
By: **Senator DeGrange**
Introduced and read first time: February 1, 2002
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

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
11 certain persons; requiring an applicant for a cigarette nonresident dealer licence
12 to maintain an established place of business for the sale of cigarettes;
13 authorizing a cigarette nonresident dealer licensee to sell certain cigarettes to
14 certain wholesalers under certain circumstances; and generally relating to
15 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 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Business Regulation**

25 16-201.

26 (a) In this subtitle the following words have the meanings indicated.

27 (b) "CIGARETTE NONRESIDENT DEALER" MEANS A PERSON LOCATED
28 OUTSIDE OF THE STATE WHO:

1 (1) SELLS UNSTAMPED CIGARETTES TO A LICENSED CIGARETTE
2 WHOLESALER LOCATED IN MARYLAND;

3 (2) UNLESS OTHERWISE PROHIBITED OR RESTRICTED UNDER LOCAL
4 LAW, THIS ARTICLE, THE TAX - GENERAL ARTICLE, OR ARTICLE 27 OF THE CODE,
5 DISTRIBUTES SAMPLE CIGARETTES TO CONSUMERS LOCATED IN MARYLAND; OR

6 (3) STORES UNSTAMPED CIGARETTES IN A CIGARETTE STORAGE
7 WAREHOUSE IN MARYLAND FOR SUBSEQUENT SHIPMENT TO LICENSED
8 WHOLESALERS, FEDERAL RESERVATIONS, OR PERSONS OUT OF STATE.

9 (C) "License" means:

10 (1) a license issued by the Comptroller under § 16-205(a) of this subtitle
11 to:

12 (i) act as a [manufacturer] CIGARETTE NONRESIDENT DEALER;

13 (ii) act as a subwholesaler;

14 (iii) act as a vending machine operator;

15 (iv) act as a wholesaler; or

16 (v) act as a storage warehouse; or

17 (2) a license issued by the clerk under § 16-205(b) of this subtitle to act
18 as a retailer.

19 [(c)] (D) "Licensed [manufacturer] CIGARETTE NONRESIDENT DEALER"
20 means a person licensed by the Comptroller under § 16-205(a) of this subtitle to act
21 as a [manufacturer] CIGARETTE NONRESIDENT DEALER.

22 [(d)] (E) "Licensed retailer" means a person licensed by the clerk under §
23 16-205(b) of this subtitle to act as a retailer.

24 [(e)] (F) "Licensed subwholesaler" means a person licensed by the
25 Comptroller under § 16-205(a) of this subtitle to act as a subwholesaler.

26 [(f)] (G) "Licensed vending machine operator" means a person licensed by the
27 Comptroller under § 16-205(a) of this subtitle to act as a vending machine operator.

28 [(g)] (H) "Licensed wholesaler" means a person licensed by the Comptroller
29 under § 16-205(a) of this subtitle to act as a wholesaler.

30 [(h)] (I) "Licensed storage warehouse" means a facility licensed by the
31 Comptroller under § 16-205(a) of this subtitle to act as a storage warehouse.

32 [(i)] "Manufacturer" means a person who:

1 (1) operates one or more cigarette manufacturing plants within the
2 United States; and

3 (2) (i) sells unstamped cigarettes to a licensed cigarette wholesaler
4 located in Maryland;

5 (ii) unless otherwise prohibited or restricted under local law, this
6 article, or Article 27 of the Code, distributes sample cigarettes to consumers located in
7 Maryland; or

8 (iii) stores unstamped cigarettes in a cigarette storage warehouse in
9 Maryland for subsequent shipment to licensed wholesalers, federal reservations, or
10 persons out of State.]

11 (j) "Retailer" means a person who:

12 (1) sells cigarettes to consumers through vending machines on fewer
13 than 40 premises;

14 (2) otherwise sells cigarettes to consumers; or

15 (3) holds cigarettes for sale to consumers.

16 (k) "Stamped cigarettes" means a package of cigarettes to which tobacco tax
17 stamps are affixed in the amount and manner required by § 12-304 of the Tax -
18 General Article.

