

# SENATE BILL 23

Q7, C2, I4

8lr4603  
CF HB 20

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By: **Senator McFadden**

Introduced and read first time: October 29, 2007

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Little Cigars – Taxation and Packaging**

3 FOR the purpose of altering the application of the tobacco tax to certain cigars  
4 weighing no more than a certain amount; providing a certain rate of tax for  
5 little cigars; requiring a manufacturer that distributes free sample little cigars  
6 in the State to complete and file certain returns and pay certain tax on those  
7 little cigars; requiring that little cigars be sold in a certain manner; defining  
8 certain terms; providing for the effective date of this Act; and generally relating  
9 to the taxation and packaging of little cigars.

10 BY adding to

11 Article – Tax – General  
12 Section 12–101(b–1)  
13 Annotated Code of Maryland  
14 (2004 Replacement Volume and 2007 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Tax – General  
17 Section 12–101(c), 12–105, 12–201, and 12–302(a)  
18 Annotated Code of Maryland  
19 (2004 Replacement Volume and 2007 Supplement)

20 BY adding to

21 Article – Commercial Law  
22 Section 11–5B–01 through 11–5B–03 to be under the new subtitle “Subtitle 5B.  
23 Little Cigar Sales of Fewer Than Five Per Package”  
24 Annotated Code of Maryland  
25 (2005 Replacement Volume and 2007 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Tax – General**

2 12–101.

3 **(B–1) “LITTLE CIGAR” MEANS ANY ROLL FOR SMOKING THAT:**4 **(1) IS MADE OF TOBACCO OR TOBACCO MIXED WITH ANOTHER**  
5 **INGREDIENT;**6 **(2) IS WRAPPED IN A LEAF OF TOBACCO OR IN ANY OTHER**  
7 **MATERIAL CONTAINING TOBACCO; AND**8 **(3) WEIGHS LESS THAN 3 POUNDS PER THOUSAND.**9 (c) **(1) “Other tobacco product” means:**10 **[(1) (I) any cigar or roll for smoking, other than a cigarette, made in**  
11 **whole or in part of tobacco; or**12 **[(2) (II) any other tobacco or product made primarily from tobacco,**  
13 **other than a cigarette, that is intended for consumption by smoking or chewing or as**  
14 **snuff.**15 **(2) “OTHER TOBACCO PRODUCT” INCLUDES A LITTLE CIGAR.**

16 12–105.

17 (a) The tobacco tax rate for cigarettes **AND LITTLE CIGARS** is:18 **(1) 50 cents for each package of 10 or fewer cigarettes OR LITTLE**  
19 **CIGARS;**20 **(2) \$1.00 for each package of at least 11 and not more than 20**  
21 **cigarettes OR LITTLE CIGARS;**22 **(3) 5.0 cents for each cigarette in a package of more than 20 cigarettes**  
23 **OR LITTLE CIGARS; and**24 **(4) 5.0 cents for each cigarette in a package of free sample cigarettes**  
25 **OR LITTLE CIGARS.**26 (b) **[The] EXCEPT FOR LITTLE CIGARS, THE** tobacco tax rate for other  
27 tobacco products is 15% of the wholesale price of the tobacco products.

28 12–201.

1 (a) A manufacturer shall complete and file with the Comptroller a tobacco  
2 tax return:

3 (1) on or before the 15th day of the month that follows the month in  
4 which the manufacturer distributes in the State free sample cigarettes **OR LITTLE**  
5 **CIGARS** of the manufacturer; and

6 (2) if the Comptroller so specifies, by regulation, on other dates for  
7 each month in which the manufacturer does not distribute any sample cigarettes **OR**  
8 **LITTLE CIGARS**.

9 (b) A licensed storage warehouse operator shall file the information return  
10 that the Comptroller requires.

11 12-302.

12 (a) A manufacturer of sample cigarettes **OR LITTLE CIGARS** shall pay the  
13 tobacco tax on those cigarettes **OR LITTLE CIGARS** distributed in the State without  
14 charge, in the manner that the Comptroller requires by regulation, with the return  
15 that covers the period in which the manufacturer distributed those cigarettes **OR**  
16 **LITTLE CIGARS**.

