

HOUSE BILL 785

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71r1999
CF SB 361

By: **Delegates Malone, Barkley, Barnes, Barve, Beitzel, Bohanan, Boteler, Bronrott, Cane, Cardin, G. Clagett, V. Clagett, Conway, Costa, DeBoy, Dumais, Eckardt, Elmore, Frank, Frush, Gilchrist, Glassman, Haddaway, Harrison, Haynes, Hecht, Heller, Hixson, Hubbard, James, Jennings, Jones, Kach, Kramer, Krebs, Krysiak, Kullen, Lawton, Love, Manno, Mathias, McConkey, Minnick, Montgomery, Morhaim, Murphy, Niemann, Pena-Melnyk, Pendergrass, Proctor, Ramirez, Ross, Rudolph, Sossi, Stull, Taylor, Vaughn, Weir, ~~and Weldon~~ Weldon, Davis, Feldman, Jameson, and McHale**

Introduced and read first time: February 9, 2007

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 16, 2007

CHAPTER _____

1 AN ACT concerning

2 **Cigarette Fire Safety Performance Standard 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 have certain current
9 certification and implement a certain quality control and quality assurance
10 program; providing for an alternative test method and performance standard
11 under certain circumstances; providing that additional testing is not required
12 under this Act of cigarettes that are tested in a certain manner for other
13 purposes; requiring manufacturers to retain all data from testing for a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 period of time and provide certain data to the Comptroller, State Fire
2 Prevention Commission, or the Attorney General; providing for a civil penalty if
3 certain data is not provided within a certain period of time; requiring that a
4 certain subtitle be implemented in accordance with the implementation and
5 substance of the fire safety standards of a certain state; requiring
6 manufacturers to submit to the Comptroller a certain written certification that
7 a cigarette has been tested and has met the performance standard; requiring
8 recertification of cigarettes after a certain period of time; requiring
9 manufacturers to retest certain altered cigarettes; requiring manufacturers to
10 mark in a certain manner cigarettes that have been certified; requiring
11 manufacturers to request approval of a proposed marking from the Comptroller;
12 requiring manufacturers to provide certain wholesalers with copies of
13 certifications and illustrations of certain markings; requiring wholesalers to
14 provide certain retailers, subwholesalers, and vending machine operators with
15 copies of certain illustrations; requiring retailers, subwholesalers, vending
16 machine operators, and wholesalers to allow the Comptroller or designee to
17 make certain inspections; providing that cigarettes sold or offered for sale in the
18 State that do not comply with a certain standard are deemed contraband;
19 authorizing the Comptroller to adopt certain regulations and establish certain
20 fees; establishing certain civil penalties for certain violations of this Act;
21 authorizing the Attorney General to enjoin acts in violation of this Act and to
22 recover certain civil penalties; requiring that certain money collected from
23 certain civil penalties be distributed to a certain fund; authorizing police officers
24 and authorized personnel to seize and destroy certain cigarettes; requiring that
25 certain holders of the trademark rights of certain cigarettes be provided the
26 opportunity to inspect certain seized cigarettes prior to destruction; altering the
27 composition of a certain fund; providing that this Act does not prohibit retailers,
28 subwholesalers, vending machine operators, and wholesalers from selling
29 existing inventory if certain tax stamps were affixed to the cigarettes before a
30 certain date under certain circumstances; providing for the construction of this
31 Act; providing that this Act preempts certain local laws, ordinances, or
32 regulations; prohibiting local governmental units from enacting and enforcing
33 certain ordinances, local laws, or regulations; requiring the Comptroller to
34 monitor certain federal actions and notify the Department of Legislative
35 Services of the adoption of a certain federal standard; defining certain terms;
36 providing for a delayed effective date; providing for the termination of this Act;
37 and generally relating to fire safety standards for cigarettes.

