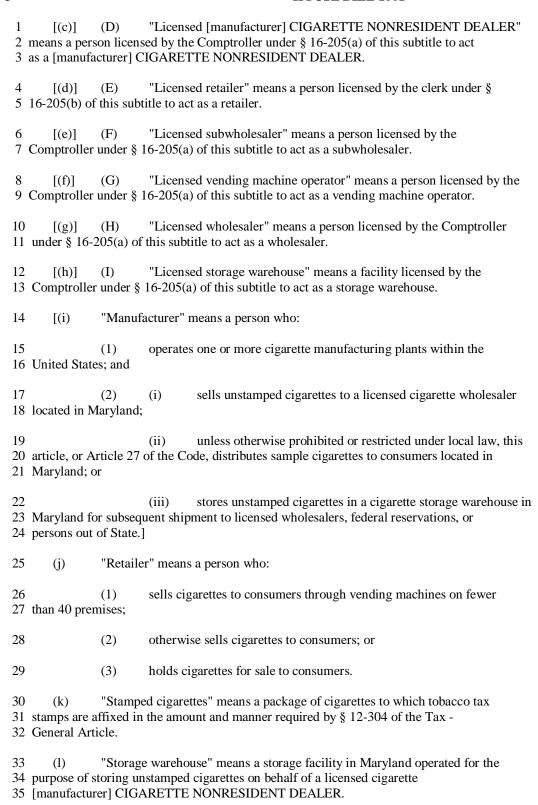
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> Section 11-501 and 11-505 Annotated Code of Maryland

24 25 2002 Regular Session 2lr2375 CF 2lr2115

Intro	By: Delegate Mitchell Introduced and read first time: February 8, 2002 Assigned to: Economic Matters Committee Report: Favorable House action: Adopted Read second time: March 18, 2002			
Hous				
	CHAPTER			
1 A	AN ACT concerning			
2	Cigarette Business Licensing Law - Cigarette Nonresident Dealers			
3 F 4 5 6 7 8 9 10 11 12 13 14 15	FOR the purpose of defining "cigarette nonresident dealer" for the cigarette business licensing law; substituting the term "cigarette nonresident dealer" for the term "manufacturer"; requiring a person who acts as a cigarette nonresident dealer in the State to have a certain license; exempting certain persons from obtaining a cigarette nonresident dealer license under certain circumstances; prohibiting a licensed cigarette nonresident dealer from having certain interests in a wholesaler; prohibiting a licensed wholesaler from having certain interests in a 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 certain wholesalers under certain circumstances; and generally relating to cigarette nonresident dealers under the cigarette business licensing law.			
17 18 19 20 21	BY repealing and reenacting, with amendments, Article - Business Regulation Section 16-201, 16-202, 16-203(a), 16-204(a), 16-205(a), 16-206(a), (c), and (f), 16-210(a), and 16-214 Annotated Code of Maryland (1998 Replacement Volume and 2001 Supplement)			
22 1 23	BY repealing and reenacting, with amendments, Article - Commercial Law			

1	(2000 Replacement Volume and 2001 Supplement)					
2 3 4 5 6	Section 12-101 Annotated Code of Maryland					
7 8	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:					
9				Article - Business Regulation		
10	16-201.					
11	(a)	In this s	ubtitle th	e following words have the meanings indicated.		
12 13	2 (b) "CIGARETTE NONRESIDENT DEALER" MEANS A PERSON LOCATED OUTSIDE OF THE STATE WHO:					
14 15		(1) LER LO		UNSTAMPED CIGARETTES TO A LICENSED CIGARETTE IN MARYLAND;		
	LAW, THIS		LE, THE	S OTHERWISE PROHIBITED OR RESTRICTED UNDER LOCAL TAX - GENERAL ARTICLE, OR ARTICLE 27 OF THE CODE, GARETTES TO CONSUMERS LOCATED IN MARYLAND; OR		
	WAREHOU		1ARYLA	S UNSTAMPED CIGARETTES IN A CIGARETTE STORAGE IND FOR SUBSEQUENT SHIPMENT TO LICENSED L RESERVATIONS, OR PERSONS OUT OF STATE.		
22	(C)	"License	e" means	:		
23 24	to:	(1)	a license	e issued by the Comptroller under § 16-205(a) of this subtitle		
25			(i)	act as a [manufacturer] CIGARETTE NONRESIDENT DEALER;		
26			(ii)	act as a subwholesaler;		
27			(iii)	act as a vending machine operator;		
28			(iv)	act as a wholesaler; or		
29			(v)	act as a storage warehouse; or		
30 31	as a retailer.	(2)	a license	e issued by the clerk under § 16-205(b) of this subtitle to act		

