

SENATE BILL 383

Q7

8lr2770

By: **Senators Currie and McFadden**

Introduced and read first time: January 30, 2008

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Tax – Moist Snuff and Little Cigars**

3 FOR the purpose of altering the application of the tobacco tax to certain cigars
4 weighing less than a certain amount; altering the tobacco tax rate for certain
5 tobacco intended to be placed in the oral cavity; providing a certain rate of tax
6 for certain cigars; requiring a manufacturer that distributes free sample little
7 cigars in the State to complete and file certain returns and pay certain tax on
8 those little cigars; altering the information required to be stated in a tobacco tax
9 return; requiring that little cigars be sold in a certain manner; defining certain
10 terms; and generally relating to the taxation and packaging of certain tobacco
11 products.

12 BY adding to
13 Article – Tax – General
14 Section 12–101(b–1) and (b–2)
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Tax – General
19 Section 12–101(c), 12–201, 12–202, and 12–302(a)
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2007 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Tax – General
24 Section 12–105
25 Annotated Code of Maryland
26 (2004 Replacement Volume and 2007 Supplement)
27 (As enacted by Chapter 6 of the Acts of the General Assembly of the 2007
28 Special Session)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Commercial Law
3 Section 11–5B–01 through 11–5B–03 to be under the new subtitle “Subtitle 5B.
4 Little Cigar Sales of Fewer Than Five Per Package”
5 Annotated Code of Maryland
6 (2005 Replacement Volume and 2007 Supplement)

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

9 **Article – Tax – General**

10 12–101.

11 **(B–1) “LITTLE CIGAR” MEANS ANY ROLL FOR SMOKING THAT:**

12 **(1) IS MADE OF TOBACCO OR TOBACCO MIXED WITH ANOTHER**
13 **INGREDIENT;**

14 **(2) IS WRAPPED IN A LEAF OF TOBACCO OR IN ANY OTHER**
15 **MATERIAL CONTAINING TOBACCO; AND**

16 **(3) (I) WEIGHS LESS THAN 3 POUNDS PER THOUSAND; OR**

17 **(II) MEETS THE FOLLOWING CRITERIA:**

18 **1. IS MACHINE PRODUCED;**

19 **2. HAS A DIAMETER OF LESS THAN ONE–HALF INCH;**

20 **3. CONTAINS PIPE TOBACCO; AND**

21 **4. HAS A WHOLESALE PRICE PER STICK OF LESS**
22 **THAN \$1.25.**

23 **(B–2) (1) “MOIST SNUFF” MEANS ANY FINELY CUT, GROUND, OR**
24 **POWDERED TOBACCO THAT IS NOT INTENDED TO BE SMOKED.**

25 **(2) “MOIST SNUFF” DOES NOT INCLUDE ANY TOBACCO THAT IS**
26 **INTENDED TO BE PLACED IN THE NASAL CAVITY.**

27 **(c) (1) “Other tobacco product” means:**

1 [(1) (I) any cigar or roll for smoking, other than a cigarette, made in
2 whole or in part of tobacco; or

3 [(2) (II) any other tobacco or product made primarily from tobacco,
4 other than a cigarette, that is intended for consumption by smoking or chewing or as
5 snuff.

6 (2) **“OTHER TOBACCO PRODUCT” INCLUDES A LITTLE CIGAR.**

7 12–105.

8 (a) The tobacco tax rate for cigarettes **AND LITTLE CIGARS** is:

9 (1) \$1.00 for each package of 10 or fewer cigarettes **OR LITTLE**
10 **CIGARS;**

11 (2) \$2.00 for each package of at least 11 and not more than 20
12 cigarettes **OR LITTLE CIGARS;**

13 (3) 10.0 cents for each cigarette in a package of more than 20
14 cigarettes **OR LITTLE CIGARS;** and

15 (4) 10.0 cents for each cigarette in a package of free sample cigarettes
16 **OR LITTLE CIGARS.**

17 (b) (1) [The] **EXCEPT FOR LITTLE CIGARS AND MOIST SNUFF, THE**
18 tobacco tax rate for other tobacco products is 15% of the wholesale price of the tobacco
19 products.

