

HOUSE BILL 1584

C2

8lr3235

By: **Delegate Feldman**

Introduced and read first time: February 29, 2008

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Cigarette Business Licenses – Cigarette Manufacturers – Definition and**
3 **Scope of License**

4 FOR the purpose of altering the definition of manufacturer in connection with the
5 licensing of cigarette businesses and certain cigarette safety standards to
6 include certain persons who operate cigarette manufacturing plants outside the
7 United States and certain participating manufacturers; providing that a
8 cigarette manufacturer license authorizes the licensee to sell certain unstamped
9 cigarettes to certain cigarette wholesalers located outside of Maryland under
10 certain circumstances; clarifying that applicants for cigarette business licenses
11 and licensees must buy cigarettes for resale from a licensed cigarette
12 manufacturer in order to be in compliance with certain provisions of law and
13 not be subject to certain disciplinary action by the Comptroller; providing for
14 the effective date of certain provisions of this Act; defining a certain term; and
15 generally relating to cigarette manufacturers and the licensing of cigarette
16 business.

17 BY repealing and reenacting, with amendments,
18 Article – Business Regulation
19 Section 16–201, 16–206(a), and 16–210(a)
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2007 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Business Regulation
24 Section 16–601(d)
25 Annotated Code of Maryland
26 (2004 Replacement Volume and 2007 Supplement)
27 (As enacted by Chapter 497 of the Acts of the General Assembly of 2007)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Business Regulation**

4 16–201.

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

6 (b) “License” means:

7 (1) a license issued by the Comptroller under § 16–205(a) of this
8 subtitle to:

9 (i) act as a manufacturer;

10 (ii) act as a subwholesaler;

11 (iii) act as a vending machine operator;

12 (iv) act as a wholesaler; or

13 (v) act as a storage warehouse; or

14 (2) a license issued by the clerk under § 16–205(b) of this subtitle to
15 act as a retailer.

16 (c) “Licensed manufacturer” means a person licensed by the Comptroller
17 under § 16–205(a) of this subtitle to act as a manufacturer.

18 (d) “Licensed retailer” means a person licensed by the clerk under §
19 16–205(b) of this subtitle to act as a retailer.

20 (e) “Licensed storage warehouse” means a facility licensed by the
21 Comptroller under § 16–205(a) of this subtitle to act as a storage warehouse.

22 (f) “Licensed subwholesaler” means a person licensed by the Comptroller
23 under § 16–205(a) of this subtitle to act as a subwholesaler.

24 (g) “Licensed vending machine operator” means a person licensed by the
25 Comptroller under § 16–205(a) of this subtitle to act as a vending machine operator.

26 (h) “Licensed wholesaler” means a person licensed by the Comptroller under
27 § 16–205(a) of this subtitle to act as a wholesaler.

28 (i) “Manufacturer” means a person who:

1 (1) (I) operates one or more cigarette manufacturing plants [within
2 the United States]; **OR**

3 (II) **IS A PARTICIPATING MANUFACTURER;** and

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

6 (ii) **SELLS UNSTAMPED CIGARETTES THAT MAY LAWFULLY**
7 **BE SOLD IN MARYLAND TO A LICENSED CIGARETTE WHOLESALER LOCATED**
8 **OUTSIDE OF MARYLAND;**

9 (III) unless otherwise prohibited or restricted under local law,
10 this article, or the Criminal Law Article, distributes sample cigarettes to consumers
11 located in Maryland; or

12 [(iii)] (IV) stores unstamped cigarettes in a cigarette storage
13 warehouse in Maryland for subsequent shipment to licensed wholesalers, federal
14 reservations, or persons out of state.

15 (J) **“PARTICIPATING MANUFACTURER” HAS THE MEANING STATED IN §**
16 **16-501 OF THIS TITLE.**

17 [(j)] (K) “Retailer” means a person who:

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

20 (2) otherwise sells cigarettes to consumers; or

21 (3) holds cigarettes for sale to consumers.

22 [(k)] (L) “Stamped cigarettes” means a package of cigarettes to which
23 tobacco tax stamps are affixed in the amount and manner required by § 12-304 of the
24 Tax – General Article.

25 [(l)] (M) “Storage warehouse” means a storage facility in Maryland operated
26 for the purpose of storing unstamped cigarettes on behalf of a licensed cigarette
27 manufacturer.

28 [(m)] (N) (1) “Subwholesaler” means a person who:

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

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

1 (2) “Subwholesaler” does not include a person who sells unstamped
2 cigarettes or holds unstamped cigarettes for sale.

3 [(n)] (O) “Unstamped cigarettes” means a package of cigarettes to which
4 tobacco tax stamps are not affixed in the amount and manner required by § 12–304 of
5 the Tax – General Article.

6 [(o)] (P) “Vending machine operator” means a person who:

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

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

11 [(p)] (Q) “Wholesaler” means a person who:

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

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

14 16–206.

15 (a) A manufacturer license authorizes the licensee to:

16 (1) sell unstamped cigarettes to:

17 (I) a licensed cigarette wholesaler located in Maryland; **AND**

18 (II) **A LICENSED CIGARETTE WHOLESALER LOCATED**
19 **OUTSIDE OF MARYLAND IF THE UNSTAMPED CIGARETTES MAY LAWFULLY BE**
20 **SOLD IN MARYLAND;**

21 (2) except as otherwise prohibited or restricted under local law, this
22 article, or the Criminal Law Article, distribute sample cigarettes to consumers located
23 in Maryland;

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

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

29 16–210.

1 (a) Subject to the hearing provisions of § 16–211 of this subtitle, the
2 Comptroller may deny a license to an applicant, reprimand a licensee, or suspend or
3 revoke a license if the applicant or licensee:

4 (1) fraudulently or deceptively obtains or attempts to obtain a license
5 for the applicant or licensee or for another person;

6 (2) fraudulently or deceptively uses a license;

7 (3) fails to comply with the Maryland Cigarette Sales Below Cost Act
8 or regulations adopted under that Act;

9 (4) fails to comply with the provisions of Title 11, Subtitle 5A of the
10 Commercial Law Article;

11 (5) buys cigarettes for resale:

12 (i) in violation of a license; or

13 (ii) from a person who is not a **LICENSED** cigarette
14 manufacturer, licensed subwholesaler, licensed vending machine operator, or licensed
15 wholesaler;

16 (6) is convicted, under the laws of the United States or of any other
17 state, of:

18 (i) a felony; or

19 (ii) a misdemeanor that is a crime of moral turpitude and is
20 directly related to the fitness and qualification of the applicant or licensee; or

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
24 read as follows:

25 **Article – Business Regulation**

26 16–601.

27 (d) “Manufacturer” [means:

28 (1) a person that manufactures or otherwise produces, or causes to be
29 manufactured or produced, cigarettes intended for sale in this State, including
30 cigarettes intended for sale in the United States through an importer;

1 (2) the first purchaser anywhere that intends to resell in the United
2 States cigarettes that the original manufacturer or maker does not intend for sale in
3 the United States; or

4 (3) a person that is a successor of a person listed in item (1) or (2) of
5 this subsection] **HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.**

6 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
7 take effect on the later of October 1, 2008, or the effective date of Chapter 497 of the
8 Acts of the General Assembly of 2007, if the effective date of Chapter 497 is amended.

9 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
10 Section 3 of this Act, this Act shall take effect October 1, 2008.