

HOUSE BILL 479

C2, I4, Q7
HB 617/08 – ECM

9lr0922

By: **Delegates Tarrant, Anderson, Carter, Glenn, Howard, Kullen, Manno,
Morhaim, Oaks, Rice, and Taylor**

Introduced and read first time: February 4, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Cigarette – Definition**

3 FOR the purpose of altering the definition of cigarette in connection with tobacco
4 taxes, the regulation of cigarette businesses, the sale of cigarettes below cost,
5 and certain cigarette fire safety standards to include certain tobacco products
6 that are wrapped in certain substances and weigh less than a certain amount
7 and certain tobacco products likely to be offered to, or purchased by, consumers
8 as cigarettes; providing for a delayed effective date for certain provisions of this
9 Act; and generally relating to the definition of cigarettes.

10 BY repealing and reenacting, with amendments,
11 Article – Business Regulation
12 Section 16–101(b)
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2008 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Business Regulation
17 Section 16–601
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2008 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Commercial Law
22 Section 11–501(c)
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2008 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Tax – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 12–101(b)
2 Annotated Code of Maryland
3 (2004 Replacement Volume and 2008 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article – Tax – General
6 Section 12–101(c)
7 Annotated Code of Maryland
8 (2004 Replacement Volume and 2008 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article – Business Regulation
11 Section 16–601
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2008 Supplement)
14 (As enacted by Section 1 of this Act)

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

17 **Article – Business Regulation**

18 16–101.

19 (b) “Cigarette” means any size or shaped roll for smoking that is made of
20 tobacco or tobacco mixed with another ingredient and:

21 (1) IS wrapped in paper or in any other material except tobacco;

22 (2) IS WRAPPED IN PAPER CONTAINING TOBACCO AND, WITH THE
23 WRAPPER, WEIGHS LESS THAN 3 POUNDS PER THOUSAND CIGARETTES; OR

24 (3) (I) CONTAINS TOBACCO, IN ANY FORM, THAT IS
25 FUNCTIONAL IN THE PRODUCT; AND

26 (II) IS LIKELY TO BE OFFERED TO, OR PURCHASED BY,
27 CONSUMERS AS A CIGARETTE, AS DESCRIBED IN ITEMS (1) AND (2) OF THIS
28 SUBSECTION, BECAUSE OF:

29 1. ITS APPEARANCE;

30 2. THE TYPE OF TOBACCO USED IN THE FILLER; OR

31 3. ITS PACKAGING.

32 16–601.

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

2 (b) “Cigarette” [has the meaning stated in § 16–101 of this title] **MEANS ANY**
3 **SIZE OR SHAPED ROLL FOR SMOKING THAT:**

4 (1) **IS MADE OF TOBACCO OR TOBACCO MIXED WITH ANOTHER**
5 **INGREDIENT; AND**

6 (2) **IS WRAPPED IN PAPER OR IN ANY OTHER MATERIAL EXCEPT**
7 **TOBACCO.**

8 (c) “Commission” means the State Fire Prevention Commission.

9 (d) “Manufacturer” means:

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

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

16 (3) a person that is a successor of a person listed in item (1) or (2) of
17 this subsection.

18 (e) “Quality control and quality assurance program” means laboratory
19 procedures implemented to ensure that:

20 (1) operator bias, systematic and nonsystematic methodological errors,
21 and equipment–related problems do not affect the results of the testing; and

22 (2) the testing repeatability remains within the required repeatability
23 value for any test trial used to certify cigarettes under this subtitle.

24 (f) “Repeatability” means the range of values within which the repeat results
25 of cigarette test trials from a single laboratory fall 95% of the time.

26 (g) “Retailer” has the meaning stated in § 16–201 of this title.

27 (h) “Subwholesaler” has the meaning stated in § 16–201 of this title.

28 (i) “Vending machine operator” has the meaning stated in § 16–201 of this
29 title.

30 (j) “Wholesaler” has the meaning stated in § 16–201 of this title.

