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By: **Delegates Moe, Barve, Benson, Bobo, Bozman, Bronrott, Cardin,  
G. Clagett, V. Clagett, Conroy, Conway, Costa, Donoghue, Doory, Frush,  
Glassman, Harrison, Jennings, Kirk, Krebs, Krysiak, Lawton, Love,  
Malone, McHale, Menes, Minnick, Morhaim, Murray, Parrott, Rudolph,  
Stull, Trueschler, F. Turner, Vaughn, and Weir**

Introduced and read first time: February 10, 2006

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Cigarette Fire Safety and Firefighter Protection Act**

3 FOR the purpose of prohibiting the manufacture, sale, or offer for sale of cigarettes in  
4 the State unless the cigarettes have been tested in a certain manner and meet a  
5 certain performance standard and the manufacturer has filed a certain  
6 certification with the Comptroller; establishing a certain performance standard  
7 for cigarettes; requiring that testing of cigarettes be conducted in a certain  
8 manner; requiring laboratories that conduct testing to implement a certain  
9 quality control and quality assurance program; providing for an alternative test  
10 method and performance standard under certain circumstances; requiring  
11 manufacturers to retain all data from testing for a certain period of time;  
12 requiring manufacturers to submit to the Comptroller a certain written  
13 certification that a cigarette has been tested and has met the performance  
14 standard; requiring recertification of cigarettes after a certain period of time;  
15 requiring manufacturers to mark in a certain manner cigarettes that have been  
16 certified; requiring manufacturers to request approval of a proposed marking  
17 from the Comptroller; requiring manufacturers to provide certain wholesalers  
18 with copies of certifications and illustrations of certain markings; requiring  
19 wholesalers to provide certain retailers, subwholesalers, and vending machine  
20 operators with copies of certain illustrations; providing that cigarettes sold or  
21 offered for sale in the State that do not comply with a certain standard are  
22 deemed contraband; authorizing the Comptroller to adopt certain regulations;  
23 requiring the Comptroller to ensure that the implementation and substance of  
24 this Act is in accordance with the implementation and substance of the fire  
25 safety standards of a certain state; establishing certain civil penalties for certain  
26 violations of this Act; authorizing the Attorney General to enjoin acts in  
27 violation of this Act and to recover certain civil penalties; requiring that certain  
28 money collected from certain civil penalties be distributed to a certain fund;  
29 altering the composition of a certain fund; providing that this Act does not  
30 prohibit retailers, subwholesalers, vending machine operators, and wholesalers  
31 from selling existing inventory if certain tax stamps were affixed to the

1 cigarettes before a certain date; defining certain terms; providing for a delayed  
2 effective date; and generally relating to fire safety standards for cigarettes.

3 BY adding to

4 Article - Business Regulation  
5 Section 16-601 through 16-609, inclusive, to be under the new subtitle "Subtitle  
6 6. Fire Safety Performance Standards for Cigarettes" and the amended  
7 title "Title 16. Cigarettes"  
8 Annotated Code of Maryland  
9 (2004 Replacement Volume and 2005 Supplement)

10 BY repealing and reenacting, with amendments,

11 Article - Public Safety  
12 Section 8-102(d)  
13 Annotated Code of Maryland  
14 (2003 Volume and 2005 Supplement)

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

17 **Article - Business Regulation**

18 Title 16. [Cigarette Licenses] CIGARETTES.

19 SUBTITLE 6. FIRE SAFETY PERFORMANCE STANDARDS FOR CIGARETTES.

20 16-601.

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

23 (B) "CIGARETTE" HAS THE MEANING STATED IN § 16-101 OF THIS TITLE.

24 (C) "COMMISSION" MEANS THE STATE FIRE PREVENTION COMMISSION.

25 (D) "MANUFACTURER" HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.

26 (E) "QUALITY CONTROL AND QUALITY ASSURANCE PROGRAM" MEANS  
27 LABORATORY PROCEDURES IMPLEMENTED TO ENSURE THAT:

28 (1) OPERATOR BIAS, SYSTEMATIC AND NONSYSTEMATIC  
29 METHODOLOGICAL ERRORS, AND EQUIPMENT-RELATED PROBLEMS DO NOT AFFECT  
30 THE RESULTS OF THE TESTING; AND

31 (2) THE TESTING REPEATABILITY REMAINS WITHIN THE REQUIRED  
32 REPEATABILITY VALUE FOR ANY TEST TRIAL USED TO CERTIFY CIGARETTES UNDER  
33 THIS SUBTITLE.