17 **Article - Commercial Law**

18 **SUBTITLE 5B. LITTLE CIGAR SALES OF FEWER THAN FIVE PER PACKAGE.**

19 **11-5B-01.**

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

22 (B) **“LITTLE CIGAR” HAS THE MEANING STATED IN § 12-101(B-1) OF**  
23 **THE TAX - GENERAL ARTICLE.**

24 (C) **“RETAILER” INCLUDES ANY PERSON ENGAGED IN THE BUSINESS OF**  
25 **MAKING RETAIL SALES OF LITTLE CIGARS WITHIN THE STATE AT A STORE,**  
26 **STAND, BOOTH, OR CONCESSION, THROUGH VENDING MACHINES, OR**  
27 **OTHERWISE.**

28 (D) **“SELL” INCLUDES ADVERTISE, OFFER TO SELL, OR OFFER FOR**  
29 **SALE.**

30 (E) **“VENDING MACHINE OPERATOR” MEANS A PERSON THAT:**

1           (1)   **MAKES RETAIL SALES OF LITTLE CIGARS OR HAS LITTLE**  
2 **CIGARS IN ITS POSSESSION WITH THE INTENT TO SELL THEM EXCLUSIVELY AT**  
3 **RETAIL THROUGH THE MEDIUM OF A VENDING MACHINE OR ANY OTHER**  
4 **MECHANICAL DEVICE USED FOR DISPENSING LITTLE CIGARS;**

5           (2)   **OWNS, OPERATES, AND SERVICES VENDING MACHINES OR**  
6 **OTHER MECHANICAL DEVICES USED TO DISPENSE LITTLE CIGARS ON 40 OR**  
7 **MORE PREMISES; AND**

8           (3)   **SERVICES THE MACHINES OR DEVICES BY MAINTAINING AN**  
9 **ESTABLISHED PLACE OF BUSINESS FOR THE PURCHASE OF LITTLE CIGARS,**  
10 **INCLUDING WAREHOUSING FACILITIES FOR THE STORAGE AND DISTRIBUTION**  
11 **OF LITTLE CIGARS.**

12           (F) (1)   **“WHOLESALER” MEANS A PERSON THAT PURCHASES LITTLE**  
13 **CIGARS DIRECTLY FROM A MANUFACTURER.**

14           (2)   **“WHOLESALER” INCLUDES A PERSON THAT, AS A**  
15 **SUBWHOLESALER:**

16           (I)   **PURCHASES LITTLE CIGARS FROM ANOTHER**  
17 **WHOLESALER SOLELY FOR THE PURPOSE OF BONA FIDE RESALE TO RETAILERS**  
18 **OTHER THAN THOSE DIRECTLY OR INDIRECTLY OWNED, AFFILIATED, OR**  
19 **CONTROLLED BY THE SUBWHOLESALER; AND**

20           (II)   **SERVICES THE RETAILERS BY MAINTAINING AN**  
21 **ESTABLISHED PLACE OF BUSINESS FOR THE SALE OF LITTLE CIGARS,**  
22 **INCLUDING WAREHOUSE FACILITIES, ADEQUATE INVENTORY, PROPER**  
23 **ACCOUNTING RECORDS, AND NECESSARY EQUIPMENT AND VEHICLES FOR THE**  
24 **STORAGE AND DISTRIBUTION OF LITTLE CIGARS.**

25           (3)   **IF THE PERSON IS ENGAGED IN THE BUSINESS OF MAKING**  
26 **BOTH WHOLESALE SALES OF LITTLE CIGARS AND RETAIL SALES OF LITTLE**  
27 **CIGARS, THE WORD ONLY APPLIES TO THE WHOLESALE SALES OF LITTLE**  
28 **CIGARS PORTION OF THE BUSINESS.**

29 **11-5B-02.**

30           (A)   **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A RETAILER**  
31 **OR VENDING MACHINE OPERATOR MAY NOT PURCHASE FROM A TOBACCO**  
32 **PRODUCT MANUFACTURER OR SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE**  
33 **AWAY TO ANY PERSON A PACKAGE OF LITTLE CIGARS CONTAINING FEWER THAN**  
34 **FIVE LITTLE CIGARS.**

1           **(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A**  
2 **WHOLESALE MAY NOT SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE AWAY**  
3 **TO ANY PERSON IN THIS STATE A PACKAGE OF LITTLE CIGARS CONTAINING**  
4 **FEWER THAN FIVE LITTLE CIGARS.**

5 **11-5B-03.**

6           **(A) THE COMPTROLLER SHALL ENFORCE THIS SUBTITLE.**

7           **(B) THE COMPTROLLER SHALL:**

8                   **(1) EMPLOY AND DETERMINE THE DUTIES AND COMPENSATION**  
9 **OF THE INSPECTORS AND OTHER PERSONNEL NECESSARY TO ENFORCE THIS**  
10 **SUBTITLE; AND**

11                   **(2) ADOPT REGULATIONS NECESSARY TO EFFECTUATE AND**  
12 **ENFORCE THE PROVISIONS OF THIS SUBTITLE.**

13           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 January 1, 2008.