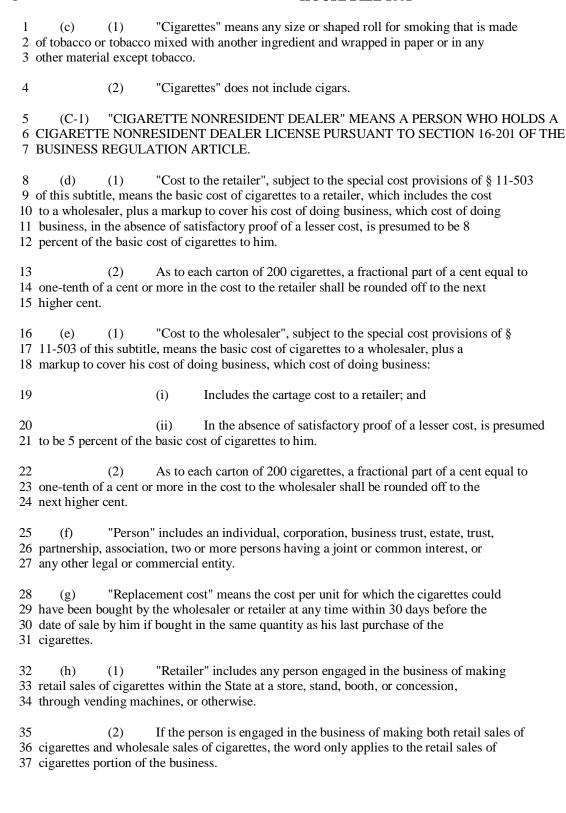


1	(m)	(1)	"Subwh	olesaler" means a person who:
2			(i)	holds stamped cigarettes for sale to another person for resale; or
3			(ii)	sells stamped cigarettes to another person for resale.
4 5	cigarettes or	(2) holds un	"Subwh stamped	olesaler" does not include a person who sells unstamped cigarettes for sale.
	(n) stamps are n General Arti	ot affixed		rettes" means a package of cigarettes to which tobacco tax mount and manner required by § 12-304 of the Tax -
9	(o)	"Vendin	g machii	ne operator" means a person who:
10 11	40 or more j	(1) premises;		garettes for sale to consumers through vending machines on
12 13	more premis	(2) ses.	sells cig	garettes to consumers through vending machines on 40 or
14	(p)	"Wholes	saler" me	eans a person who:
15		(1)	holds ci	garettes for sale to another person for resale; or
16		(2)	sells cig	garettes to another person for resale.
17	16-202.			
20		license w DENT DE	henever ALER, r	ed in subsection (b) of this section, a person must have an the person acts as a [manufacturer] CIGARETTE retailer, storage warehouse, subwholesaler, vending machine State.
	(-)		ed under	n need not get a retailer license to act as a retailer at a a trader's license issued to Blind Industries and
27	WHOLESA	LER WI	E DIREC	SON NEED NOT GET A CIGARETTE NONRESIDENT DEALER CT SALES AND SHIPMENTS OF CIGARETTES TO A LICENSED HIS STATE FROM A LOCATION OUTSIDE THE CONTINENTAL S OF THE UNITED STATES.
29 30	(c) person acts			as a retailer is required for each place of business where a
33 34	CIGARETT	E NONR have any	connecte ESIDEN	n licensed as a [manufacturer] CIGARETTE NONRESIDENT d with the business of a licensed [manufacturer] IT DEALER or related by ownership, may not at the same al interest in a wholesaler license or in any business of