38 BY adding to

39 Article – Business Regulation

40 Section 16–601 through 16–610 to be under the new subtitle “Subtitle 6. Fire
41 Safety Performance Standard for Cigarettes” and the amended title “Title
42 16. Cigarettes”

1 Annotated Code of Maryland
2 (2004 Replacement Volume and 2006 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Public Safety
5 Section 8–102(a) and (b)
6 Annotated Code of Maryland
7 (2003 Volume and 2006 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Public Safety
10 Section 8–102(d)
11 Annotated Code of Maryland
12 (2003 Volume and 2006 Supplement)

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

15 **Article – Business Regulation**

16 Title 16. [Cigarette Licenses] **CIGARETTES.**

17 **SUBTITLE 6. FIRE SAFETY PERFORMANCE STANDARD FOR CIGARETTES.**

18 **16–601.**

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (B) ~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
22 ~~SUBSECTION, “CIGARETTE”~~ **“CIGARETTE”** HAS THE MEANING STATED IN §
23 **16–101** OF THIS TITLE.

24 ~~(2) “CIGARETTE” INCLUDES A ROLL OF TOBACCO WRAPPED IN A~~
25 ~~SUBSTANCE CONTAINING TOBACCO THAT BECAUSE OF ITS APPEARANCE, THE~~
26 ~~TYPE OF TOBACCO USED IN ITS FILLER, OR ITS PACKAGING AND LABELING IS~~
27 ~~LIKELY TO BE OFFERED TO OR PURCHASED BY A CONSUMER AS A CIGARETTE AS~~
28 ~~DEFINED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

29 (C) **“COMMISSION”** MEANS THE STATE FIRE PREVENTION
30 COMMISSION.

1 **(D) “MANUFACTURER” MEANS:**

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

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

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

11 **(E) “QUALITY CONTROL AND QUALITY ASSURANCE PROGRAM” MEANS**
12 **LABORATORY PROCEDURES IMPLEMENTED TO ENSURE THAT:**

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

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

19 **(F) “REPEATABILITY” MEANS THE RANGE OF VALUES WITHIN WHICH**
20 **THE REPEAT RESULTS OF CIGARETTE TEST TRIALS FROM A SINGLE**
21 **LABORATORY FALL 95% OF THE TIME.**

22 **(G) “RETAILER” HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.**

23 **(H) “SUBWHOLESALE” HAS THE MEANING STATED IN § 16-201 OF THIS**
24 **TITLE.**

25 **(I) “VENDING MACHINE OPERATOR” HAS THE MEANING STATED IN §**
26 **16-201 OF THIS TITLE.**

27 **(J) “WHOLESALE” HAS THE MEANING STATED IN § 16-201 OF THIS**
28 **TITLE.**

1 **16-602.**

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

4 (1) THE CIGARETTES HAVE BEEN TESTED IN ACCORDANCE WITH
5 THE TEST METHOD AND MEET THE PERFORMANCE STANDARD SPECIFIED IN
6 THIS SECTION; AND

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

9 (B) THE PERFORMANCE STANDARD FOR CIGARETTES SOLD OR
10 OFFERED FOR SALE IN THE STATE INCLUDES ALL OF THE REQUIREMENTS IN
11 SUBSECTION (E)(1) OF THIS SECTION.

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

16 (2) THE COMPTROLLER, IN CONSULTATION WITH THE
17 COMMISSION, MAY ADOPT A SUBSEQUENT ASTM STANDARD TEST METHOD FOR
18 MEASURING THE IGNITION STRENGTH OF CIGARETTES ON A FINDING THAT THE
19 SUBSEQUENT METHOD DOES NOT RESULT IN A CHANGE IN THE PERCENTAGE OF
20 FULL-LENGTH BURNS EXHIBITED BY ANY TESTED CIGARETTE WHEN COMPARED
21 TO THE PERCENTAGE OF FULL-LENGTH BURNS THE SAME CIGARETTE WOULD
22 EXHIBIT WHEN TESTED IN ACCORDANCE WITH ASTM STANDARD E2187-04 AND
23 THE PERFORMANCE STANDARD OF THIS SECTION.