1 (F) "REPEATABILITY" MEANS THE RANGE OF VALUES WITHIN WHICH THE  
2 REPEAT RESULTS OF CIGARETTE TEST TRIALS FROM A SINGLE LABORATORY WILL  
3 FALL 95% OF THE TIME.

4 (G) "RETAILER" HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.

5 (H) "SUBWHOLESALE" HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.

6 (I) "VENDING MACHINE OPERATOR" HAS THE MEANING STATED IN § 16-201  
7 OF THIS TITLE.

8 (J) "WHOLESALE" HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.

9 16-602.

10 (A) CIGARETTES MAY NOT BE MANUFACTURED IN THIS STATE OR SOLD OR  
11 OFFERED FOR SALE TO ANY PERSON IN THIS STATE UNLESS:

12 (1) THE CIGARETTES HAVE BEEN TESTED IN ACCORDANCE WITH THE  
13 TEST METHOD AND MEET THE PERFORMANCE STANDARD SPECIFIED IN THIS  
14 SECTION; AND

15 (2) THE MANUFACTURER HAS FILED A WRITTEN CERTIFICATION WITH  
16 THE COMPTROLLER IN ACCORDANCE WITH § 16-603 OF THIS SUBTITLE.

17 (B) THE PERFORMANCE STANDARD FOR CIGARETTES SOLD OR OFFERED FOR  
18 SALE IN THE STATE INCLUDES ALL THE REQUIREMENTS OF SUBSECTIONS (C)  
19 THROUGH (J) OF THIS SECTION.

20 (C) (1) TESTING OF CIGARETTES SHALL BE CONDUCTED IN ACCORDANCE  
21 WITH THE AMERICAN SOCIETY OF TESTING AND MATERIALS (ASTM) STANDARD  
22 E2187-04 "STANDARD TEST METHOD FOR MEASURING THE IGNITION STRENGTH OF  
23 CIGARETTES".

24 (2) THE COMPTROLLER, IN CONSULTATION WITH THE COMMISSION,  
25 MAY ADOPT A SUBSEQUENT ASTM STANDARD TEST METHOD FOR MEASURING THE  
26 IGNITION STRENGTH OF CIGARETTES ON A FINDING THAT THE SUBSEQUENT  
27 METHOD DOES NOT RESULT IN A CHANGE IN THE PERCENTAGE OF FULL-LENGTH  
28 BURNS EXHIBITED BY ANY TESTED CIGARETTE WHEN COMPARED TO THE  
29 PERCENTAGE OF FULL-LENGTH BURNS THE SAME CIGARETTE WOULD EXHIBIT  
30 WHEN TESTED IN ACCORDANCE WITH ASTM STANDARD E2187-04 AND THE  
31 PERFORMANCE STANDARD OF THIS SECTION.

32 (D) TESTING OF CIGARETTES SHALL BE CONDUCTED ON 10 LAYERS OF FILTER  
33 PAPER.

34 (E) (1) NO MORE THAN 25% OF THE CIGARETTES TESTED IN A TEST TRIAL  
35 SHALL EXHIBIT FULL-LENGTH BURNS.

1 (2) FORTY REPLICATE TESTS SHALL COMPRISE A COMPLETE TEST TRIAL  
2 FOR EACH CIGARETTE TESTED.

3 (F) THE PERFORMANCE STANDARD REQUIRED BY THIS SECTION SHALL ONLY  
4 BE APPLIED TO A COMPLETE TEST TRIAL.

5 (G) (1) EACH LABORATORY THAT CONDUCTS TESTS IN ACCORDANCE WITH  
6 THIS SECTION SHALL IMPLEMENT A QUALITY CONTROL AND QUALITY ASSURANCE  
7 PROGRAM THAT INCLUDES A PROCEDURE TO DETERMINE THE REPEATABILITY OF  
8 THE TESTING RESULTS.

9 (2) THE REPEATABILITY VALUE SHALL BE NO GREATER THAN 0.19.