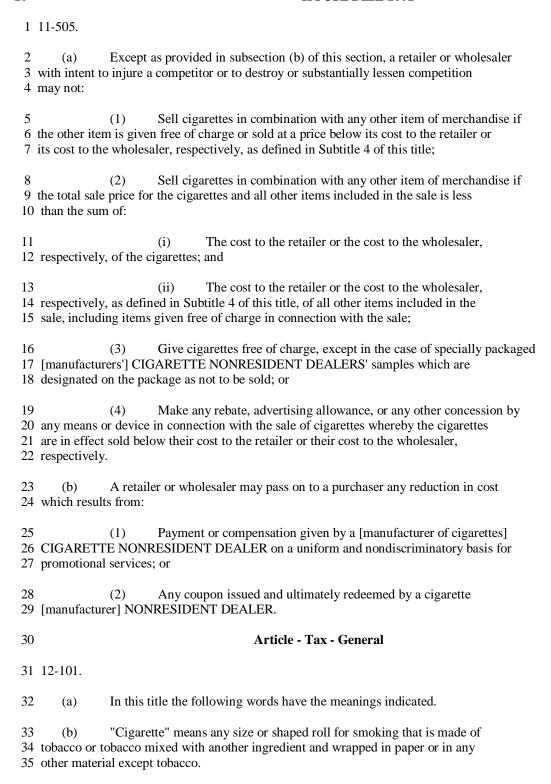
3 4	hold or have any fin	ed wholesa ancial inte	n licensed as a wholesaler, or person connected with the ler or related by ownership, may not at the same time rest in a [manufacturer] CIGARETTE NONRESIDENT siness of a [manufacturer] CIGARETTE NONRESIDENT		
6	(3)	A WHO	DLESALER LICENSE MAY NOT BE ISSUED TO ANY PERSON WHO:		
7		(I)	OPERATES A CIGARETTE MANUFACTURING PLANT; OR		
8 9	NONRESIDENT D	(II) EALER.	HAS A FINANCIAL INTEREST IN THE BUSINESS OF A CIGARETTE		
10	16-203.				
		EALER s	a license to act as a [manufacturer] CIGARETTE hall maintain an established place of business for the LE of cigarettes.		
14	16-204.				
15 16	(a) An app NONRESIDENT D		a license to act as a [manufacturer] CIGARETTE hall:		
17 18	(1) the information that		an application to the Comptroller on the form and containing otroller requires; and		
19	(2)	pay to t	he Comptroller a fee of \$25.		
20	16-205.				
23	1 (a) The Comptroller shall issue an appropriate license to each applicant who 2 meets the requirements of this subtitle for a license to act as a [manufacturer] 3 CIGARETTE NONRESIDENT DEALER, storage warehouse, subwholesaler, vending 4 machine operator, or wholesaler.				
25	16-206.				
26 27	(a) A [mathe licensee to:	nufacturer	CIGARETTE NONRESIDENT DEALER license authorizes		
28 29		sell uns CIGARET	tamped cigarettes to a licensed cigarette wholesaler located in TE NONRESIDENT DEALER[;]:		
30		(I)	IS THE OWNER OF THE BRAND;		
31		(II)	IS THE UNITED STATES IMPORTER OF THE BRAND; OR		
32		(III)	IS A DESIGNATED AGENT IN MARYLAND OF:		
33			1. THE OWNER OF THE BRAND; OR		

1			2. THE UNITED STATES IMPORTER OF THE BRAI
			except as otherwise prohibited or restricted under local law, this ENERAL ARTICLE, or Article 27 of the Code, distribute sample rs located in Maryland;
	for subseque of State; and		store unstamped cigarettes in a licensed cigarette storage warehouse ent to licensed wholesalers, federal reservations, or persons out
8 9	licensed who	(4) blesaler fo	upon approval of the Comptroller, act as an agent of a Maryland or stamping and distribution of cigarettes.
	facility in M	Iaryland i	ge warehouse license authorizes the licensee to operate a storage for the purpose of storing unstamped cigarettes on behalf of a anufacturer] NONRESIDENT DEALER.
13	(f)	A whole	esaler license authorizes the licensee to:
14		(1)	act as a wholesaler;
15 16	NONRESID	(2) DENT DE	buy unstamped cigarettes directly from a cigarette [manufacturer] EALER;
17		(3)	hold unstamped cigarettes;
18 19	General Art	(4) icle;	buy tobacco tax stamps as authorized by § 12-303 of the Tax -
20		(5)	transport unstamped cigarettes in the State;
21 22	Comptroller	(6) specifica	sell unstamped cigarettes to another licensed wholesaler if the ally authorizes; and
			upon approval of the Comptroller, designate a licensed ARETTE NONRESIDENT DEALER to act as its agent for the ation of cigarettes.
26	16-210.		
		may den	to the hearing provisions of § 16-211 of this subtitle, the y a license to an applicant, reprimand a licensee, or suspend or e applicant or licensee:
30 31		(1) t or licen	fraudulently or deceptively obtains or attempts to obtain a license for see or for another person;
32		(2)	fraudulently or deceptively uses a license;
33 34	regulations a	(3) adopted u	fails to comply with the Maryland Cigarette Sales Below Cost Act or under that Act;