24 (D) TESTING OF CIGARETTES SHALL BE CONDUCTED ON 10 LAYERS OF
25 FILTER PAPER.

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

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

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

3 **(G) (1) EACH LABORATORY THAT CONDUCTS TESTS IN ACCORDANCE**
4 **WITH THIS SECTION SHALL:**

5 **(I) HAVE CURRENT ACCREDITATION PURSUANT TO**
6 **STANDARD ISO/IEC 17025 OF THE INTERNATIONAL ORGANIZATION FOR**
7 **STANDARDIZATION, SUBSEQUENT LABORATORY STANDARDIZATION, OR**
8 **ANOTHER COMPARABLE ACCREDITATION AS DETERMINED BY THE**
9 **COMPTROLLER; AND**

10 **(II) IMPLEMENT A QUALITY CONTROL AND QUALITY**
11 **ASSURANCE PROGRAM THAT INCLUDES A PROCEDURE TO DETERMINE THE**
12 **REPEATABILITY OF THE TESTING RESULTS.**

13 **(2) THE REPEATABILITY VALUE SHALL BE NO GREATER THAN**
14 **0.19.**

15 **(H) (1) EACH CIGARETTE LISTED IN A CERTIFICATION THAT USES**
16 **LOWERED PERMEABILITY BANDS IN THE CIGARETTE PAPER TO ACHIEVE**
17 **COMPLIANCE WITH THE PERFORMANCE STANDARD OF THIS SECTION SHALL**
18 **HAVE AT LEAST TWO NOMINALLY IDENTICAL BANDS ON THE PAPER**
19 **SURROUNDING THE TOBACCO COLUMN.**

20 **(2) AT LEAST ONE COMPLETE BAND SHALL BE LOCATED AT LEAST**
21 **15 MILLIMETERS FROM THE LIGHTING END OF THE CIGARETTE.**

22 **(3) FOR A CIGARETTE ON WHICH THE BANDS ARE POSITIONED BY**
23 **DESIGN, AT LEAST TWO BANDS SHALL BE LOCATED AT LEAST 15 MILLIMETERS**
24 **FROM THE LIGHTING END AND 10 MILLIMETERS FROM THE FILTER END OF THE**
25 **TOBACCO COLUMN.**

26 **(4) FOR AN UNFILTERED CIGARETTE, THE TWO COMPLETE BANDS**
27 **SHALL BE LOCATED AT LEAST 15 MILLIMETERS FROM THE LIGHTING END AND**
28 **10 MILLIMETERS FROM THE LABELED END OF THE TOBACCO COLUMN.**

29 **(I) (1) IF THE COMPTROLLER DETERMINES THAT A CIGARETTE**
30 **CANNOT BE TESTED IN ACCORDANCE WITH THE TEST METHOD REQUIRED BY**
31 **THIS SECTION, THE MANUFACTURER OF THE CIGARETTE SHALL PROPOSE TO**

1 THE COMPTROLLER A TEST METHOD AND PERFORMANCE STANDARD FOR THAT
2 CIGARETTE.

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

9 (3) (I) THE COMPTROLLER, IN CONSULTATION WITH THE
10 COMMISSION, SHALL APPROVE A TEST METHOD AND PERFORMANCE STANDARD
11 USED IN ANOTHER STATE IF THE COMPTROLLER DETERMINES THAT:

12 1. THE ~~STATE~~ OTHER STATE HAS ENACTED A
13 REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT INCLUDES A
14 TEST METHOD AND PERFORMANCE STANDARD THAT ARE THE SAME AS THE
15 REQUIREMENTS OF THIS SECTION; AND

16 2. THE OFFICIALS RESPONSIBLE FOR
17 IMPLEMENTING THE REQUIREMENTS IN THE OTHER STATE HAVE APPROVED OF
18 THE ALTERNATIVE TEST METHOD AND PERFORMANCE STANDARD FOR A
19 PARTICULAR CIGARETTE UNDER A LEGAL PROVISION COMPARABLE TO THIS
20 SECTION.