10 (H) (1) EACH CIGARETTE LISTED IN A CERTIFICATION THAT USES LOWERED  
11 PERMEABILITY BANDS IN THE CIGARETTE PAPER TO ACHIEVE COMPLIANCE WITH  
12 THE PERFORMANCE STANDARD OF THIS SECTION SHALL HAVE AT LEAST TWO  
13 NOMINALLY IDENTICAL BANDS ON THE PAPER SURROUNDING THE TOBACCO  
14 COLUMN.

15 (2) AT LEAST ONE COMPLETE BAND SHALL BE LOCATED AT LEAST 15  
16 MILLIMETERS FROM THE LIGHTING END OF THE CIGARETTE.

17 (3) FOR A CIGARETTE ON WHICH THE BANDS ARE POSITIONED BY  
18 DESIGN, AT LEAST TWO BANDS SHALL BE LOCATED AT LEAST 15 MILLIMETERS FROM  
19 THE LIGHTING END AND 10 MILLIMETERS FROM THE FILTER END OF THE TOBACCO  
20 COLUMN.

21 (4) FOR AN UNFILTERED CIGARETTE, THE TWO COMPLETE BANDS  
22 SHALL BE LOCATED AT LEAST 15 MILLIMETERS FROM THE LIGHTING END AND 10  
23 MILLIMETERS FROM THE LABELED END OF THE TOBACCO COLUMN.

24 (I) (1) IF THE COMPTROLLER DETERMINES THAT A CIGARETTE CANNOT BE  
25 TESTED IN ACCORDANCE WITH THE TEST METHOD REQUIRED BY THIS SECTION, THE  
26 MANUFACTURER OF THE CIGARETTE SHALL PROPOSE TO THE COMPTROLLER A TEST  
27 METHOD AND PERFORMANCE STANDARD FOR THAT CIGARETTE.

28 (2) THE COMPTROLLER, IN CONSULTATION WITH THE COMMISSION,  
29 MAY APPROVE A TEST METHOD AND PERFORMANCE STANDARD THAT THE  
30 COMPTROLLER DETERMINES IS EQUIVALENT TO THE REQUIREMENTS OF THIS  
31 SECTION, AND THE MANUFACTURER MAY USE THAT TEST METHOD AND  
32 PERFORMANCE STANDARD FOR CERTIFICATION IN ACCORDANCE WITH § 16-603 OF  
33 THIS SUBTITLE.

34 (J) (1) EACH MANUFACTURER SHALL RETAIN ALL DATA FROM TESTING  
35 CONDUCTED UNDER THIS SECTION FOR 3 YEARS.

36 (2) THE MANUFACTURER SHALL PROVIDE THAT DATA TO THE  
37 COMPTROLLER, COMMISSION, AND THE ATTORNEY GENERAL ON REQUEST IN ORDER  
38 TO ENSURE COMPLIANCE WITH THE PERFORMANCE STANDARD REQUIRED BY THIS  
39 SECTION.

1 16-603.

2 (A) EACH MANUFACTURER SHALL SUBMIT ON REQUEST TO THE  
3 COMPTROLLER WRITTEN CERTIFICATION ATTESTING THAT EACH CIGARETTE HAS  
4 BEEN TESTED IN ACCORDANCE WITH AND HAS MET THE PERFORMANCE STANDARD  
5 REQUIRED UNDER § 16-602 OF THIS SUBTITLE.

6 (B) THE DESCRIPTION OF EACH CIGARETTE LISTED IN THE CERTIFICATION  
7 SHALL INCLUDE:

8 (1) THE BRAND;

9 (2) THE STYLE;

10 (3) THE LENGTH IN MILLIMETERS;

11 (4) THE CIRCUMFERENCE IN MILLIMETERS;

12 (5) THE FLAVOR, IF APPLICABLE;

13 (6) WHETHER FILTER OR NONFILTER;

14 (7) A PACKAGE DESCRIPTION, SUCH AS A SOFT PACK OR BOX; AND

15 (8) THE MARK APPROVED IN ACCORDANCE WITH § 16-604 OF THIS  
16 SUBTITLE.

17 (C) ON REQUEST, THE CERTIFICATION SHALL BE MADE AVAILABLE TO THE  
18 ATTORNEY GENERAL, THE COMPTROLLER, AND THE COMMISSION.

