 of: | United States or of any other state, |
| 10 | 10 (i) a felony; or | |
| 11 12 | 11 (ii) a misdemeanor that is a critical related to the fitness and qualification of the applicant or 12 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to the fitness and qualification of the applicant or 13 related to 14 related to 15 rel | me of moral turpitude and is directly icensee; or |
| 13 14 | has not paid a tax due before Octob became due. | er 1 of the year after the tax |
| 15 | 15 16-214. | |
| 17 18 | 16 (a) Except as otherwise provided in § 16-202(b) 17 not act, attempt to act, or offer to act as a [manufacturer] 0 DEALER, retailer, storage warehouse, subwholesaler, ver 19 wholesaler in the State unless the person has an appropria | CIGARETTE NONRESIDENT ading machine operator, or |
| 21 | 20 (b) (1) A person who violates this section i 21 conviction, is subject to a fine of \$1,000 or imprisonment 22 both. | |
| 23 24 | 23 (2) Each day that a violation of this sec 24 offense. | tion continues is a separate |
| 25 | 25 Article - Comme | rcial Law |
| 26 | 26 11-501. | |
| 27 | 27 (a) In this subtitle the following words have the | meanings indicated. |
| 30 31 | 28 (b) "Basic cost of cigarettes" means the lesser of 29 replacement cost of cigarettes to the retailer or wholesaler 30 to the wholesaler otherwise not included in the invoice co 31 plus, for the wholesaler, the full face value of any applica 32 payable by the wholesaler; minus any trade discount or di | ; plus any in-freight charge st or the replacement cost; ble Maryland cigarette tax |



| 2 a valuable consideration, including an exchange or barter and a sale through a 3 vending machine, made in the ordinary course of trade or the usual conduct of the 4 seller's business to a purchaser for consumption or use other than resale. 5 (j) "Sell" includes advertise, offer to sell, or offer for sale. 6 (k) "Vending machine operator" means a person who: 7 (1) Makes retail sales of cigarettes or has cigarettes in his possess 8 with the intent to sell them exclusively at retail through the medium of a vending 9 machine or any other mechanical device used for dispensing cigarettes; 10 (2) Owns, operates, and services vending machines or other mechanical devices used to dispense cigarettes on 40 or more premises; and 12 (3) Services the machines or devices by maintaining an established of business for the purchase of cigarettes, including warehousing facilities for the 14 storage and distribution of cigarettes. 15 (1) (1) "Wholesale sale of cigarettes" includes any sale whereby cigaretee sold for a valuable consideration, made in the ordinary course of trade or in the 17 usual conduct of the seller's business to a retailer, other than to a vending machine | | | | | | | | |
|--|--|--|--|--|--|--|--|--|
| (k) "Vending machine operator" means a person who: (1) Makes retail sales of cigarettes or has cigarettes in his possess with the intent to sell them exclusively at retail through the medium of a vending machine or any other mechanical device used for dispensing cigarettes; (2) Owns, operates, and services vending machines or other mechanical devices used to dispense cigarettes on 40 or more premises; and (3) Services the machines or devices by maintaining an established storage and distribution of cigarettes, including warehousing facilities for the storage and distribution of cigarettes. (1) (1) "Wholesale sale of cigarettes" includes any sale whereby ciga are sold for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the seller's business to a retailer, other than to a vending machine poperator or to a sub-wholesaler described in subsection (m) (2) of this section, for the bona fide purpose of resale. (2) "Wholesale sale of cigarettes" includes any transfer of cigaret consignment or otherwise, whereby title is retained by the seller as security for the payment of the purchase price. (3) "Wholesaler" means a person who purchases cigarettes directly a [manufacturer] CIGARETTE NONRESIDENT DEALER. (4) "Wholesaler" includes a person, who, as a sub-wholesaler: (5) (2) "Wholesaler" includes a person, who, as a sub-wholesaler: (6) Purchases cigarettes from another wholesaler solely a purpose of bona fide resale to retailers other than those directly or indirectly owned, affiliated, or controlled by him; and | a valuable consideration, including an exchange or barter and a sale through a vending machine, made in the ordinary course of trade or the usual conduct of the | | | | | | | |
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| of business for the purchase of cigarettes, including warehousing facilities for the storage and distribution of cigarettes. (I) (1) "Wholesale sale of cigarettes" includes any sale whereby cigaretes are sold for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the seller's business to a retailer, other than to a vending machine operator or to a sub-wholesaler described in subsection (m) (2) of this section, for the bona fide purpose of resale. (2) "Wholesale sale of cigarettes" includes any transfer of cigaret consignment or otherwise, whereby title is retained by the seller as security for the payment of the purchase price. (m) (1) "Wholesaler" means a person who purchases cigarettes directly a [manufacturer] CIGARETTE NONRESIDENT DEALER. (2) "Wholesaler" includes a person, who, as a sub-wholesaler: (i) Purchases cigarettes from another wholesaler solely affiliated, or controlled by him; and (ii) Services the retailers by maintaining an established purpose of the sale of cigarettes, including warehouse facilities, adequate inventors proper accounting records, and necessary equipment and vehicles for the storage and | nanical | | | | | | | |
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| 30 business for the sale of cigarettes, including warehouse facilities, adequate inventor; 31 proper accounting records, and necessary equipment and vehicles for the storage and | | | | | | | | |
| | y, | | | | | | | |
| 33 (3) If the person is engaged in the business of making both whole 34 sales of cigarettes and retail sales of cigarettes, the word only applies to the wholesa 35 sales of cigarettes portion of the business. | | | | | | | | |