21 (II) A MANUFACTURER MAY USE A TEST METHOD AND
22 PERFORMANCE STANDARD APPROVED UNDER SUBPARAGRAPH (I) OF THIS
23 PARAGRAPH FOR CERTIFICATION IN ACCORDANCE WITH § 16-603 OF THIS
24 SUBTITLE OF THE CIGARETTE USED IN THE APPROVED TEST METHOD.

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

28 (K) (1) EACH MANUFACTURER SHALL RETAIN COPIES OF THE
29 REPORTS OF ALL TESTS CONDUCTED ON ALL CIGARETTES OFFERED FOR SALE
30 FOR 3 YEARS.

31 (2) (I) ON REQUEST, THE MANUFACTURER SHALL PROVIDE
32 THE DATA RETAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE

1 **COMPTRROLLER, THE COMMISSION, OR THE ATTORNEY GENERAL WITHIN 60**
2 **DAYS AFTER RECEIVING THE REQUEST, FOR THE PURPOSE OF ENSURING**
3 **COMPLIANCE WITH THIS SECTION.**

4 (II) **A MANUFACTURER WHO DOES NOT PROVIDE THE DATA**
5 **WITHIN 60 DAYS OF A REQUEST IS SUBJECT TO A CIVIL PENALTY NOT TO**
6 **EXCEED \$10,000 FOR EACH DAY AFTER THE 60TH DAY THAT THE VIOLATION**
7 **CONTINUES.**

8 (L) **THIS SUBTITLE SHALL BE IMPLEMENTED IN ACCORDANCE WITH**
9 **THE IMPLEMENTATION AND SUBSTANCE OF THE NEW YORK FIRE SAFETY**
10 **STANDARDS FOR CIGARETTES.**

11 **16-603.**

12 (A) (1) **EACH MANUFACTURER SHALL SUBMIT TO THE**
13 **COMPTRROLLER WRITTEN CERTIFICATION ATTESTING THAT EACH CIGARETTE**
14 **HAS BEEN TESTED IN ACCORDANCE WITH AND HAS MET THE PERFORMANCE**
15 **STANDARD REQUIRED UNDER § 16-602 OF THIS SUBTITLE.**

16 (2) **A CERTIFICATION UNDER PARAGRAPH (1) OF THIS**
17 **SUBSECTION MAY NOT LIST MORE THAN 50 CIGARETTES.**

18 (B) **THE DESCRIPTION OF EACH CIGARETTE LISTED IN THE**
19 **CERTIFICATION SHALL INCLUDE:**

20 (1) **THE BRAND OR TRADE NAME ON THE PACKAGE;**

21 (2) **THE STYLE, SUCH AS LIGHT OR ULTRA LIGHT;**

22 (3) **THE LENGTH IN MILLIMETERS;**

23 (4) **THE CIRCUMFERENCE IN MILLIMETERS;**

24 (5) **THE FLAVOR, SUCH AS MENTHOL OR CHOCOLATE, IF**
25 **APPLICABLE;**

26 (6) **WHETHER FILTERED OR NONFILTERED;**

27 (7) **A PACKAGE DESCRIPTION, SUCH AS A SOFT PACK OR BOX;**

1 **(8) THE MARK APPROVED IN ACCORDANCE WITH § 16-604 OF**
2 **THIS SUBTITLE;**

3 **(9) IF DIFFERENT FROM THE MANUFACTURER, THE NAME,**
4 **ADDRESS, AND TELEPHONE NUMBER OF THE LABORATORY THAT CONDUCTED**
5 **THE TEST; AND**