20 (2) **FOR MOIST SNUFF, THE TOBACCO TAX RATE IS 54 CENTS PER**
21 **OUNCE AND A PROPORTIONATE AMOUNT FOR EACH FRACTION OF AN OUNCE IN**
22 **EXCESS OF A WHOLE OUNCE OF NET WEIGHT AS LISTED BY THE**
23 **MANUFACTURER.**

24 12–201.

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

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

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

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

3 12-202.

4 (a) A wholesaler shall complete and file with the Comptroller a tobacco tax
5 return:

6 (1) for cigarettes:

7 (i) on or before the 21st day of the month that follows the
8 month in which the wholesaler has the first possession, in the State, of unstamped
9 cigarettes for which tax stamps are required; and

10 (ii) if the Comptroller so specifies, by regulation, on other dates
11 for each month in which the wholesaler does not have the first possession of any
12 unstamped cigarettes in the State; and

13 (2) for other tobacco products, on the dates and for the periods that the
14 Comptroller specifies by regulation.

15 (b) Each return shall state the quantity of cigarettes, **THE NET WEIGHT OF**
16 **MOIST SNUFF AS LISTED BY THE MANUFACTURER**, or the wholesale price of other
17 tobacco products **OTHER THAN MOIST SNUFF** sold during the period that the return
18 covers.

19 12-302.

20 (a) A manufacturer of sample cigarettes **OR LITTLE CIGARS** shall pay the
21 tobacco tax on those cigarettes **OR LITTLE CIGARS** distributed in the State without
22 charge, in the manner that the Comptroller requires by regulation, with the return
23 that covers the period in which the manufacturer distributed those cigarettes **OR**
24 **LITTLE CIGARS**.

25 **Article - Commercial Law**

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

27 **11-5B-01.**

28 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
29 **INDICATED.**

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

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

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

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

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

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

15 (3) **SERVICES THE MACHINES OR DEVICES BY MAINTAINING AN**
16 **ESTABLISHED PLACE OF BUSINESS FOR THE PURCHASE OF LITTLE CIGARS,**
17 **INCLUDING WAREHOUSING FACILITIES FOR THE STORAGE AND DISTRIBUTION**
18 **OF LITTLE CIGARS.**

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

21 (2) **“WHOLESALER” INCLUDES A PERSON THAT, AS A**
22 **SUBWHOLESALER:**

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

27 (II) **SERVICES THE RETAILERS BY MAINTAINING AN**
28 **ESTABLISHED PLACE OF BUSINESS FOR THE SALE OF LITTLE CIGARS,**
29 **INCLUDING WAREHOUSE FACILITIES, ADEQUATE INVENTORY, PROPER**
30 **ACCOUNTING RECORDS, AND NECESSARY EQUIPMENT AND VEHICLES FOR THE**
31 **STORAGE AND DISTRIBUTION OF LITTLE CIGARS.**

32 (3) **IF THE PERSON IS ENGAGED IN THE BUSINESS OF MAKING**
33 **BOTH WHOLESALE SALES OF LITTLE CIGARS AND RETAIL SALES OF LITTLE**

1 CIGARS, "WHOLESALE" APPLIES ONLY TO THE WHOLESALE SALES OF LITTLE
2 CIGARS PORTION OF THE BUSINESS.

3 **11-5B-02.**

4 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A RETAILER
5 OR VENDING MACHINE OPERATOR MAY NOT PURCHASE FROM A TOBACCO
6 PRODUCT MANUFACTURER OR SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE
7 AWAY TO ANY PERSON A PACKAGE OF LITTLE CIGARS CONTAINING FEWER THAN
8 FIVE LITTLE CIGARS.

9 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
10 WHOLESALE MAY NOT SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE AWAY
11 TO ANY PERSON IN THIS STATE A PACKAGE OF LITTLE CIGARS CONTAINING
12 FEWER THAN FIVE LITTLE CIGARS.

13 **11-5B-03.**

14 (A) THE COMPTROLLER SHALL ENFORCE THIS SUBTITLE.

15 (B) THE COMPTROLLER SHALL:

16 (1) EMPLOY AND DETERMINE THE DUTIES AND COMPENSATION
17 OF THE INSPECTORS AND OTHER PERSONNEL NECESSARY TO ENFORCE THIS
18 SUBTITLE; AND

19 (2) ADOPT REGULATIONS NECESSARY TO EFFECTUATE AND
20 ENFORCE THE PROVISIONS OF THIS SUBTITLE.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 July 1, 2008.