1 **Article – Commercial Law**

2 11–501.

3 (c) [(1) “Cigarettes”] **“CIGARETTE”** means any size or shaped roll for
4 smoking that is made of tobacco or tobacco mixed with another ingredient and:

5 (1) **IS wrapped in paper or in any other material except tobacco;**

6 (2) **IS WRAPPED IN PAPER CONTAINING TOBACCO AND, WITH THE**
7 **WRAPPER, WEIGHS LESS THAN 3 POUNDS PER THOUSAND CIGARETTES; OR**

8 (3) (I) **CONTAINS TOBACCO, IN ANY FORM, THAT IS**
9 **FUNCTIONAL IN THE PRODUCT; AND**

10 (II) **IS LIKELY TO BE OFFERED TO, OR PURCHASED BY,**
11 **CONSUMERS AS A CIGARETTE, AS DESCRIBED IN ITEMS (1) AND (2) OF THIS**
12 **SUBSECTION, BECAUSE OF:**

13 1. **ITS APPEARANCE;**

14 2. **THE TYPE OF TOBACCO USED IN THE FILLER; OR**

15 3. **ITS PACKAGING.**

16 [(2) “Cigarettes” does not include cigars.]

17 **Article – Tax – General**

18 12–101.

19 (b) “Cigarette” means any size or shaped roll for smoking that is made of
20 tobacco or tobacco mixed with another ingredient and:

21 (1) **IS wrapped in paper or in any other material except tobacco;**

22 (2) **IS WRAPPED IN PAPER CONTAINING TOBACCO AND, WITH THE**
23 **WRAPPER, WEIGHS LESS THAN 3 POUNDS PER THOUSAND CIGARETTES; OR**

24 (3) (I) **CONTAINS TOBACCO, IN ANY FORM, THAT IS**
25 **FUNCTIONAL IN THE PRODUCT; AND**

1 (II) IS LIKELY TO BE OFFERED TO, OR PURCHASED BY,
2 CONSUMERS AS A CIGARETTE, AS DESCRIBED IN ITEMS (1) AND (2) OF THIS
3 SUBSECTION, BECAUSE OF:

4 1. ITS APPEARANCE;

5 2. THE TYPE OF TOBACCO USED IN THE FILLER; OR

6 3. ITS PACKAGING.

7 (c) “Other tobacco product” means:

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

10 (2) any other tobacco or product made primarily from tobacco, other
11 than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

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

14 **Article – Business Regulation**

15 16–601.

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

17 (b) [“Cigarette” means any size or shaped roll for smoking that:

18 (1) is made of tobacco or tobacco mixed with another ingredient; and

19 (2) is wrapped in paper or in any other material except tobacco.

20 (c)] “Commission” means the State Fire Prevention Commission.

21 [(d)] (C) “Manufacturer” means:

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

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

28 (3) a person that is a successor of a person listed in item (1) or (2) of
29 this subsection.

1 [(e)] (D) “Quality control and quality assurance program” means laboratory
2 procedures implemented to ensure that:

3 (1) operator bias, systematic and nonsystematic methodological errors,
4 and equipment–related problems do not affect the results of the testing; and

5 (2) the testing repeatability remains within the required repeatability
6 value for any test trial used to certify cigarettes under this subtitle.

7 [(f)] (E) “Repeatability” means the range of values within which the repeat
8 results of cigarette test trials from a single laboratory fall 95% of the time.

9 [(g)] (F) “Retailer” has the meaning stated in § 16–201 of this title.

10 [(h)] (G) “Subwholesaler” has the meaning stated in § 16–201 of this title.

11 [(i)] (H) “Vending machine operator” has the meaning stated in § 16–201 of
12 this title.

13 [(j)] (I) “Wholesaler” has the meaning stated in § 16–201 of this title.

14 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
15 take effect July 1, 2010.

16 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
17 Section 3 of this Act, this Act shall take effect July 1, 2009.