6 **(10) THE DATE OF THE TESTING.**

7 **(C) THE CERTIFICATION SHALL BE MADE AVAILABLE TO:**

8 **(1) THE ATTORNEY GENERAL AND THE COMMISSION FOR**
9 **PURPOSES CONSISTENT WITH THIS SUBTITLE; AND**

10 **(2) THE COMPTROLLER FOR THE PURPOSE OF ENSURING**
11 **COMPLIANCE WITH THIS SECTION.**

12 **(D) (1) EACH CIGARETTE CERTIFIED UNDER THIS SECTION SHALL BE**
13 **RECERTIFIED EVERY 3 YEARS.**

14 **(2) IF A MANUFACTURER OF A CIGARETTE THAT HAS BEEN**
15 **CERTIFIED UNDER THIS SECTION MAKES A CHANGE THAT IS LIKELY TO ALTER**
16 **THE CIGARETTE'S COMPLIANCE WITH THE PERFORMANCE STANDARD UNDER §**
17 **16-602(E) OF THIS SUBTITLE, THAT CIGARETTE MAY NOT BE SOLD IN THIS**
18 **STATE UNTIL THE MANUFACTURER, IN ACCORDANCE WITH § 16-602 OF THIS**
19 **SUBTITLE, RETESTS AND MAINTAINS THE PROPER RECORDS OF THE TESTING.**

20 **16-604.**

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

24 **(B) THE MARKING SHALL:**

25 **(1) CONSIST OF:**

26 **(I) ANY MARKING IN USE AND APPROVED FOR SALE IN NEW**
27 **YORK UNDER THE NEW YORK FIRE SAFETY STANDARDS FOR CIGARETTES; OR**

1 (II) THE LETTERS "FSC" TO SIGNIFY FIRE STANDARDS
2 COMPLIANT;

3 (2) BE IN A FONT OF AT LEAST 8 POINT TYPE; AND

4 (3) BE PERMANENTLY PRINTED, STAMPED, ENGRAVED, OR
5 EMBOSSSED ON THE PACKAGE AT OR NEAR THE AREA OF THE UPC CODE, IF
6 PRESENT.

7 (C) A MANUFACTURER MAY PROPOSE AN ALTERNATIVE MARKING THAT:

8 (1) MEETS THE CRITERIA UNDER SUBSECTION (B)(2) AND (3) OF
9 THIS SECTION; AND

10 (2) CONSISTS OF A VISIBLE COMBINATION OF ALPHANUMERIC OR
11 SYMBOLIC CHARACTERS OR TEXT PERMANENTLY STAMPED, ENGRAVED,
12 EMBOSSSED, OR PRINTED:

13 (I) IN CONJUNCTION WITH THE UPC CODE; OR

14 (II) ON THE CIGARETTE PACK OR CELLOPHANE WRAP.

15 (D) (1) A MANUFACTURER SHALL REQUEST APPROVAL OF A
16 PROPOSED MARKING FROM THE COMPTROLLER.

17 (2) (I) THE COMPTROLLER SHALL APPROVE A MARKING
18 SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION.

19 (II) A MARKING IS DEEMED APPROVED IF THE
20 COMPTROLLER FAILS TO ACT WITHIN 10 BUSINESS DAYS AFTER RECEIVING A
21 REQUEST FOR APPROVAL.

22 (3) A MANUFACTURER MAY NOT USE A MODIFIED MARKING
23 UNLESS THE MODIFICATION HAS BEEN APPROVED IN ACCORDANCE WITH THIS
24 SECTION.

25 (4) A MANUFACTURER SHALL USE ONLY ONE MARKING ON ALL
26 BRANDS THAT THE MANUFACTURER MARKETS.

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

5 **16-605.**

6 (A) THE MANUFACTURER SHALL:

7 (1) PROVIDE A COPY OF EACH CERTIFICATION TO EACH
8 WHOLESALE TO WHICH THE MANUFACTURER SELLS CIGARETTES; AND

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

14 (B) THE WHOLESALE SHALL PROVIDE A COPY OF THE ILLUSTRATION
15 TO EACH RETAILER, SUBWHOLESALE, AND VENDING MACHINE OPERATOR TO
16 WHICH THE WHOLESALE SELLS CIGARETTES.