19 (D) EACH CIGARETTE CERTIFIED UNDER THIS SECTION SHALL BE  
20 RECERTIFIED EVERY 3 YEARS.

21 16-604.

22 (A) CIGARETTES THAT HAVE BEEN CERTIFIED IN ACCORDANCE WITH § 16-603  
23 OF THIS SUBTITLE SHALL BE MARKED IN ACCORDANCE WITH THE REQUIREMENTS  
24 OF THIS SECTION.

25 (B) THE MARKING SHALL:

26 (1) BE IN A FONT OF AT LEAST 8 POINT TYPE; AND

27 (2) INCLUDE ONE OF THE FOLLOWING:

28 (I) MODIFICATION OF THE PRODUCT UPC CODE TO INCLUDE A  
29 VISIBLE MARK THAT:

30 1. IS PRINTED AT OR AROUND THE AREA OF THE UPC CODE;  
31 AND

1                                   2.       CONSISTS OF ONE OR MORE ALPHANUMERIC OR  
2 SYMBOLIC CHARACTERS PERMANENTLY STAMPED, ENGRAVED, EMBOSSED, OR  
3 PRINTED IN CONJUNCTION WITH THE UPC CODE;

4                                   (II)     ANY VISIBLE COMBINATION OF ALPHANUMERIC OR SYMBOLIC  
5 CHARACTERS PERMANENTLY STAMPED, ENGRAVED, EMBOSSED, OR PRINTED ON  
6 THE CIGARETTE PACKAGE OR THE CELLOPHANE WRAP; OR

7                                   (III)    STAMPED, ENGRAVED, EMBOSSED, OR PRINTED TEXT THAT  
8 INDICATES THAT THE CIGARETTES MEET THE STANDARDS OF THIS SUBTITLE.

9       (C)   (1)     THE MANUFACTURER SHALL REQUEST APPROVAL OF A PROPOSED  
10 MARKING FROM THE COMPTROLLER.

11                                  (2)     ANY MARKING APPROVED AND IN USE FOR THE SALE OF  
12 CIGARETTES IN NEW YORK STATE SHALL BE APPROVED UNLESS THE COMPTROLLER,  
13 IN CONSULTATION WITH THE COMMISSION, DETERMINES THAT THE NEW YORK FIRE  
14 SAFETY STANDARDS FOR CIGARETTES HAVE CHANGED SIGNIFICANTLY SINCE  
15 THOSE STANDARDS WERE EFFECTIVE ON JUNE 28, 2004.

16                                  (3)     A MARKING IS DEEMED APPROVED IF THE COMPTROLLER FAILS TO  
17 ACT WITHIN 30 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL.

18                                  (4)     A MANUFACTURER MAY NOT USE A MODIFIED MARKING UNLESS  
19 THE MODIFICATION HAS BEEN APPROVED IN ACCORDANCE WITH THIS SECTION.

20                                  (5)     A MANUFACTURER SHALL USE ONLY ONE MARKING ON ALL BRANDS  
21 THAT THE MANUFACTURER MARKETS.

22                                  (6)     A MARKING OR MODIFIED MARKING APPROVED BY THE  
23 COMPTROLLER SHALL BE APPLIED UNIFORMLY ON ALL BRANDS MARKETED AND ON  
24 ALL PACKAGES, INCLUDING PACKS, CARTONS, AND CASES MARKETED BY THAT  
25 MANUFACTURER.

26 16-605.

27       (A)    THE MANUFACTURER SHALL:

28                                  (1)     PROVIDE A COPY OF EACH CERTIFICATION TO EACH WHOLESALER  
29 TO WHICH THE MANUFACTURER SELLS CIGARETTES; AND

30                                  (2)     PROVIDE SUFFICIENT COPIES OF AN ILLUSTRATION OF THE  
31 PACKAGING MARKING APPROVED AND USED BY THE MANUFACTURER IN  
32 ACCORDANCE WITH § 16-604 OF THIS SUBTITLE FOR EACH RETAILER,  
33 SUBWHOLESALER, AND VENDING MACHINE OPERATOR THAT PURCHASES  
34 CIGARETTES FROM THE WHOLESALER.

35       (B)    THE WHOLESALER SHALL PROVIDE A COPY OF THE ILLUSTRATION TO  
36 EACH RETAILER, SUBWHOLESALER, AND VENDING MACHINE OPERATOR TO WHICH  
37 THE WHOLESALER SELLS CIGARETTES.

