
By: **Delegates Moe, Barve, Benson, Bobo, Bozman, Bronrott, Cardin,
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Stull, Trueschler, F. Turner, Vaughn, and Weir**

Introduced and read first time: February 10, 2006

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2006

CHAPTER _____

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; providing that
11 additional testing is not required under this Act of cigarettes that are tested in
12 a certain manner for other purposes; requiring manufacturers to retain all data
13 from testing for a certain period of time; requiring manufacturers to submit to
14 the Comptroller a certain written certification that a cigarette has been tested
15 and has met the performance standard; requiring recertification of cigarettes
16 after a certain period of time; requiring manufacturers to mark in a certain
17 manner cigarettes that have been certified; requiring manufacturers to request
18 approval of a proposed marking from the Comptroller; requiring manufacturers
19 to provide certain wholesalers with copies of certifications and illustrations of
20 certain markings; requiring wholesalers to provide certain retailers,
21 subwholesalers, and vending machine operators with copies of certain
22 illustrations; providing that cigarettes sold or offered for sale in the State that
23 do not comply with a certain standard are deemed contraband; authorizing the
24 Comptroller to adopt certain regulations; requiring the Comptroller to ensure

1 that the implementation and substance of this Act is in accordance with the
 2 implementation and substance of the fire safety standards of a certain state;
 3 establishing certain civil penalties for certain violations of this Act; authorizing
 4 the Attorney General to enjoin acts in violation of this Act and to recover certain
 5 civil penalties; requiring that certain money collected from certain civil
 6 penalties be distributed to a certain fund; altering the composition of a certain
 7 fund; providing that this Act does not prohibit retailers, subwholesalers,
 8 vending machine operators, and wholesalers from selling existing inventory if
 9 certain tax stamps were affixed to the cigarettes before a certain date under
 10 certain circumstances; providing for the construction of this Act; defining
 11 certain terms; providing for a delayed effective date; and generally relating to
 12 fire safety standards for cigarettes.

13 BY adding to

14 Article - Business Regulation

15 Section 16-601 through 16-609, inclusive, to be under the new subtitle "Subtitle
 16 6. Fire Safety Performance Standards for Cigarettes" and the amended
 17 title "Title 16. Cigarettes"

18 Annotated Code of Maryland

19 (2004 Replacement Volume and 2005 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - Public Safety

22 Section 8-102(d)

23 Annotated Code of Maryland

24 (2003 Volume and 2005 Supplement)

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

27 **Article - Business Regulation**

28 Title 16. [Cigarette Licenses] CIGARETTES.

29 SUBTITLE 6. FIRE SAFETY PERFORMANCE STANDARDS FOR CIGARETTES.

30 16-601.

31 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 32 INDICATED.

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

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

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

36 MEANS:

1 (1) A PERSON THAT MANUFACTURES OR OTHERWISE PRODUCES, OR
2 CAUSES TO BE MANUFACTURED OR PRODUCED, CIGARETTES INTENDED FOR SALE IN
3 THIS STATE, INCLUDING CIGARETTES INTENDED FOR SALE IN THE UNITED STATES
4 THROUGH AN IMPORTER;

5 (2) THE FIRST PURCHASER ANYWHERE THAT INTENDS TO RESELL IN
6 THE UNITED STATES CIGARETTES THAT THE ORIGINAL MANUFACTURER OR MAKER
7 DOES NOT INTEND FOR SALE IN THE UNITED STATES; OR

8 (3) A PERSON THAT IS A SUCCESSOR OF A PERSON LISTED IN ITEM (1) OR
9 (2) OF THIS SUBSECTION.

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

12 (1) OPERATOR BIAS, SYSTEMATIC AND NONSYSTEMATIC
13 METHODOLOGICAL ERRORS, AND EQUIPMENT-RELATED PROBLEMS DO NOT AFFECT
14 THE RESULTS OF THE TESTING; AND

15 (2) THE TESTING REPEATABILITY REMAINS WITHIN THE REQUIRED
16 REPEATABILITY VALUE FOR ANY TEST TRIAL USED TO CERTIFY CIGARETTES UNDER
17 THIS SUBTITLE.