1 2	1 (4) fails to comply with the provisions of Title 11, Su 2 Commercial Law Article;	btitle 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 cigarette [mar 6 NONRESIDENT DEALER, licensed subwholesaler, licensed vending m 7 or licensed wholesaler;	
8 9	8 (6) is convicted, under the laws of the United States of 9 of:	or of any other state,
10	10 (i) a felony; or	
11 12	11 (ii) a misdemeanor that is a crime of moral to 12 related to the fitness and qualification of the applicant or licensee; or	arpitude and is directly
13 14	has not paid a tax due before October 1 of the year labecame due.	r after the tax
15	15 16-214.	
17 18	16 (a) Except as otherwise provided in § 16-202(b) of this subtitle 17 not act, attempt to act, or offer to act as a [manufacturer] CIGARETTE 18 DEALER, retailer, storage warehouse, subwholesaler, vending machine 19 wholesaler in the State unless the person has an appropriate license.	NONRESIDENT
21	20 (b) (1) A person who violates this section is guilty of a m 21 conviction, is subject to a fine of \$1,000 or imprisonment not exceeding 22 both.	
23 24	23 (2) Each day that a violation of this section continues 24 offense.	is a separate
25	25 Article - Commercial Law	
26	26 11-501.	
27	27 (a) In this subtitle the following words have the meanings indi	cated.
30 31	28 (b) "Basic cost of cigarettes" means the lesser of the invoice co 29 replacement cost of cigarettes to the retailer or wholesaler; plus any in-f 30 to the wholesaler otherwise not included in the invoice cost or the replace 31 plus, for the wholesaler, the full face value of any applicable Maryland of 32 payable by the wholesaler; minus any trade discount or discount for cash	reight charge cement cost; cigarette tax



3	(i) "Retail sale of cigarettes" includes any sale whereby cigarettes are sold for 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 seller's business to a purchaser for consumption or use other than resale.					
5	(j) "Sell" in	acludes advertise, offer to sell, or offer for sale.				
6	(k) "Vendin	g machine operator" means a person who:				
		Makes retail sales of cigarettes or has cigarettes in his possession them exclusively at retail through the medium of a vending mechanical device used for dispensing cigarettes;				
10 11	(2) devices used to dispe	Owns, operates, and services vending machines or other mechanical nse cigarettes on 40 or more premises; and				
	(3) of business for the pustorage and distribution	Services the machines or devices by maintaining an established place archase of cigarettes, including warehousing facilities for the on of cigarettes.				
17 18	usual conduct of the	"Wholesale sale of cigarettes" includes any sale whereby cigarettes e consideration, made in the ordinary course of trade or in the seller's business to a retailer, other than to a vending machine wholesaler described in subsection (m) (2) of this section, for the resale.				
	(2) consignment or other payment of the purch	"Wholesale sale of cigarettes" includes any transfer of cigarettes on wise, whereby title is retained by the seller as security for the ase price.				
23 24	(m) (1) a [manufacturer] CIC	"Wholesaler" means a person who purchases cigarettes directly from GARETTE NONRESIDENT DEALER.				
25	(2)	"Wholesaler" includes a person, who, as a sub-wholesaler:				
	purpose of bona fide affiliated, or controlle	(i) Purchases cigarettes from another wholesaler solely for the resale to retailers other than those directly or indirectly owned, ed by him; and				
31		(ii) Services the retailers by maintaining an established place of of cigarettes, including warehouse facilities, adequate inventory, cords, and necessary equipment and vehicles for the storage and ttes.				
	sales of cigarettes and sales of cigarettes por	If the person is engaged in the business of making both wholesale d retail sales of cigarettes, the word only applies to the wholesale rtion of the business.				



1	(B-1) "M	IANUFACTUI	RER" MEANS A PERSON WHO:
2 3	UNITED STAT	(I) ES; AND	OPERATES A CIGARETTE MANUFACTURING PLANT IN THE
4 5	PURSUANT TO	(II) O SECTION 16	HOLDS A CIGARETTE NONRESIDENT DEALER LICENSE 5-201 OF THE BUSINESS REGULATION ARTICLE.
6	[(b-1)] (B-2) "Other	tobacco product" means:
7 8	in part of tobacc		r or roll for smoking, other than a cigarette, made in whole or
9 10	a cigarette, that		r tobacco or product made primarily from tobacco, other than consumption by smoking or chewing or as snuff.
			xchange or transfer, or to make an agreement to exchange of property, in any manner or by any means, for
	Comptroller aut	horizes by reg	ns a device in the design and denomination that the ulation for the purpose of being affixed to a package of tobacco tax is paid.
17 18			rettes" means a package of cigarettes to which tax stamps and manner required in § 12-304 of this title.
			" means the price for which a wholesaler buys other any discount, trade allowance, rebate, or other
22	(f) "W	/holesaler" mea	ans, unless the context requires otherwise:
23 24	Business Regul		who acts as a wholesaler as defined in § 16-201 of the
25	(2)	a person	who:
26 27	resale; or	(i)	holds other tobacco products for sale to another person for
28		(ii)	sells other tobacco products to another person for resale.
29 30	SECTION 2 October 1, 2002		FURTHER ENACTED, That this Act shall take effect