17 (C) EACH RETAILER, SUBWHOLESALE, VENDING MACHINE OPERATOR,
18 AND WHOLESALE SHALL ALLOW THE COMPTROLLER OR DESIGNEE OF THE
19 COMPTROLLER TO INSPECT THE MARKINGS ON CIGARETTE PACKAGING AT ANY
20 TIME.

21 **16-606.**

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

26 **16-607.**

27 THE COMPTROLLER:

28 (1) MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT AND
29 ADMINISTER THIS SUBTITLE;

1 (2) IN CONSULTATION WITH THE COMMISSION, MAY ADOPT
2 REGULATIONS FOR THE CONDUCT OF RANDOM INSPECTIONS OF RETAILERS,
3 SUBWHOLESALEERS, VENDING MACHINE OPERATORS, AND WHOLESALERS TO
4 ENSURE COMPLIANCE WITH THIS SUBTITLE; AND

5 (3) MAY ESTABLISH A \$250 FEE FOR EACH ~~CIGARETTE LISTED IN~~
6 ~~A CERTIFICATION REQUIRED UNDER § 16-603~~ OF THIS SUBTITLE TO COVER THE
7 EXPENSES OF ADMINISTERING THIS SUBTITLE.

8 **16-608.**

9 (A) (1) A MANUFACTURER OR OTHER PERSON THAT KNOWINGLY
10 SELLS OR OFFERS FOR SALE CIGARETTES OTHER THAN BY RETAIL SALE IN
11 VIOLATION OF § 16-602 OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT
12 TO EXCEED \$100 FOR EACH PACKAGE OF CIGARETTES SOLD OR OFFERED FOR
13 SALE.

14 (2) UNDER THIS SUBSECTION, A TOTAL AMOUNT OF CIVIL
15 PENALTIES IMPOSED ON A MANUFACTURER OR OTHER PERSON MAY NOT
16 EXCEED \$100,000 DURING ANY 30-DAY PERIOD.

17 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
18 SUBSECTION, A RETAILER, SUBWHOLESALEER, WHOLESALER, OR OTHER PERSON
19 THAT KNOWINGLY SELLS CIGARETTES IN VIOLATION OF § 16-602 OF THIS
20 SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED \$100 FOR EACH
21 PACKAGE OF CIGARETTES SOLD.

22 (2) UNDER THIS SUBSECTION, A TOTAL AMOUNT OF CIVIL
23 PENALTIES IMPOSED ON A RETAILER MAY NOT EXCEED \$25,000 DURING ANY
24 30-DAY PERIOD.

25 (3) UNDER THIS SUBSECTION, A TOTAL AMOUNT OF CIVIL
26 PENALTIES IMPOSED ON A SUBWHOLESALEER, WHOLESALER, OR OTHER PERSON
27 MAY NOT EXCEED \$100,000 DURING ANY 30-DAY PERIOD.

28 (C) A MANUFACTURER THAT KNOWINGLY MAKES A FALSE
29 CERTIFICATION UNDER § 16-603 OF THIS SUBTITLE IS SUBJECT TO A CIVIL
30 PENALTY OF AT LEAST \$75,000 AND NOT EXCEEDING \$250,000 FOR EACH FALSE
31 CERTIFICATION.