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

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

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

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

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

26 16-602.

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

29 (1) THE CIGARETTES HAVE BEEN TESTED IN ACCORDANCE WITH THE
30 TEST METHOD AND MEET THE PERFORMANCE STANDARD SPECIFIED IN THIS
31 SECTION; AND

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

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

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

5 (2) THE COMPTROLLER, IN CONSULTATION WITH THE COMMISSION,
6 MAY ADOPT A SUBSEQUENT ASTM STANDARD TEST METHOD FOR MEASURING THE
7 IGNITION STRENGTH OF CIGARETTES ON A FINDING THAT THE SUBSEQUENT
8 METHOD DOES NOT RESULT IN A CHANGE IN THE PERCENTAGE OF FULL-LENGTH
9 BURNS EXHIBITED BY ANY TESTED CIGARETTE WHEN COMPARED TO THE
10 PERCENTAGE OF FULL-LENGTH BURNS THE SAME CIGARETTE WOULD EXHIBIT
11 WHEN TESTED IN ACCORDANCE WITH ASTM STANDARD E2187-04 AND THE
12 PERFORMANCE STANDARD OF THIS SECTION.

13 (D) TESTING OF CIGARETTES SHALL BE CONDUCTED ON 10 LAYERS OF FILTER
14 PAPER.

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

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

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

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

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

26 (H) (1) EACH CIGARETTE LISTED IN A CERTIFICATION THAT USES LOWERED
27 PERMEABILITY BANDS IN THE CIGARETTE PAPER TO ACHIEVE COMPLIANCE WITH
28 THE PERFORMANCE STANDARD OF THIS SECTION SHALL HAVE AT LEAST TWO
29 NOMINALLY IDENTICAL BANDS ON THE PAPER SURROUNDING THE TOBACCO
30 COLUMN.

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

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

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

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

5 (2) THE COMPTROLLER, IN CONSULTATION WITH THE COMMISSION,
6 MAY APPROVE A TEST METHOD AND PERFORMANCE STANDARD THAT THE
7 COMPTROLLER DETERMINES IS EQUIVALENT TO THE REQUIREMENTS OF THIS
8 SECTION, AND THE MANUFACTURER MAY USE THAT TEST METHOD AND
9 PERFORMANCE STANDARD FOR CERTIFICATION IN ACCORDANCE WITH § 16-603 OF
10 THIS SUBTITLE.

11 (J) THIS SECTION DOES NOT REQUIRE ADDITIONAL TESTING FOR
12 CIGARETTES THAT ARE TESTED IN A MANNER CONSISTENT WITH THE
13 REQUIREMENTS OF THIS SECTION FOR ANY OTHER PURPOSE.

14 ~~(I)~~ (K) (1) EACH MANUFACTURER SHALL RETAIN ALL DATA FROM
15 TESTING CONDUCTED UNDER THIS SECTION FOR 3 YEARS.

16 (2) THE MANUFACTURER SHALL PROVIDE THAT DATA TO THE
17 COMPTROLLER, COMMISSION, AND THE ATTORNEY GENERAL ON REQUEST IN ORDER
18 TO ENSURE COMPLIANCE WITH THE PERFORMANCE STANDARD REQUIRED BY THIS
19 SECTION.

20 16-603.

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

25 (B) THE DESCRIPTION OF EACH CIGARETTE LISTED IN THE CERTIFICATION
26 SHALL INCLUDE:

27 (1) THE BRAND;

28 (2) THE STYLE;

29 (3) THE LENGTH IN MILLIMETERS;

30 (4) THE CIRCUMFERENCE IN MILLIMETERS;

31 (5) THE FLAVOR, IF APPLICABLE;

32 (6) WHETHER FILTER OR NONFILTER;

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

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

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

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

5 16-604.