19 (l) "Storage warehouse" means a storage facility in Maryland operated for the
20 purpose of storing unstamped cigarettes on behalf of a licensed cigarette
21 [manufacturer] CIGARETTE NONRESIDENT DEALER.

22 (m) (1) "Subwholesaler" means a person who:

23 (i) holds stamped cigarettes for sale to another person for resale; or

24 (ii) sells stamped cigarettes to another person for resale.

25 (2) "Subwholesaler" does not include a person who sells unstamped
26 cigarettes or holds unstamped cigarettes for sale.

27 (n) "Unstamped cigarettes" means a package of cigarettes to which tobacco tax
28 stamps are not affixed in the amount and manner required by § 12-304 of the Tax -
29 General Article.

30 (o) "Vending machine operator" means a person who:

31 (1) holds cigarettes for sale to consumers through vending machines on
32 40 or more premises; or

33 (2) sells cigarettes to consumers through vending machines on 40 or
34 more premises.

1 (p) "Wholesaler" means a person who:

2 (1) holds cigarettes for sale to another person for resale; or

3 (2) sells cigarettes to another person for resale.

4 16-202.

5 (a) Except as provided in subsection (b) of this section, a person must have an
6 appropriate license whenever the person acts as a [manufacturer] CIGARETTE
7 NONRESIDENT DEALER, retailer, storage warehouse, subwholesaler, vending machine
8 operator, or wholesaler in the State.

9 (b) (1) A person need not get a retailer license to act as a retailer at a
10 vending stand operated under a trader's license issued to Blind Industries and
11 Services of Maryland.

12 (2) A PERSON NEED NOT GET A CIGARETTE NONRESIDENT DEALER
13 LICENSE TO MAKE DIRECT SALES AND SHIPMENTS OF CIGARETTES TO A LICENSED
14 WHOLESALER WITHIN THIS STATE FROM A LOCATION OUTSIDE THE CONTINENTAL
15 LIMITS AND POSSESSIONS OF THE UNITED STATES.

16 (c) A license to act as a retailer is required for each place of business where a
17 person acts as a retailer.

18 (d) (1) A person licensed as a [manufacturer] CIGARETTE NONRESIDENT
19 DEALER, or person connected with the business of a licensed [manufacturer]
20 CIGARETTE NONRESIDENT DEALER or related by ownership, may not at the same
21 time hold or have any financial interest in a wholesaler license or in any business of
22 a wholesaler.

23 (2) A person licensed as a wholesaler, or person connected with the
24 business of a licensed wholesaler or related by ownership, may not at the same time
25 hold or have any financial interest in a [manufacturer] CIGARETTE NONRESIDENT
26 DEALER license or in any business of a [manufacturer] CIGARETTE NONRESIDENT
27 DEALER.

28 (3) A WHOLESALER LICENSE MAY NOT BE ISSUED TO ANY PERSON WHO:

29 (I) OPERATES A CIGARETTE MANUFACTURING PLANT; OR

30 (II) HAS A FINANCIAL INTEREST IN THE BUSINESS OF A CIGARETTE
31 NONRESIDENT DEALER.

32 16-203.

33 (a) An applicant for a license to act as a [manufacturer] CIGARETTE
34 NONRESIDENT DEALER shall maintain an established place of business for the
35 [manufacture and storage] SALE of cigarettes.

1 16-204.

2 (a) An applicant for a license to act as a [manufacturer] CIGARETTE
3 NONRESIDENT DEALER shall:

4 (1) submit an application to the Comptroller on the form and containing
5 the information that the Comptroller requires; and

6 (2) pay to the Comptroller a fee of \$25.

7 16-205.

8 (a) The Comptroller shall issue an appropriate license to each applicant who
9 meets the requirements of this subtitle for a license to act as a [manufacturer]
10 CIGARETTE NONRESIDENT DEALER, storage warehouse, subwholesaler, vending
11 machine operator, or wholesaler.

12 16-206.