1 (C) EACH RETAILER, SUBWHOLESALE, VENDING MACHINE OPERATOR, AND  
2 WHOLESALER SHALL ALLOW THE COMPTROLLER OR DESIGNEE OF THE  
3 COMPTROLLER TO INSPECT THE MARKINGS ON CIGARETTE PACKAGING AT ANY  
4 TIME.

5 16-606.

6 ANY CIGARETTES SOLD OR OFFERED FOR SALE IN THE STATE THAT DO NOT  
7 COMPLY WITH THE FIRE SAFETY STANDARD REQUIRED BY § 16-602 OF THIS  
8 SUBTITLE ARE DEEMED TO BE CONTRABAND AND SUBJECT TO §§ 13-836, 13-837, AND  
9 13-839 OF THE TAX - GENERAL ARTICLE.

10 16-607.

11 THE COMPTROLLER:

12 (1) MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT AND  
13 ADMINISTER THIS SUBTITLE;

14 (2) IN CONSULTATION WITH THE COMMISSION, MAY ADOPT  
15 REGULATIONS FOR THE CONDUCT OF RANDOM INSPECTIONS OF RETAILERS,  
16 SUBWHOLESALE, VENDING MACHINE OPERATORS, AND WHOLESALERS TO  
17 ENSURE COMPLIANCE WITH THIS SUBTITLE; AND

18 (3) SHALL ENSURE THAT THE IMPLEMENTATION AND SUBSTANCE OF  
19 THIS SUBTITLE IS IN ACCORDANCE WITH THE IMPLEMENTATION AND SUBSTANCE  
20 OF THE NEW YORK FIRE SAFETY STANDARDS FOR CIGARETTES.

21 16-608.

22 (A) A RETAILER, SUBWHOLESALE, OR WHOLESALER THAT KNOWINGLY  
23 SELLS CIGARETTES IN VIOLATION OF § 16-602 OF THIS SUBTITLE IS SUBJECT TO A  
24 CIVIL PENALTY NOT EXCEEDING \$500 FOR EACH SALE IN WHICH LESS THAN 50  
25 PACKAGES OF CIGARETTES ARE SOLD.

26 (B) A RETAILER, SUBWHOLESALE, OR WHOLESALER THAT KNOWINGLY  
27 SELLS CIGARETTES IN VIOLATION OF § 16-602 OF THIS SUBTITLE IS SUBJECT TO A  
28 CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH SALE IN WHICH 50 OR MORE  
29 PACKAGES OF CIGARETTES ARE SOLD.

30 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON THAT  
31 KNOWINGLY SELLS CIGARETTES IN VIOLATION OF § 16-602 OF THIS SUBTITLE IS  
32 SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION.

33 16-609.

34 (A) TO ENFORCE THIS SUBTITLE, THE ATTORNEY GENERAL MAY BRING AN  
35 ACTION TO ENJOIN ANY ACTS IN VIOLATION OF THIS SUBTITLE AND TO RECOVER  
36 CIVIL PENALTIES AUTHORIZED UNDER § 16-608 OF THIS SUBTITLE.

1 (B) MONEY COLLECTED FROM CIVIL PENALTIES RECOVERED UNDER THIS  
2 SECTION SHALL BE DISTRIBUTED TO THE SENATOR WILLIAM H. AMOSS FIRE,  
3 RESCUE, AND AMBULANCE FUND.

4 **Article - Public Safety**

5 8-102.

6 (d) The Fund consists of:

7 (1) money appropriated in the State budget to the Fund; AND

8 (2) REVENUE DISTRIBUTED TO THE FUND UNDER § 16-609 OF THE  
9 BUSINESS REGULATION ARTICLE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the requirement that  
11 cigarettes sold in this State must be in compliance with this Act does not prohibit  
12 retailers, subwholesalers, vending machine operators, or wholesalers from selling  
13 existing cigarette inventories on or after January 1, 2007, if the retailers,  
14 subwholesalers, vending machine operators, or wholesalers can establish that the tax  
15 stamps were affixed to the cigarettes as required by § 12-304 of the Tax - General  
16 Article before January 1, 2007.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 January 1, 2007.