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

9 (B) THE MARKING SHALL:

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

11 (2) INCLUDE ONE OF THE FOLLOWING:

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

14 1. IS PRINTED AT OR AROUND THE AREA OF THE UPC CODE;
15 AND

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

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

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

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

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

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

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

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

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

7 16-605.

8 (A) THE MANUFACTURER SHALL:

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

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

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

19 (C) EACH RETAILER, SUBWHOLESALER, VENDING MACHINE OPERATOR, AND
20 WHOLESALER SHALL ALLOW THE COMPTROLLER OR DESIGNEE OF THE
21 COMPTROLLER TO INSPECT THE MARKINGS ON CIGARETTE PACKAGING AT ANY
22 TIME.

23 16-606.

24 ANY CIGARETTES SOLD OR OFFERED FOR SALE IN THE STATE THAT DO NOT
25 COMPLY WITH THE FIRE SAFETY STANDARD REQUIRED BY § 16-602 OF THIS
26 SUBTITLE ARE DEEMED TO BE CONTRABAND AND SUBJECT TO §§ 13-836, 13-837, AND
27 13-839 OF THE TAX - GENERAL ARTICLE.

28 16-607.

29 THE COMPTROLLER:

30 (1) MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT AND
31 ADMINISTER THIS SUBTITLE;

32 (2) IN CONSULTATION WITH THE COMMISSION, MAY ADOPT
33 REGULATIONS FOR THE CONDUCT OF RANDOM INSPECTIONS OF RETAILERS,
34 SUBWHOLESALERS, VENDING MACHINE OPERATORS, AND WHOLESALERS TO
35 ENSURE COMPLIANCE WITH THIS SUBTITLE; AND

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

4 16-608.

5 (A) A MANUFACTURER OR OTHER PERSON THAT KNOWINGLY SELLS OR
6 OFFERS FOR SALE CIGARETTES OTHER THAN BY RETAIL SALE IN VIOLATION OF §
7 16-602 OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$10,000
8 FOR EACH SALE.

9 (B) A RETAILER, SUBWHOLESALE, OR WHOLESALER THAT KNOWINGLY
10 SELLS CIGARETTES IN VIOLATION OF § 16-602 OF THIS SUBTITLE IS SUBJECT TO A
11 CIVIL PENALTY NOT EXCEEDING:

12 (1) \$500 FOR EACH SALE IN WHICH LESS THAN 50 PACKAGES OF
13 CIGARETTES ARE SOLD; OR

14 ~~(B) (2) A RETAILER, SUBWHOLESALE, OR WHOLESALER THAT KNOWINGLY~~
15 ~~SELLS CIGARETTES IN VIOLATION OF § 16-602 OF THIS SUBTITLE IS SUBJECT TO A~~
16 ~~CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH SALE IN WHICH 50 OR MORE~~
17 ~~PACKAGES OF CIGARETTES ARE SOLD.~~

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

21 (D) A MANUFACTURER THAT KNOWINGLY MAKES A FALSE CERTIFICATION
22 UNDER § 16-603 OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING
23 \$10,000 FOR EACH FALSE CERTIFICATION.

24 16-609.

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

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

31 **Article - Public Safety**

32 8-102.

33 (d) The Fund consists of:

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

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That the requirement that
4 cigarettes sold in this State must be in compliance with this Act does not prohibit
5 retailers, subwholesalers, vending machine operators, or wholesalers from selling
6 existing cigarette inventories on or after January 1, 2007, if the retailers,
7 subwholesalers, vending machine operators, or wholesalers can establish that:

8 (1) the tax stamps were affixed to the cigarettes as required by § 12-304
9 of the Tax - General Article before January 1, 2007; and

10 (2) the inventories were purchased in calendar year 2006 in a quantity
11 comparable to the inventories purchased during calendar year 2005.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be
13 construed to prohibit a person from selling or offering for sale cigarettes that have not
14 been certified in accordance with § 16-603 of the Business Regulation Article, as
15 enacted by this Act, if the cigarettes are or will be stamped for sale in another state or
16 are packaged for sale outside the United States.

17 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect January 1, 2007.