13 (a) A [manufacturer] CIGARETTE NONRESIDENT DEALER license authorizes
14 the licensee to:

15 (1) sell unstamped cigarettes to a licensed cigarette wholesaler located in
16 Maryland IF THE CIGARETTE NONRESIDENT DEALER[;]:

17 (I) IS THE OWNER OF THE BRAND;

18 (II) IS THE UNITED STATES IMPORTER OF THE BRAND; OR

19 (III) IS A DESIGNATED AGENT IN MARYLAND OF:

20 1. THE OWNER OF THE BRAND; OR

21 2. THE UNITED STATES IMPORTER OF THE BRAND.

22 (2) except as otherwise prohibited or restricted under local law, this
23 article, THE TAX - GENERAL ARTICLE, or Article 27 of the Code, distribute sample
24 cigarettes to consumers located in Maryland;

25 (3) store unstamped cigarettes in a licensed cigarette storage warehouse
26 for subsequent shipment to licensed wholesalers, federal reservations, or persons out
27 of State; and

28 (4) upon approval of the Comptroller, act as an agent of a Maryland
29 licensed wholesaler for stamping and distribution of cigarettes.

30 (c) A storage warehouse license authorizes the licensee to operate a storage
31 facility in Maryland for the purpose of storing unstamped cigarettes on behalf of a
32 licensed cigarette [manufacturer] NONRESIDENT DEALER.

33 (f) A wholesaler license authorizes the licensee to:

- 1 (1) act as a wholesaler;
- 2 (2) buy unstamped cigarettes directly from a cigarette [manufacturer]
3 NONRESIDENT DEALER;
- 4 (3) hold unstamped cigarettes;
- 5 (4) buy tobacco tax stamps as authorized by § 12-303 of the Tax -
6 General Article;
- 7 (5) transport unstamped cigarettes in the State;
- 8 (6) sell unstamped cigarettes to another licensed wholesaler if the
9 Comptroller specifically authorizes; and
- 10 (7) upon approval of the Comptroller, designate a licensed
11 [manufacturer] CIGARETTE NONRESIDENT DEALER to act as its agent for the
12 stamping and distribution of cigarettes.
- 13 16-210.
- 14 (a) Subject to the hearing provisions of § 16-211 of this subtitle, the
15 Comptroller may deny a license to an applicant, reprimand a licensee, or suspend or
16 revoke a license if the applicant or licensee:
- 17 (1) fraudulently or deceptively obtains or attempts to obtain a license for
18 the applicant or licensee or for another person;
- 19 (2) fraudulently or deceptively uses a license;
- 20 (3) fails to comply with the Maryland Cigarette Sales Below Cost Act or
21 regulations adopted under that Act;
- 22 (4) fails to comply with the provisions of Title 11, Subtitle 5A of the
23 Commercial Law Article;
- 24 (5) buys cigarettes for resale:
- 25 (i) in violation of a license; or
- 26 (ii) from a person who is not a cigarette [manufacturer]
27 NONRESIDENT DEALER, licensed subwholesaler, licensed vending machine operator,
28 or licensed wholesaler;
- 29 (6) is convicted, under the laws of the United States or of any other state,
30 of:
- 31 (i) a felony; or
- 32 (ii) a misdemeanor that is a crime of moral turpitude and is directly
33 related to the fitness and qualification of the applicant or licensee; or

1 (7) has not paid a tax due before October 1 of the year after the tax
2 became due.

3 16-214.

4 (a) Except as otherwise provided in § 16-202(b) of this subtitle, a person may
5 not act, attempt to act, or offer to act as a [manufacturer] CIGARETTE NONRESIDENT
6 DEALER, retailer, storage warehouse, subwholesaler, vending machine operator, or
7 wholesaler in the State unless the person has an appropriate license.

8 (b) (1) A person who violates this section is guilty of a misdemeanor and, on
9 conviction, is subject to a fine of \$1,000 or imprisonment not exceeding 30 days or
10 both.

11 (2) Each day that a violation of this section continues is a separate
12 offense.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2002.