1 **16-609.**

2 (A) **TO ENFORCE THIS SUBTITLE:**

3 (1) **THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENJOIN**
4 **ANY ACTS IN VIOLATION OF THIS SUBTITLE AND TO RECOVER CIVIL PENALTIES**
5 **AUTHORIZED UNDER § 16-608 OF THIS SUBTITLE; OR**

6 (2) **THE ATTORNEY GENERAL OR THE COMPTROLLER MAY**
7 **EXAMINE THE BOOKS, PAPERS, INVOICES, AND RECORDS OF A PERSON IN**
8 **POSSESSION, CONTROL, OR OCCUPANCY OF A BUILDING, STRUCTURE, OR LAND**
9 **WHERE CIGARETTES ARE PLACED, STORED, SOLD, OR OFFERED FOR SALE.**

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

13 **16-610.**

14 (A) **A POLICE OFFICER OR OTHER AUTHORIZED PERSONNEL AS**
15 **DETERMINED BY REGULATIONS MAY SEIZE CIGARETTES IN THE POSSESSION OF**
16 **A RETAILER, SUBWHOLESALE, VENDING MACHINE OPERATOR, OR**
17 **WHOLESALE THAT HAVE NOT BEEN MARKED IN ACCORDANCE WITH § 16-604**
18 **OF THIS SUBTITLE. CIGARETTES SEIZED PURSUANT TO THIS SECTION SHALL BE**
19 **DESTROYED; PROVIDED, HOWEVER, THAT PRIOR TO THE DESTRUCTION OF ANY**
20 **CIGARETTE SEIZED PURSUANT TO THIS SECTION, THE TRUE HOLDER OF THE**
21 **TRADEMARK RIGHTS IN THE CIGARETTE BRAND SHALL BE PERMITTED TO**
22 **INSPECT THE CIGARETTE**

23 (B) (1) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
24 **CIGARETTES SEIZED UNDER THIS SECTION SHALL BE DESTROYED.**

25 (2) **THE TRUE HOLDER OF THE TRADEMARK RIGHTS IN THE**
26 **CIGARETTE BRAND SHALL BE PROVIDED THE OPPORTUNITY TO INSPECT ANY**
27 **CIGARETTES SEIZED UNDER THIS SECTION BEFORE THE CIGARETTES ARE**
28 **DESTROYED.**

29 **Article - Public Safety**

30 **8-102.**

1 (a) There is a Senator William H. Amoss Fire, Rescue, and Ambulance Fund.

2 (b) The purposes of the Fund are to promote:

3 (1) the delivery of effective and high quality fire protection, rescue,
4 and ambulance services in the State;

5 (2) increased financial support for fire, rescue, and ambulance
6 companies by counties; and

7 (3) the continued financial viability of volunteer fire, rescue, and
8 ambulance companies given the greatly increased costs of equipment.

9 (d) The Fund consists of:

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

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That the requirement that
14 cigarettes sold in this State must be in compliance with this Act does not prohibit
15 retailers, subwholesalers, vending machine operators, or wholesalers from selling
16 existing cigarette inventories on or after July 1, 2008, if the retailers, subwholesalers,
17 vending machine operators, or wholesalers can establish that:

18 (1) the tax stamps were affixed to the cigarettes as required by §
19 12-304 of the Tax – General Article before July 1, 2008; and

20 (2) the inventories purchased between July 1, 2007 and July 1, 2008
21 are in a quantity comparable to the inventories purchased between July 1, 2006 and
22 July 1, 2007.

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

28 SECTION 4. AND BE IT FURTHER ENACTED, That this Act preempts any
29 local law, ordinance, or regulation that conflicts with any provision of this Act or any

1 policy of the State implemented in accordance with this Act and, notwithstanding any
2 other provision of law, a governmental unit of this State may not enact or enforce an
3 ordinance, local law, or regulation conflicting with or preempted by this Act.

4 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 2008. It shall remain effective until a federal reduced cigarette ignition
6 propensity standard is adopted and become effective. If a federal reduced cigarette
7 ignition propensity standard is adopted and becomes effective, with no further action
8 required by the General Assembly, this Act shall be abrogated and of no further force
9 and effect. The Comptroller shall monitor federal actions regarding the establishment
10 of fire safety standards for cigarettes and promptly forward notice of the adoption of a
11 federal reduced cigarette ignition propensity standard to the Department of
12 Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.